

SENATE BILL NO. 421—SENATOR SCHNEIDER

MARCH 19, 2001

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes to provisions governing common-interest communities. (BDR 10-446)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to common-interest communities; creating the commission for common-interest communities to hear and take action on complaints related to such communities; requiring community managing agents to be licensed by the real estate division of the department of business and industry; requiring community managers to be certified by the division; limiting the circumstances under which an association may bring an action to recover damages resulting from constructional defects; revising the amount of a fine that may be imposed for a continuing violation of the governing documents of an association; requiring the removal of a member of the executive board of an association to be conducted by secret ballot; revising the circumstances under which an association may foreclose on its lien for unpaid assessments; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** Chapter 116 of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2 to 43, inclusive, of this act.
3 **Sec. 2.** *“Certificate” means a certificate for the management of a*
4 *common-interest community issued by the division pursuant to NRS*
5 *116.31139.*
6 **Sec. 3.** *“Commission” means the commission for common-interest*
7 *communities created pursuant to section 11 of this act.*
8 **Sec. 4.** *“Community manager” means a person who holds a*
9 *certificate or permit and provides for the management of a common-*
10 *interest community.*
11 **Sec. 5.** *“Community managing agent” means a person who is*
12 *responsible for supervising a holder of a certificate.*
13 **Sec. 6.** *“Division” means the real estate division of the department*
14 *of business and industry.*



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1 *Sec. 7. "Management of a common-interest community" means the*
2 *physical, administrative or financial maintenance and management of a*
3 *common-interest community, or the supervision of those activities, for a*
4 *fee, commission or other valuable consideration.*

5 *Sec. 8. "Permit" means a permit to engage in property management*
6 *issued pursuant to the provisions of chapter 645 of NRS.*

7 *Sec. 9. "Respondent" means a person who is the subject of a written*
8 *affidavit filed with the division pursuant to section 18 of this act.*

9 *Sec. 10. If a matter governed by this chapter is also governed by*
10 *chapter 82 of NRS and there is a conflict between the provisions of this*
11 *chapter and the provisions of chapter 82 of NRS, the provisions of this*
12 *chapter prevail.*

13 *Sec. 11. 1. The commission for common-interest communities,*
14 *consisting of five members appointed by the governor, is hereby created*
15 *within the division.*

16 *2. The governor shall appoint to the commission:*

17 *(a) Two members who are units' owners residing in this state, one of*
18 *whom is serving or has served as a member of the executive board of an*
19 *association;*

20 *(b) One member who is in the business of developing common-interest*
21 *communities in this state;*

22 *(c) One member who holds a permit or a certificate; and*

23 *(d) One member who has experience with or knowledge of matters*
24 *related to common-interest communities, other than the management of*
25 *a common-interest community.*

26 *3. Three members of the commission must be residents of a county*
27 *whose population is 400,000 or more. Each of the other two members of*
28 *the commission must be a resident of a county whose population is less*
29 *than 400,000. Each member of the commission must have resided in a*
30 *common-interest community or have been actively engaged in a business*
31 *related to common-interest communities for not less than 3 years*
32 *immediately preceding the date of his appointment.*

33 *4. After the initial terms, each member of the commission shall serve*
34 *a term of 3 years. Each member may serve no more than two consecutive*
35 *full terms. If a vacancy occurs during a member's term, the governor*
36 *shall appoint a person qualified under this section to replace the member*
37 *for the remainder of the unexpired term.*

38 *5. While engaged in the business of the commission, each member is*
39 *entitled to receive:*

40 *(a) A salary of not more than \$80 per day, as established by the*
41 *commission; and*

42 *(b) The per diem allowance and travel expenses provided for state*
43 *officers and employees generally.*

44 *Sec. 12. 1. The commission shall, at the first meeting of each fiscal*
45 *year, elect from its members a chairman, vice chairman and secretary.*

46 *2. The commission shall meet at least once each calendar quarter*
47 *and at other times on the call of the chairman or a majority of its*
48 *members.*



1 3. A majority of the members of the commission constitutes a
2 quorum for the transaction of all business.

3 4. The commission shall prescribe such forms and adopt such
4 procedures as are necessary for submitting information to the
5 commission.

6 **Sec. 13.** 1. The division shall provide or arrange for courses of
7 instruction in rules of procedure and substantive law appropriate for
8 members of the commission.

9 2. Each person appointed to the commission shall attend the
10 instruction provided pursuant to subsection 1 before serving on the
11 commission.

12 **Sec. 14.** The commission shall:

13 1. Conduct such hearings as are required by sections 11 to 27,
14 inclusive, of this act.

15 2. Collect and maintain accurate information relating to:

16 (a) The number and kinds of common-interest communities created in
17 this state;

18 (b) The effect of the provisions of this chapter, and any rules or
19 regulations adopted pursuant thereto, on the development and
20 construction of common-interest communities, residential lending for
21 common-interest communities, and the operation and management of
22 common-interest communities;

23 (c) Violations of the provisions of this chapter and any rules or
24 regulations adopted pursuant thereto;

25 (d) The accessibility and use of, and the cost related to, mediation and
26 arbitration under NRS 38.300 to 38.360, inclusive, and the decisions
27 rendered and awards made pursuant thereto;

28 (e) The number of liens foreclosed on units within common-interest
29 communities for the failure to pay assessments levied against those units
30 or fines imposed against units' owners; and

31 (f) The studies of reserves of associations required to be conducted
32 pursuant to NRS 116.31152.

33 3. Maintain current information concerning issues that are of
34 concern to units' owners, associations, persons engaged in the
35 management of common-interest communities, developers and other
36 persons affected by common-interest communities.

37 4. Recommend and approve for accreditation programs of education
38 and research related to common-interest communities, including, without
39 limitation:

40 (a) The management of common-interest communities;

41 (b) The sale and resale of units in a common-interest community;

42 (c) Alternative methods that may be used to resolve disputes related to
43 common-interest communities; and

44 (d) The enforcement of liens foreclosed on units within a common-
45 interest community for the failure to pay assessments levied against those
46 units or for fines imposed against the units' owners.

47 5. Perform such other acts as are necessary to carry out the
48 provisions of sections 11 to 27, inclusive, of this act.



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1 **Sec. 15. 1. The commission shall adopt by regulation:**

2 *(a) Standards for subsidizing proceedings for mediation and*
3 *arbitration conducted under NRS 38.300 to 38.360, inclusive, to ensure*
4 *that such proceedings are affordable, are not lengthy, are readily*
5 *accessible and resolve disputes related to common-interest communities*
6 *in an effective manner.*

7 *(b) The qualifications for a person who engages in the management*
8 *of a common-interest community, including, without limitation,*
9 *requirements for continuing education and standards of practice.*

10 *(c) Standards for conducting meetings of the executive boards of*
11 *associations, meetings of the units' owners and elections of members of*
12 *executive boards of associations.*

13 *(d) Standards for enforcing the governing documents of associations*
14 *by the enforcement of liens or the imposition of fines.*

15 **2. The commission may:**

16 *(a) Adopt such regulations as are necessary for the administration of*
17 *sections 11 to 27, inclusive, of this act.*

18 *(b) By regulation, delegate any of its authority to the administrator to*
19 *be exercised pursuant to regulations adopted by the commission.*

20 *(c) Accept any gifts, grants or donations, and may enter into*
21 *agreements with other entities that are required or authorized to carry*
22 *out similar duties in this state or in other jurisdictions, to carry out the*
23 *provisions of sections 11 to 27, inclusive, of this act.*

24 *(d) Cooperate with other entities that are required or authorized to*
25 *carry out similar duties in this state or in other jurisdictions to develop*
26 *uniform procedures for carrying out the provisions of sections 11 to 27,*
27 *inclusive, of this act and for accumulating information needed to carry*
28 *out those provisions.*

29 **3. The commission shall not intervene in any internal activities of an**
30 *association except to the extent necessary to prevent or remedy a*
31 *violation of any provision of this chapter or any rule or regulation*
32 *adopted pursuant thereto.*

33 **Sec. 16. Any notice or other information required to be served upon**
34 *the commission may be delivered to the principal office of the division.*

35 **Sec. 17. 1. All money received by the commission must be**
36 *deposited in the account for common-interest communities and paid out*
37 *on its order for its expenses.*

38 **2. The commission may delegate to an independent hearing officer**
39 *or panel its authority to take any disciplinary action pursuant to sections*
40 *11 to 27, inclusive, of this act, including the authority to impose and*
41 *collect fines and penalties. Fines and penalties imposed by an*
42 *independent hearing officer or panel must be deposited in the account*
43 *for common-interest communities.*

44 **3. If a hearing officer or panel is not authorized to take disciplinary**
45 *action and determine the amount of any fine or penalty imposed*
46 *pursuant to subsection 2, the commission shall deposit the money*
47 *collected from the imposition of fines with the state treasurer for credit to*
48 *the state general fund. If the money is so deposited, the commission may*
49 *present a claim to the state board of examiners for recommendation to*



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1 *the interim finance committee if money is required to pay attorney's fees*
2 *or the costs of an investigation, or both.*

3 **Sec. 18.** 1. *A person who is aggrieved by any act committed in*
4 *violation of the provisions of this chapter may, within 1 year after the*
5 *discovery of the alleged violation, file with the division a written affidavit*
6 *that sets forth the facts constituting the alleged violation. Such an*
7 *affidavit may be filed only if the aggrieved person first provides to the*
8 *respondent, by certified mail, return receipt requested, two written*
9 *notices of the violation to be alleged in the affidavit. The notices must:*

10 (a) *Be mailed to the respondent's last known address.*

11 (b) *Be mailed at least 15 days apart.*

12 (c) *Specify, in reasonable detail, the alleged violation, any injury*
13 *suffered by the aggrieved person as a result of the alleged violation and*
14 *any corrective action proposed by the aggrieved person.*

15 2. *A written affidavit filed with the division pursuant to subsection 1*
16 *must be:*

17 (a) *On a form prescribed by the commission.*

18 (b) *Be accompanied by evidence that:*

19 (1) *The respondent has been given a reasonable opportunity after*
20 *receiving the written notices to correct the alleged violation; and*

21 (2) *Reasonable efforts to resolve the alleged violation have failed.*

22 3. *Except as otherwise provided in this section, the division shall,*
23 *upon the receipt of a written affidavit, conduct an investigation to*
24 *determine whether good cause exists to proceed with a hearing on the*
25 *affidavit.*

26 4. *The commission shall adopt by regulation procedures for filing a*
27 *written affidavit pursuant to this section.*

28 5. *The commission may require any person who knowingly files a*
29 *false or fraudulent affidavit with the division to pay an administrative*
30 *fine of not more than \$1,000.*

31 **Sec. 19.** 1. *If, after investigating a written affidavit received*
32 *pursuant to section 18 of this act, the division determines that the*
33 *affidavit is not frivolous, false or fraudulent and that good cause exists to*
34 *proceed with a hearing on the affidavit, the administrator shall file a*
35 *formal complaint with the commission and schedule a hearing before the*
36 *commission on the complaint.*

37 2. *The commission shall hold a hearing on the complaint within 90*
38 *days after the complaint is filed with the commission. The hearing may*
39 *be continued upon the motion of the commission or at the discretion of*
40 *the commission, upon the written request of the respondent or of the*
41 *division for good cause shown. The respondent may be represented by an*
42 *attorney at the hearing.*

43 3. *The division shall give the respondent written notice of the date,*
44 *time and place of the hearing at least 30 days before the date of the*
45 *hearing. The notice must be:*

46 (a) *Accompanied by:*

47 (1) *A copy of the complaint; and*

48 (2) *Copies of all communications, reports, affidavits and*
49 *depositions in the possession of the division that are relevant to the*



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1 *complaint. The division may present evidence at the hearing that is*
2 *obtained after giving notice to the respondent only if the division proves*
3 *to the satisfaction of the commission that the evidence was not available*
4 *after diligent investigation before the notice was given to the respondent*
5 *and that the evidence was given or communicated to the respondent*
6 *immediately after it was obtained.*

7 *(b) Delivered personally to the respondent or mailed to the*
8 *respondent, by certified mail, to his last known address.*

9 *4. If the respondent is the holder of a permit or certificate, the*
10 *division shall give written notice of the complaint to the broker or*
11 *community managing agent with whom the respondent is associated. The*
12 *notice must:*

13 *(a) Be mailed to the broker or community managing agent, by*
14 *certified mail, to his last known address.*

15 *(b) Include an exact statement of the alleged violations.*

16 *(c) Include the date, time and place of the hearing.*

17 **Sec. 20.** *The commission may conduct any hearing required by*
18 *section 19 of this act by means of video teleconference or telephone*
19 *conference only if all participants in the proceedings are able to hear one*
20 *another.*

21 **Sec. 21.** *1. The respondent shall file an answer with the*
22 *commission within 30 days after receiving the notice required by section*
23 *19 of this act.*

24 *2. The answer must:*

25 *(a) Contain an admission or a denial of the allegations contained in*
26 *the complaint and any defenses upon which the respondent will rely; and*

27 *(b) Be delivered to the commission or mailed to the principal office of*
28 *the division, by certified mail.*

29 *3. If an answer is not filed within the time required by subsection 1,*
30 *the division may, after giving notice to the respondent in the manner*
31 *prescribed in section 19 of this act, request the commission to enter a*
32 *finding of default against the respondent.*

33 **Sec. 22.** *1. The commission shall render a final decision on the*
34 *complaint within 20 days after the final hearing thereon.*

35 *2. The commission shall notify all parties to the complaint of its*
36 *decision in writing by certified mail, return receipt requested, within 60*
37 *days after the date of the final hearing. The written decision must include*
38 *the commission's findings of fact and conclusions of law.*

39 **Sec. 23.** *1. If the commission determines, after notice and hearing,*
40 *that any person has violated a provision of this chapter, the commission*
41 *may:*

42 *(a) Issue an order to cease and desist from engaging in such conduct;*

43 *(b) Issue an order to take affirmative action to correct conditions*
44 *resulting from the unlawful conduct; or*

45 *(c) Take both actions authorized by paragraphs (a) and (b).*

46 *2. If a person fails to comply with an order issued pursuant to*
47 *subsection 1, the commission may impose a fine of not more than \$1,000*
48 *for each violation.*



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- 1 *Sec. 24. 1. If the commission determines that any person has*
2 *violated or will violate a provision of this chapter, the commission may*
3 *bring an action in the district court for the county in which the person*
4 *resides or, if the person does not reside in this state, in any court of*
5 *competent jurisdiction in this state, to enjoin that person from engaging*
6 *in the violation or from doing any act in furtherance of the violation.*
7 *2. The action must be brought in the name of the State of Nevada.*
8 *3. An injunction may be issued without:*
9 *(a) Proof of actual damage sustained by any person.*
10 *(b) The filing of any bond.*
11 *Sec. 25. The commission and any of its members, acting pursuant to*
12 *sections 11 to 27, inclusive, of this act, are immune from any civil*
13 *liability for any decision or action taken in good faith and without*
14 *malicious intent in response to a complaint filed with the commission.*
15 *Sec. 26. Within the limitations of legislative appropriations, the*
16 *division may employ such attorneys, investigators, professional*
17 *consultants and other employees as are necessary to carry out the*
18 *provisions of sections 11 to 27, inclusive, of this act.*
19 *Sec. 27. The rights and remedies provided by sections 11 to 26,*
20 *inclusive, of this act do not abrogate and are in addition to any other*
21 *rights and remedies that may exist at law or in equity.*
22 *Sec. 28. 1. Except as otherwise provided in this section, a person*
23 *acting as a community managing agent in this state must obtain a license*
24 *from the division.*
25 *2. The commission shall provide by regulation for the issuance of*
26 *licenses to community managing agents. The regulations:*
27 *(a) Must establish the qualifications for the issuance of such a license,*
28 *including the education and experience required to obtain such a*
29 *license;*
30 *(b) May require applicants for such a license to pass an examination*
31 *in order to obtain a license;*
32 *(c) Must establish standards of practice for persons holding such a*
33 *license;*
34 *(d) Must establish the grounds for initiating disciplinary action*
35 *against a person to whom a license has been issued, including, without*
36 *limitation, the grounds for placing conditions, limitations or restrictions*
37 *on a license and for the suspension or revocation of a license; and*
38 *(e) Must establish rules of practice and procedure for conducting*
39 *disciplinary hearings. No license may be revoked or suspended without*
40 *first giving notice and holding a hearing pursuant to section 19 of this*
41 *act.*
42 *3. The division may investigate the community managing agents to*
43 *whom licenses have been issued to ensure their compliance with the*
44 *standards of practice adopted pursuant to this section and collect a fee*
45 *for the issuance of a license by the division in an amount not to exceed*
46 *the administrative costs of issuing the license.*
47 *4. The provisions of subsection 1 do not apply to:*
48 *(a) A person who is engaged in the management of a common-interest*
49 *community on October 1, 2001, and is granted an exemption from the*



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1 *requirements of subsection 1 by the administrator upon demonstration*
2 *that he is qualified and competent to engage in the management of a*
3 *common-interest community.*

4 *(b) A financial institution.*

5 *(c) An attorney who is licensed to practice in this state.*

6 *(d) A trustee.*

7 *(e) An employee of a corporation who manages only the property of*
8 *the corporation, unless that corporation is also an association.*

9 *(f) A declarant.*

10 *(g) A receiver.*

11 *(h) An officer or member of the executive board of an association who*
12 *acts as a community managing agent for the association.*

13 **Sec. 29.** *An application for a license to act as a community*
14 *managing agent or for a certificate to act as a community manager must:*

15 *1. Include the social security number of the applicant; and*

16 *2. Be accompanied by the statement required pursuant to section 30*
17 *of this act.*

18 **Sec. 30.** *1. An applicant for a license to act as a community*
19 *managing agent or for a certificate to act as a community manager must*
20 *submit to the division the statement prescribed by the welfare division of*
21 *the department of human resources pursuant to NRS 425.520. The*
22 *statement must be completed and signed by the applicant.*

23 *2. The division shall include the statement required pursuant to*
24 *subsection 1 in:*

25 *(a) The application or any other forms that must be submitted for the*
26 *issuance of the license or certificate; or*

27 *(b) A separate form prescribed by the division.*

28 *3. A license or certificate may not be issued if the applicant:*

29 *(a) Fails to submit the statement required pursuant to subsection 1; or*

30 *(b) Indicates on the statement submitted pursuant to subsection 1 that*
31 *he is subject to a court order for the support of a child and is not in*
32 *compliance with the order or a plan approved by the district attorney or*
33 *other public agency enforcing the order for the repayment of the amount*
34 *owed pursuant to the order.*

35 *4. If an applicant indicates on the statement submitted pursuant to*
36 *subsection 1 that he is subject to a court order for the support of a child*
37 *and is not in compliance with the order or a plan approved by the district*
38 *attorney or other public agency enforcing the order for the repayment of*
39 *the amount owed pursuant to the order, the division shall advise the*
40 *applicant to contact the district attorney or other public agency enforcing*
41 *the order to determine the actions that the applicant may take to satisfy*
42 *the arrearage.*

43 **Sec. 31.** *1. If the division receives a copy of a court order issued*
44 *pursuant to NRS 425.540 that provides for the suspension of all*
45 *professional, occupational and recreational licenses, certificates and*
46 *permits issued to the holder of a license to act as a community managing*
47 *agent or the holder of a certificate to act as a community manager, the*
48 *division shall deem the license or certificate to be suspended at the end of*
49 *the 30th day after the date the court order was issued unless the division*



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1 receives a letter issued to the holder of the license or certificate by the
2 district attorney or other public agency pursuant to NRS 425.550 stating
3 that the holder of the license or certificate has complied with a subpoena
4 or warrant or has satisfied the arrearage pursuant to NRS 425.560.

5 2. The division shall reinstate a license or a certificate that has been
6 suspended by a district court pursuant to NRS 425.540 if the division
7 receives a letter issued by the district attorney or other public agency
8 pursuant to NRS 425.550 to the holder of the license or certificate that he
9 has complied with the subpoena or warrant or has satisfied the arrearage
10 pursuant to NRS 425.560.

11 **Sec. 32.** 1. If the executive board of an association receives a
12 written complaint from a unit's owner alleging that the board has
13 violated any provision of this chapter or any provision of the governing
14 documents of the association, the executive board shall, if action is
15 required by the board, place the subject of the complaint on the agenda
16 of the next regularly scheduled meeting of the executive board.

17 2. The executive board, or an authorized representative of the
18 association, shall, within 10 days after receiving such a complaint,
19 acknowledge the receipt of the complaint and notify the unit's owner
20 that, if action is required by the board, the subject of the complaint will
21 be placed on the agenda of the next regularly scheduled meeting of the
22 executive board.

23 **Sec. 33.** An officer or member of the executive board of an
24 association or a person engaged in the management of a common-
25 interest community shall not solicit or accept any form of compensation,
26 gratuity or other remuneration that would improperly influence or would
27 appear to a reasonable person to influence improperly the decisions
28 made by those persons, or would result or would appear to a reasonable
29 person to result in a conflict of interest.

30 **Sec. 34.** A member of an executive board of an association shall not
31 take any retaliatory action against a unit's owner because the unit's
32 owner has:

33 1. Complained in good faith about any alleged violation of this
34 chapter or the governing documents of the association; or

35 2. Requested in good faith to review the books, records and papers of
36 the association.

37 **Sec. 35.** 1. A member of the executive board of an association
38 shall not:

39 (a) On or after October 1, 2001, enter into a contract or renew a
40 contract with the association to provide goods or services to the
41 association; or

42 (b) Otherwise accept any commission, personal profit or
43 compensation of any kind from the association for providing goods or
44 services to the association.

45 2. Except as otherwise provided in NRS 116.3105, the provisions of
46 this section do not prohibit:

47 (a) The payment of a salary or other income to a member of an
48 executive board of an association for acting in his official capacity.



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1 (b) A declarant from entering into a contract with an association or
2 the payment of any consideration to the declarant for any goods or
3 services furnished by the declarant to the association.

4 (c) The declarant from serving as an officer or a member of the
5 executive board of the association.

6 3. As used in this section, "declarant" includes any agent, employee
7 or affiliate of a declarant.

8 **Sec. 36. 1.** An association may bring an action to recover damages
9 resulting from constructional defects in any of the units, common
10 elements or limited common elements of the common-interest
11 community, or submit such a claim to mediation pursuant to NRS
12 40.680, only:

13 (a) If the association first obtains the written approval of each unit's
14 owner whose unit or interest in the common elements or limited common
15 elements will be the subject of the action or claim;

16 (b) Upon a vote of the units' owners to which at least a majority of the
17 votes of the members of the association are allocated; and

18 (c) Upon a vote of the executive board of the association.

19 2. If an action is brought by an association to recover damages
20 resulting from constructional defects in any of the units, common
21 elements or limited common elements of the common-interest
22 community, or such a claim is submitted to mediation pursuant to NRS
23 40.680, the attorney representing the association shall provide to the
24 executive board of the association and to each unit's owner a statement
25 that includes, in reasonable detail:

26 (a) The defects and damages or injuries to the units, common
27 elements or limited common elements;

28 (b) The cause of the defects, if the cause is known;

29 (c) The nature and the extent that is known of the damage or injury
30 resulting from the defects;

31 (d) The location of each defect within the units, common elements or
32 limited common elements, if known;

33 (e) A reasonable estimate of the cost of the action or mediation,
34 including reasonable attorney's fees;

35 (f) An explanation of the potential benefits of the action or mediation
36 and the potential adverse consequences if the association does not
37 commence the action or submit the claim to mediation or if the outcome
38 is not favorable to the association; and

39 (g) All disclosures that are required to be made upon the sale of the
40 property.

41 3. An association or an attorney for an association shall not employ
42 a person to perform destructive tests to determine any damage or injury
43 to a unit, common element or limited common element caused by a
44 constructional defect unless:

45 (a) The person is licensed as a contractor pursuant to chapter 624 of
46 NRS;

47 (b) The association has obtained the prior written approval of each
48 unit's owner whose unit or interest in the common element or limited
49 common element will be affected by such testing;



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1 (c) The person has provided a written schedule for repairs;
2 (d) The person is required to repair all damage resulting from such
3 tests in accordance with state laws and local ordinances relating thereto;
4 and

5 (e) The association or the person so employed obtains all permits
6 required to conduct such tests and to repair any damage resulting from
7 such tests.

8 4. As used in this section, "constructional defect" has the meaning
9 ascribed to it in NRS 40.615.

10 **Sec. 37.** 1. Except as otherwise provided in subsection 2 and
11 section 36 of this act, an association may commence a civil action only
12 upon a vote or written agreement of the owners of the units to which at
13 least a majority of the votes of the members of the association are
14 allocated. In such a case, the association shall provide written notice to
15 the owner of each unit of a meeting at which the commencement of a
16 civil action is to be considered or action is to be taken within 21 calendar
17 days before the meeting.

18 2. The provisions of subsection 1 do not apply to a civil action that is
19 commenced:

20 (a) By an association for a time-share project governed by the
21 provisions of chapter 119A of NRS;

22 (b) To enforce the payment of an assessment;

23 (c) To enforce the declaration, bylaws or rules of the association;

24 (d) To proceed with a counterclaim; or

25 (e) To enforce or rescind a contract to which the association is a
26 party.

27 **Sec. 38.** 1. Notwithstanding any other provision of this chapter, in
28 a common-interest community that has at least 2,000 units and a master
29 association, some or all of the authority of the members of the
30 association may be exercised by delegates, including the voting rights of
31 the members of the association, if the declaration so provides.

32 2. For the purpose of determining whether a common-interest
33 community has at least 2,000 units, units that a declarant has reserved
34 the right to create pursuant to NRS 116.2105 and for which
35 developmental rights exist must be included.

36 **Sec. 39.** 1. If a common-interest community is developed in
37 separate phases and the declarant, including a successor declarant who
38 does not control the association established by the initial declarant, is
39 constructing additional common elements that will be added to the
40 association's common elements, the declarant shall:

41 (a) Pay all common expenses related to the additional common
42 elements;

43 (b) Prepare a study of the reserves for the additional common
44 elements in accordance with NRS 116.31038; and

45 (c) Deliver to the association all reserves required by that section
46 before delivery of the common elements to the association.

47 2. If a declarant, including a successor declarant who does not
48 control the association established by the initial declarant, attempts to
49 deliver to the association common elements that have improvements for



1 *which a study of reserves is required, the declarant that constructed those*
2 *common elements shall, before the delivery of the common elements to*
3 *the association, prepare a study of the reserves for the common elements*
4 *in accordance with NRS 116.31038. The study must be approved by the*
5 *association before the delivery of those common elements to the*
6 *association. If there is a deficiency in the amount of reserves collected by*
7 *the declarant or the association for those common elements, the*
8 *declarant shall deliver the deficiency to the association before delivery of*
9 *those common elements to the association.*

10 **Sec. 40.** 1. *In a county whose population is 400,000 or more, a*
11 *person who owns or, directly or indirectly, has an interest in, one or more*
12 *units within a planned community that are restricted to residential use by*
13 *the declaration, may use that unit or one of those units for a transient*
14 *commercial use if the governing documents of the association do not*
15 *prohibit such use.*

16 2. *If such a person owns or, directly or indirectly, has an interest in,*
17 *more than one such unit within the planned community, any additional*
18 *unit may be used for a transient commercial use only if:*

19 (a) *The governing documents of the association do not prohibit such*
20 *use; and*

21 (b) *Persons entitled to cast at least a majority of the votes in the*
22 *association approve the transient commercial use of the unit.*

23 3. *The association may establish requirements for such use,*
24 *including the payment of additional fees that are related to any increase*
25 *in services or other costs associated with the transient commercial use of*
26 *the unit.*

27 4. *In addition to taking any action against a person who owns or,*
28 *directly or indirectly, has an interest in a unit for violating any of the*
29 *provisions of this section, the commission may take any action authorized*
30 *by sections 23 and 24 of this act against any person who arranges or*
31 *negotiates for the transient commercial use of a unit in violation of this*
32 *section.*

33 5. *As used in this section:*

34 (a) *“Remuneration” means any compensation, money, rent or other*
35 *valuable consideration given in return for the occupancy, possession or*
36 *use of a unit.*

37 (b) *“Transient commercial use” means the use of a unit, for*
38 *remuneration, as a hostel, hotel, inn, motel, resort, vacation rental or*
39 *other form of transient lodging if the term of the occupancy, possession*
40 *or use of the unit is for less than 30 consecutive calendar days.*

41 **Sec. 41.** *The executive board of a master association of any*
42 *common-interest community that was created before January 1, 1975,*
43 *and is located in a county whose population is 400,000 or more may*
44 *record an amendment to the declaration pursuant to which the master*
45 *association reallocates the costs of administering the common elements*
46 *of the master association among the units of the common-interest*
47 *community uniformly and based upon the actual costs associated with*
48 *each unit.*



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1 **Sec. 42. 1. Notwithstanding any other provision of this chapter, the**
2 **executive board of an association may, without giving notice to the units'**
3 **owners, employ a contractor licensed pursuant to the provisions of**
4 **chapter 624 of NRS and such other persons as are necessary to make**
5 **such repairs to a unit or common element within the common-interest**
6 **community as are required to protect the health, safety and welfare of the**
7 **units' owners.**

8 **2. If the governing documents of the association require such action**
9 **to be taken at a meeting of the executive board of the association, the**
10 **executive board shall, within 90 days after employing any person**
11 **pursuant to subsection 1, provide written notice to the units' owners of its**
12 **action and include the action on the agenda of its next regularly**
13 **scheduled meeting.**

14 **Sec. 43. Notwithstanding any other provision of this chapter, if a**
15 **declaration, any recorded instrument related to a common-interest**
16 **community or any contract to which an association is a party provides**
17 **for the imposition of an assessment, fine, penalty or other charge for any**
18 **failure to adhere to a schedule for the completion of the design,**
19 **commencement of the construction or completion of the construction of**
20 **a unit or an improvement within the unit, or for the issuance of any**
21 **necessary permit for the occupancy of the unit or the use of the**
22 **improvement, the assessment, fine, penalty or other charge is enforceable**
23 **if that schedule and the maximum amount of the assessment, fine,**
24 **penalty or other charge are set forth in the declaration, recorded**
25 **instrument or contract.**

26 **Sec. 44. NRS 116.1103 is hereby amended to read as follows:**
27 116.1103 ~~It is~~ **As used in** the declaration and bylaws ~~(NRS 116.3106),~~
28 ~~unless specifically provided otherwise or~~ **of an association and in this**
29 **chapter, unless** the context otherwise requires, ~~and in this chapter,~~ the
30 words and terms defined in NRS 116.110305 to 116.110393, inclusive,
31 **and sections 2 to 9, inclusive, of this act** have the meanings ascribed to
32 them in those sections.

33 **Sec. 45. NRS 116.110305 is hereby amended to read as follows:**
34 116.110305 "Administrator" means the administrator of the ~~real~~
35 ~~estate division of the department of business and industry.~~ **division.**

36 **Sec. 46. NRS 116.11145 is hereby amended to read as follows:**

37 116.11145 1. To carry out the purposes of this chapter, the ~~real~~
38 ~~estate~~ commission, or any member thereof ~~it~~ **acting on behalf of the**
39 **commission,** may issue subpoenas to compel the attendance of witnesses
40 and the production of books, records and other papers.

41 2. If any person fails to comply with a subpoena issued by the
42 commission pursuant to this section, ~~within 10 days after its issuance,~~ the
43 commission may petition the district court for an order of the court
44 compelling compliance with the subpoena.

45 3. Upon such a petition, the court shall enter an order directing the
46 person subpoenaed to appear before the court at a time and place to be
47 fixed by the court in its order, the time to be not more than 10 days after
48 the ~~date~~ **service** of the order, and show cause why he has not complied



1 with the subpoena. A certified copy must be served upon the person
2 subpoenaed.

3 4. If it appears to the court that the subpoena was regularly issued by
4 the commission, the court shall enter an order compelling compliance with
5 the subpoena, and upon failure to obey the order the person shall be dealt
6 with as for contempt of court.

7 **Sec. 47.** NRS 116.1116 is hereby amended to read as follows:

8 116.1116 1. The office of the ombudsman for owners in common-
9 interest communities is hereby created within the ~~real estate division of~~
10 ~~the department of business and industry.~~ *division.*

11 2. The administrator shall appoint the ombudsman for owners in
12 common-interest communities. The ombudsman for owners in common-
13 interest communities is in the unclassified service of the state.

14 3. The ombudsman for owners in common-interest communities must
15 be qualified by training and experience to perform the duties and functions
16 of his office.

17 4. The ombudsman for owners in common-interest communities shall:

18 (a) Assist in processing claims submitted to mediation or arbitration
19 pursuant to NRS 38.300 to 38.360, inclusive;

20 (b) Assist owners in common-interest communities to understand their
21 rights and responsibilities as set forth in this chapter and the governing
22 documents of their associations, including, without limitation, publishing
23 materials related to those rights and responsibilities;

24 (c) Assist persons appointed or elected to serve ~~on~~ *as officers or*
25 *members of* executive boards of associations to carry out their duties; ~~and~~

26 (d) *Assist in resolving complaints filed with the office alleging a*
27 *violation of the provisions of this chapter or the governing documents of*
28 *the association; and*

29 (e) Compile and maintain a registration of each association organized
30 within the state which includes, without limitation:

31 (1) The name, address and telephone number of the association;

32 (2) The name of the person engaged in ~~property management for~~
33 *the management of* the common-interest community or the name of the
34 person who manages the property at the site of the common-interest
35 community;

36 (3) The names, mailing addresses and telephone numbers of the
37 members of the executive board of the association;

38 (4) The name of the declarant;

39 (5) The number of units in the common-interest community; ~~and~~

40 (6) The total annual assessment made by the association ~~+~~ ;

41 (7) *The number of liens foreclosed on units within the common-*
42 *interest community for the failure to pay assessments levied against those*
43 *units or fines imposed against units' owners; and*

44 (8) *The studies of reserves of the association required to be*
45 *conducted pursuant to NRS 116.31152.*

46 **Sec. 48.** NRS 116.1117 is hereby amended to read as follows:

47 116.1117 1. There is hereby created the account for ~~the ombudsman~~
48 ~~for owners in~~ common-interest communities in the state general fund. The
49 account must be administered by the administrator.



- 1 2. The fees collected pursuant to NRS 116.31155 must be credited to
2 the account.
- 3 3. The interest and income earned on the money in the account, after
4 deducting any applicable charges, must be credited to the account.
- 5 4. The money in the account must be used solely to ~~defray~~ :
- 6 (a) ~~Defray~~ the costs and expenses of administering *the commission and*
7 the office of the ombudsman for owners in common-interest communities ;
8 and ~~for the payment of fees for a mediator or an arbitrator pursuant to~~
9 ~~NRS 38.330.~~
- 10 (b) *Subsidize proceedings for mediation and arbitration conducted*
11 *under NRS 38.300 to 38.360, inclusive.*
- 12 **Sec. 49.** NRS 116.1201 is hereby amended to read as follows:
- 13 116.1201 1. Except as otherwise provided in this section and NRS
14 116.1203, this chapter applies to all common-interest communities created
15 within this state.
- 16 2. This chapter does not apply to:
- 17 (a) Associations created for the limited purpose of maintaining:
- 18 (1) The landscape of the common elements of a common-interest
19 community;
- 20 (2) Facilities for flood control; or
- 21 (3) A rural agricultural residential common-interest community.
- 22 (b) A planned community in which all units are restricted exclusively to
23 nonresidential use unless the declaration provides that the chapter does
24 apply to that planned community. This chapter applies to a planned
25 community containing both units that are restricted exclusively to
26 nonresidential use and other units that are not so restricted, only if the
27 declaration so provides or the real estate comprising the units that may be
28 used for residential purposes would be a planned community in the absence
29 of the units that may not be used for residential purposes.
- 30 (c) Common-interest communities or units located outside of this state,
31 but the provisions of NRS 116.4102 to 116.4108, inclusive, apply to all
32 contracts for the disposition thereof signed in this state by any party unless
33 exempt under subsection 2 of NRS 116.4101.
- 34 (d) *A common-interest community that was created before January 1,*
35 *1992, is located in a county whose population is less than 50,000, and*
36 *has less than 50 percent of the units within the community put to*
37 *residential use, unless a majority of the units' owners otherwise elect in*
38 *writing.*
- 39 3. The provisions of this chapter do not:
- 40 (a) Prohibit a common-interest community created before January 1,
41 1992, from providing for separate classes of voting for the units' owners of
42 the association;
- 43 (b) Require a common-interest community created before January 1,
44 1992, to comply with the provisions of NRS 116.2101 to 116.2122,
45 inclusive;
- 46 (c) Invalidate any assessments that were imposed on or before
47 October 1, 1999, by a common-interest community created before
48 January 1, 1992; or



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1 (d) Prohibit a common-interest community created before January 1,
2 1992, from providing for a representative form of government ~~in~~ *in*
3 *accordance with section 38 of this act.*

4 4. The provisions of chapters 117 and 278A of NRS do not apply to
5 common-interest communities.

6 5. For the purposes of this section, the ~~administrator~~ *commission*
7 shall establish, by regulation, the criteria for determining whether an
8 association is created for the limited purpose of maintaining the landscape
9 of the common elements of a common-interest community, maintaining
10 facilities for flood control or maintaining a rural agricultural residential
11 common-interest community.

12 **Sec. 50.** NRS 116.1206 is hereby amended to read as follows:

13 116.1206 1. Any *provision contained in a* declaration, bylaw or
14 other governing document of a common-interest community ~~created~~
15 ~~before January 1, 1992,~~ *in effect on October 1, 2001,* that does not
16 conform to the provisions of this chapter ~~shall~~ *:*

17 *(a) Shall be deemed to conform with those provisions by operation of*
18 *law, and any such declaration, bylaw or other governing document is not*
19 *required to be amended to conform to those provisions.* ~~; and~~

20 *(b) May be changed to conform to those provisions and may be so*
21 *changed by a vote of the executive board of the association without*
22 *compliance with the procedural requirements generally applicable to the*
23 *adoption of an amendment to the declaration, bylaws or other governing*
24 *document.*

25 2. In the case of amendments to the declaration, bylaws or plats and
26 plans of any common-interest community created before January 1, 1992:

27 (a) If the result accomplished by the amendment was permitted by law
28 before January 1, 1992, the amendment may be made either in accordance
29 with that law, in which case that law applies to that amendment, or it may
30 be made under this chapter; and

31 (b) If the result accomplished by the amendment is permitted by this
32 chapter, and was not permitted by law before January 1, 1992, the
33 amendment may be made under this chapter.

34 3. An amendment to the declaration, bylaws or plats and plans
35 authorized by this section to be made under this chapter must be adopted in
36 conformity with the applicable provisions of chapter 117 or 278A of NRS
37 and with the procedures and requirements specified by those instruments.
38 If an amendment grants to any person any rights, powers or privileges
39 permitted by this chapter, all correlative obligations, liabilities and
40 restrictions in this chapter also apply to that person.

41 **Sec. 51.** NRS 116.2103 is hereby amended to read as follows:

42 116.2103 1. ~~All provisions of the declaration and bylaws are~~
43 ~~severable.~~ *The inclusion in a governing document of an association of a*
44 *provision that violates any provision of this chapter does not render any*
45 *other provision of the governing document invalid or otherwise*
46 *unenforceable if such other provisions can be given effect in accordance*
47 *with their original intent and the provisions of this chapter.*



1 2. The rule against perpetuities and NRS 111.103 to 111.1039,
2 inclusive, do not apply to defeat any provision of the declaration, bylaws,
3 rules or regulations adopted pursuant to NRS 116.3102.

4 3. In the event of a conflict between the provisions of the declaration
5 and the bylaws, the declaration prevails except to the extent the declaration
6 is inconsistent with this chapter.

7 4. Title to a unit and common elements is not rendered unmarketable
8 or otherwise affected by reason of an insubstantial failure of the declaration
9 to comply with this chapter. Whether a substantial failure impairs
10 marketability is not affected by this chapter.

11 **Sec. 52.** NRS 116.2105 is hereby amended to read as follows:

12 116.2105 1. The declaration must contain:

13 (a) The names of the common-interest community and the association
14 and a statement that the common-interest community is either a
15 condominium, cooperative or planned community;

16 (b) The name of every county in which any part of the common-interest
17 community is situated;

18 (c) A sufficient description of the real estate included in the common-
19 interest community;

20 (d) A statement of the maximum number of units that the declarant
21 reserves the right to create;

22 (e) In a condominium or planned community, a description of the
23 boundaries of each unit created by the declaration, including the unit's
24 identifying number or, in a cooperative, a description, which may be by
25 plats or plans, of each unit created by the declaration, including the unit's
26 identifying number, its size or number of rooms, and its location within a
27 building if it is within a building containing more than one unit;

28 (f) A description of any limited common elements, other than those
29 specified in subsections 2 and 4 of NRS 116.2102, as provided in
30 paragraph (g) of subsection 2 of NRS 116.2109 and, in a planned
31 community, any real estate that is or must become common elements;

32 (g) A description of any real estate, except real estate subject to
33 developmental rights, that may be allocated subsequently as limited
34 common elements, other than limited common elements specified in
35 subsections 2 and 4 of NRS 116.2102, together with a statement that they
36 may be so allocated;

37 (h) A description of any developmental rights ~~{NRS 116.11034}~~ and
38 other special declarant's rights ~~{NRS 116.110385}~~ reserved by the
39 declarant, together with a legally sufficient description of the real estate to
40 which each of those rights applies, and a time within which each of those
41 rights must be exercised;

42 (i) If any developmental right may be exercised with respect to different
43 parcels of real estate at different times, a statement to that effect together
44 with:

45 (1) Either a statement fixing the boundaries of those portions and
46 regulating the order in which those portions may be subjected to the
47 exercise of each developmental right or a statement that no assurances are
48 made in those regards; and



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1 (2) A statement whether, if any developmental right is exercised in
2 any portion of the real estate subject to that developmental right, that
3 developmental right must be exercised in all or in any other portion of the
4 remainder of that real estate;
5 (j) Any other conditions or limitations under which the rights described
6 in paragraph (h) may be exercised or will lapse;
7 (k) An allocation to each unit of the allocated interests in the manner
8 described in NRS 116.2107 ~~H~~ *and a statement of whether voting by*
9 *delegates is required or permitted pursuant to section 38 of this act;*
10 (l) Any restrictions:
11 (1) On use, occupancy and alienation of the units; and
12 (2) On the amount for which a unit may be sold or on the amount that
13 may be received by a unit's owner on sale, condemnation or casualty to the
14 unit or to the common-interest community, or on termination of the
15 common-interest community;
16 (m) The file number and book or other information to show where
17 easements and licenses are recorded appurtenant to or included in the
18 common-interest community or to which any portion of the common-
19 interest community is or may become subject by virtue of a reservation in
20 the declaration; and
21 (n) All matters required by NRS 116.2106 to 116.2109, inclusive,
22 116.2115, ~~and~~ 116.2116 and 116.31032.
23 2. The declaration may contain any other matters the declarant
24 considers appropriate.
25 **Sec. 53.** NRS 116.2111 is hereby amended to read as follows:
26 116.2111 ~~Subject~~
27 *1. Except as otherwise provided in this section and subject to the*
28 *provisions of the declaration and other provisions of law, a unit's owner:*
29 ~~H~~ *(a) May make any improvements or alterations to his unit that do*
30 *not impair the structural integrity or mechanical systems or lessen the*
31 *support of any portion of the common-interest community;*
32 ~~I~~ *(b) May not change the appearance of the common elements, or the*
33 *exterior appearance of a unit or any other portion of the common-interest*
34 *community, without permission of the association; and*
35 ~~I~~ *(c) After acquiring an adjoining unit or an adjoining part of an*
36 *adjoining unit, may remove or alter any intervening partition or create*
37 *apertures therein, even if the partition in whole or in part is a common*
38 *element, if those acts do not impair the structural integrity or mechanical*
39 *systems or lessen the support of any portion of the common-interest*
40 *community. Removal of partitions or creation of apertures under this*
41 ~~subsection~~ *paragraph is not an alteration of boundaries.*
42 *2. An association may not:*
43 *(a) Require the removal of any structure, fixture or other*
44 *improvement made to a unit if it was approved by the association in*
45 *writing before it was installed or constructed in accordance with*
46 *procedures set forth in the governing documents of the association.*
47 *(b) Unreasonably restrict, prohibit or otherwise impede the lawful*
48 *rights of a unit's owner to have reasonable access to his unit.*



(c) Prohibit or unreasonably restrict or withhold approval for a unit's owner to include or add in or to a unit:

(1) An apparatus required for the use of solar energy;

(2) Improvements such as ramps, railings or elevators that are necessary or desirable to increase the unit's owner's access to his unit if an occupant of the unit is disabled; or

(3) Shutters or additional locks that are desirable to make a unit's owner feel safe in his unit.

3. If the improvement or alteration is visible from any other portion of the common-interest community, any device or other improvement included or added in or to a unit pursuant to paragraph (b) or (c) of subsection 2 must be added or installed in accordance with the procedures set forth in the governing documents of the association and must be selected or designed to the maximum extent practicable to be compatible with the style of the common-interest community.

Sec. 54. NRS 116.31031 is hereby amended to read as follows:

116.31031 1. If a unit's owner, or a tenant or guest of a unit's owner, does not comply with a provision of the governing documents of an association, the executive board of the association may, if the governing documents so provide:

(a) Prohibit, for a reasonable time, the unit's owner, or the tenant or guest of the unit's owner, from:

(1) Voting on matters related to the common-interest community.

(2) Using the common elements. The provisions of this subparagraph do not prohibit the unit's owner, or the tenant or guest of the unit's owner, from using any vehicular or pedestrian ingress or egress to go to or from the unit, including any area used for parking.

(b) Require the unit's owner, or the tenant or guest of the unit's owner, to pay a fine for each failure to comply. ~~that does not threaten the health and welfare of the common interest community.~~ The fine must be commensurate with the severity of the violation. ~~but~~ *If the failure to comply does not threaten the health, safety or welfare of the common-interest community, the fine* must not exceed \$100 for each violation. ~~for a total amount of \$500, whichever is less.~~

2. If a fine is imposed pursuant to subsection 1 and the violation is not cured within 14 days or a longer period as may be established by the executive board, the violation shall be deemed a continuing violation. Thereafter, the executive board may impose an additional fine for the violation for each 7-day period or portion thereof that the violation is not cured ~~+~~ *, but in no event may the cumulative total amount of the additional fine exceed \$1,000 per calendar year for each continuing violation.* Any additional fine *for each continuing violation* may be imposed without notice and an opportunity to be heard.

3. Except as otherwise provided in subsection 2, the imposition of a fine pursuant to this section must comply with the requirements of subsection 6 of NRS 116.31065.

Sec. 55. NRS 116.31034 is hereby amended to read as follows:

116.31034 1. Except as otherwise provided in subsection 5 of NRS 116.212, not later than the termination of any period of declarant's control,



1 the units' owners shall elect an executive board of at least three members,
2 at least a majority of whom must be units' owners. The executive board
3 shall elect the officers. The members and officers of the executive board
4 shall take office upon election.

5 2. The term of office of a member of the executive board may not
6 exceed 2 years. A member of the executive board may be elected to
7 succeed himself. The governing documents of the association must ~~set~~ :

8 (a) *Set* forth the month during which elections for the members of the
9 executive board must be held after the termination of any period of the
10 declarant's control.

11 (b) *Provide for terms of office that are staggered. The provisions of*
12 *this paragraph do not apply to members of the executive board appointed*
13 *by the declarant.*

14 3. Not less than 30 days before the preparation of a ballot for the
15 election of members of the executive board, the secretary or other officer
16 specified in the bylaws of the association shall cause notice to be given to
17 each unit's owner of his eligibility to serve as a member of the executive
18 board. Each unit's owner who is qualified to serve as a member of the
19 executive board may have his name placed on the ballot along with the
20 names of the nominees selected by the members of the executive board or a
21 nominating committee established by the association.

22 4. *A unit's owner may not be an officer or member of the executive*
23 *board if he or any member of his immediate family engages in the*
24 *management of the common-interest community.*

25 5. An officer, employee, agent or director of a corporate owner of a
26 unit, a trustee or designated beneficiary of a trust that owns a unit, a partner
27 of a partnership that owns a unit, *a member or manager of a limited-*
28 *liability company that owns a unit*, and a fiduciary of an estate that owns a
29 unit may be an officer or member of the executive board. In all events
30 where the person serving or offering to serve as an officer or member of
31 the executive board is not the record owner, he shall file proof in the
32 records of the association that:

33 (a) He is associated with the corporate owner, trust, partnership ,
34 *limited-liability company* or estate as required by this subsection; and

35 (b) Identifies the unit or units owned by the corporate owner, trust,
36 partnership , *limited-liability company* or estate.

37 ~~5. The~~

38 6. *Except as otherwise provided in section 38 of this act, the* election
39 of any member of the executive board must be conducted by secret written
40 ballot. The secretary or other officer specified in the bylaws of the
41 association shall cause to be sent prepaid by United States mail to the
42 mailing address of each unit within the common-interest community or to
43 any other mailing address designated in writing by the unit's owner, a
44 secret ballot and a return envelope.

45 ~~6.1~~ 7. Each member of the executive board shall, within 30 days after
46 his appointment or election, certify in writing that he has read and
47 understands the governing documents of the association and the provisions
48 of this chapter to the best of his ability.



1 **Sec. 56.** NRS 116.31036 is hereby amended to read as follows:
2 116.31036 1. Notwithstanding any provision of the declaration or
3 bylaws to the contrary, the units' owners, by a two-thirds vote of all
4 persons ~~present and~~ entitled to vote at any meeting of the units' owners at
5 which a quorum is present, may remove any member of the executive
6 board with or without cause, other than a member appointed by the
7 declarant.

8 2. *The removal of any member of the executive board must be*
9 *conducted by secret written ballot. The secretary or other officer specified*
10 *in the bylaws of the association shall cause to be sent prepaid by United*
11 *States mail to the mailing address of each unit within the common-*
12 *interest community or to any other mailing address designated in writing*
13 *by the unit's owner, a secret ballot and a return envelope.*

14 3. If a member of an executive board is sued for liability for actions
15 undertaken in his role as a member of the board, the association shall
16 indemnify him for his losses or claims, and undertake all costs of defense,
17 unless it is proven that he acted with willful or wanton misfeasance or with
18 gross negligence. After such proof, the association is no longer liable for
19 the cost of defense, and may recover costs already expended from the
20 member of the executive board who so acted. Members of the executive
21 board are not personally liable to the victims of crimes occurring on the
22 property. Punitive damages may not be recovered against the association,
23 but may be recovered from persons whose activity gave rise to the
24 damages.

25 **Sec. 57.** NRS 116.3106 is hereby amended to read as follows:

26 116.3106 1. The bylaws of the association must provide:

27 (a) The number of members of the executive board and the titles of the
28 officers of the association;

29 (b) For election by the executive board of a president, treasurer,
30 secretary and any other officers of the association the bylaws specify;

31 (c) The qualifications, powers and duties, terms of office and manner of
32 electing and removing officers of the association and members of the
33 executive board and filling vacancies;

34 (d) Which, if any, of its powers the executive board or officers may
35 delegate to other persons or to a ~~managing agent;~~ *person engaged in the*
36 *management of the common-interest community;*

37 (e) Which of its officers may prepare, execute, certify and record
38 amendments to the declaration on behalf of the association;

39 (f) Procedural rules for conducting meetings of the association; ~~and~~

40 (g) A method for amending the bylaws ~~and~~ ; and

41 (h) Procedural rules for conducting elections.

42 2. Except as otherwise provided in the declaration, the bylaws may
43 provide for any other matters the association deems necessary and
44 appropriate.

45 3. The bylaws must be written in plain English.

46 **Sec. 58.** NRS 116.31065 is hereby amended to read as follows:

47 116.31065 The rules adopted by an association:

48 1. Must be reasonably related to the purpose for which they are
49 adopted.



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1 2. Must be sufficiently explicit in their prohibition, direction or
2 limitation to inform a unit's owner, or a tenant or guest of a unit's owner,
3 of any action or omission required for compliance.

4 3. Must not be adopted to evade any obligation of the association.

5 4. Must be consistent with the governing documents of the association
6 and must not arbitrarily restrict conduct or require the construction of any
7 capital improvement by a unit's owner that is not required by the governing
8 documents of the association.

9 5. Must be uniformly enforced under the same or similar
10 circumstances against all units' owners. ~~Any rule that is not so uniformly~~
11 ~~enforced may not be enforced against any unit's owner.~~

12 6. May be enforced by the assessment of a fine only if:

13 (a) The *association has given written notice, by certified mail, to the*
14 *person alleged to have violated the rule* ~~has received notice of the alleged~~
15 ~~violation that informs him of his opportunity to request a hearing on the~~
16 ~~alleged violation.~~ *that:*

17 *(1) Sets forth the alleged violation and any required corrective*
18 *action; and*

19 *(2) Includes a statement that he is entitled to a hearing on the*
20 *alleged violation before the imposition of the fine;*

21 (b) *The person alleged to have violated the rule is afforded an*
22 *opportunity to cure the alleged violation before the imposition of the fine;*
23 *and*

24 (c) At least 30 days before the alleged violation, the person alleged to
25 have violated the rule was given written notice of the rule or any
26 amendment to the rule.

27 **Sec. 59.** NRS 116.31083 is hereby amended to read as follows:

28 116.31083 1. A meeting of the executive board of an association
29 must be held at least once every 90 days.

30 2. Except in an emergency or unless the bylaws of an association
31 require a longer period of notice, the secretary or other officer specified in
32 the bylaws of the association shall, not less than 10 days before the date of
33 a meeting of the executive board, cause notice of the meeting to be given to
34 the units' owners. Such notice must be:

35 (a) Sent prepaid by United States mail to the mailing address of each
36 unit within the common-interest community or to any other mailing
37 address designated in writing by the unit's owner; or

38 (b) Published in a newsletter or other similar publication that is
39 circulated to each unit's owner.

40 3. In an emergency, the secretary or other officer specified in the
41 bylaws of the association shall, if practicable, cause notice of the meeting
42 to be sent prepaid by United States mail to the mailing address of each unit
43 within the common-interest community. If delivery of the notice in this
44 manner is impracticable, the notice must be hand-delivered to each unit
45 within the common-interest community or posted in a prominent place or
46 places within the common elements of the association.

47 4. The notice of a meeting of the executive board of an association
48 must state the time and place of the meeting and include a copy of the
49 agenda for the meeting or the date on which and the locations where copies



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1 of the agenda may be conveniently obtained by the units' owners of the
2 association. The notice must include notification of the right of a unit's
3 owner to:

4 (a) Have a copy of the minutes or a summary of the minutes of the
5 meeting distributed to him upon request and, if required by the executive
6 board, upon payment to the association of the cost of making the
7 distribution.

8 (b) Speak to the association or executive board, unless the executive
9 board is meeting in executive session.

10 5. The agenda of the meeting of the executive board of an association
11 must comply with the provisions of subsection 3 of NRS 116.3108. The
12 period required to be devoted to comments by units' owners and discussion
13 of those comments must be scheduled for the beginning of each meeting.
14 In an emergency, the executive board may take action on an item which is
15 not listed on the agenda as an item on which action may be taken.

16 6. At least once every 90 days, unless the declaration or bylaws of the
17 association impose more stringent standards, the executive board shall
18 review at one of its meetings:

19 (a) A current reconciliation of the operating account of the association;

20 (b) A current reconciliation of the reserve account of the association;

21 (c) The actual revenues and expenses for the reserve account, compared
22 to the budget for that account for the current year;

23 (d) The latest account statements prepared by the financial institutions
24 in which the accounts of the association are maintained;

25 (e) An income and expense statement, prepared on at least a quarterly
26 basis, for the operating and reserve accounts of the association; and

27 (f) The current status of any civil action or claim submitted to
28 arbitration or mediation in which the association is a party.

29 7. ~~The~~ *Except as otherwise provide in this subsection, the* minutes
30 of a meeting of the executive board of an association must ~~be~~ :

31 (a) *Include:*

32 (1) *The date, time and place of the meeting;*

33 (2) *Those members of the executive board who were present and*
34 *those members who were absent;*

35 (3) *The substance of all matters proposed, discussed or decided and,*
36 *at the request of any member of the executive board, a record of each*
37 *member's vote on any matter decided by vote; and*

38 (4) *The substance of remarks made by any unit's owner who*
39 *addresses the executive board if he requests that the minutes reflect his*
40 *remarks or, if he has prepared written remarks, a copy of his prepared*
41 *remarks if he submits a copy for inclusion;*

42 (b) *Be maintained by the association until the common-interest*
43 *community is terminated; and*

44 (c) *Be made available to the units' owners in accordance with the*
45 *provisions of subsection 5 of NRS 116.3108.*

46 *The executive board of an association may establish reasonable*
47 *limitations on materials, remarks or other information to be included in*
48 *the minutes of its meetings.*



1 8. *A unit's owner may record on audiotape or any other means of*
2 *sound reproduction a meeting of the executive board, unless the board is*
3 *meeting in executive session, if the members of the board who are in*
4 *attendance are notified of the intent of the unit's owner to record the*
5 *meeting.*

6 9. As used in this section, "emergency" means any occurrence or
7 combination of occurrences that:

- 8 (a) Could not have been reasonably foreseen;
9 (b) Affects the health, welfare and safety of the units' owners of the
10 association;
11 (c) Requires the immediate attention of, and possible action by, the
12 executive board; and
13 (d) Makes it impracticable to comply with the provisions of subsection
14 2 or 5.

15 **Sec. 60.** NRS 116.31085 is hereby amended to read as follows:

16 116.31085 1. Except as otherwise provided in this section, a unit's
17 owner may attend any meeting of the units' owners of the association or of
18 the executive board and speak at any such meeting. The executive board
19 may establish reasonable limitations on the time a unit's owner may speak
20 at such a meeting.

21 2. An executive board may meet in executive session to:

22 (a) Consult with the attorney for the association on matters relating to
23 proposed or pending litigation if the contents of the discussion would
24 otherwise be governed by the privilege set forth in NRS 49.035 to 49.115,
25 inclusive;

26 (b) Discuss ~~{matters relating to personnel;}~~ *an employee of the*
27 *association or an employee of a person engaged in the management of*
28 *the common-interest community who is working solely for the*
29 *association;* or

30 (c) Discuss a violation of the governing documents alleged to have been
31 committed by a unit's owner, including, without limitation, the failure to
32 pay an assessment, except as otherwise provided in subsection 3.

33 3. An executive board shall meet in executive session to hold a hearing
34 on an alleged violation of the governing documents unless the ~~{unit's~~
35 ~~owner}~~ *person* who allegedly committed the violation requests in writing
36 that the hearing be conducted by the executive board at an open meeting.
37 The ~~{unit's owner}~~ *person* who is alleged to have committed the violation
38 may attend the ~~{hearing}~~ *executive session* and testify concerning the
39 alleged violation, but may be excluded by the executive board from any
40 other portion of the ~~{hearing}~~ *executive session*, including, without
41 limitation, the deliberations of the executive board.

42 4. Except as otherwise provided in this subsection, any matter
43 discussed in executive session must be generally noted in the minutes of
44 the meeting of the executive board. The executive board shall maintain
45 minutes of any decision made pursuant to subsection 3 and, upon request,
46 provide a copy of the decision to the ~~{unit's owner}~~ *person* who was the
47 subject of the ~~{hearing}~~ *executive session* or to his designated
48 representative.



1 5. Except as otherwise provided in subsection 3, a unit's owner is not
2 entitled to attend or speak at a meeting of the executive board held in
3 executive session.

4 **Sec. 61.** NRS 116.3109 is hereby amended to read as follows:

5 116.3109 1. Except as otherwise provided in this section and unless
6 the bylaws provide otherwise, a quorum is present throughout any meeting
7 of the association if persons entitled to cast 20 percent of the votes that
8 may be cast for election of the executive board are present in person or by
9 proxy at the beginning of the meeting.

10 2. *If the governing documents of an association provide for a*
11 *quorum at a meeting of the association that is greater than 20 percent of*
12 *the votes that may be cast for election of the executive board, and such a*
13 *meeting for which proper notice has been given cannot be held because a*
14 *quorum is not present, the units' owners in attendance, either in person*
15 *or by proxy in accordance with the governing documents of the*
16 *association, may adjourn the meeting to a time that is not less than 48*
17 *hours or more than 30 days from the date of the meeting. At the*
18 *subsequent meeting, a quorum is present if persons entitled to cast 20*
19 *percent of the votes that may be cast for election of the executive board*
20 *are present in person or by proxy. If fewer units' owners than that*
21 *required by the quorum requirement contained in the governing*
22 *documents are present at the subsequent meeting in person or by proxy*
23 *in accordance with the governing documents, only those matters*
24 *included on the agenda of the original meeting may be voted upon.*

25 3. Unless the bylaws specify a larger percentage, a quorum is deemed
26 present throughout any meeting of the executive board if persons entitled
27 to cast 50 percent of the votes on that board are present at the beginning of
28 the meeting.

29 ~~{3-}~~ 4. For the purposes of ~~{determining whether a quorum is present~~
30 ~~for the election of}~~ *electing* any member of the executive board, *a quorum*
31 *is not required and* only the secret written ballots that are returned to the
32 association may be counted.

33 **Sec. 62.** NRS 116.311 is hereby amended to read as follows:

34 116.311 1. If only one of several owners of a unit is present at a
35 meeting of the association, that owner is entitled to cast all the votes
36 allocated to that unit. If more than one of the owners are present, the votes
37 allocated to that unit may be cast only in accordance with the agreement of
38 a majority in interest of the owners, unless the declaration expressly
39 provides otherwise. There is majority agreement if any one of the owners
40 cast the votes allocated to that unit without protest made promptly to the
41 person presiding over the meeting by any of the other owners of the unit.

42 2. Except as otherwise provided in this section, votes allocated to a
43 unit may be cast pursuant to a proxy executed by a unit's owner. A unit's
44 owner may give a proxy only to a member of his immediate family, a
45 tenant of the unit's owner who resides in the common-interest community
46 or another unit's owner who resides in the common-interest community. If
47 a unit is owned by more than one person, each owner of the unit may vote
48 or register protest to the casting of votes by the other owners of the unit
49 through an executed proxy. A unit's owner may revoke a proxy given



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1 pursuant to this section only by actual notice of revocation to the person
2 presiding over a meeting of the association. A proxy is void if:
3 (a) It is not dated or purports to be revocable without notice;
4 (b) It does not designate the votes that must be cast on behalf of the
5 unit's owner who executed the proxy; or
6 (c) The holder of the proxy does not disclose at the beginning of the
7 meeting for which the proxy is executed the number of proxies pursuant to
8 which he will be casting votes . ~~{and the voting instructions received for~~
9 ~~each proxy.}~~
10 A proxy terminates immediately after the conclusion of the meeting for
11 which it was executed. A vote may not be cast pursuant to a proxy for the
12 election *or removal* of a member of the executive board of an association.
13 3. Only a vote cast in person, by secret ballot or by proxy, may be
14 counted.
15 4. If the declaration requires that votes on specified matters affecting
16 the common-interest community be cast by lessees rather than units'
17 owners of leased units:
18 (a) The provisions of subsections 1 and 2 apply to lessees as if they
19 were units' owners;
20 (b) Units' owners who have leased their units to other persons may not
21 cast votes on those specified matters; and
22 (c) Lessees are entitled to notice of meetings, access to records,
23 and other rights respecting those matters as if they were units'
24 owners.
25 Units' owners must also be given notice, in the manner provided in NRS
26 116.3108, of all meetings at which lessees are entitled to vote.
27 5. No votes allocated to a unit owned by the association may be cast.
28 6. Votes cast for the election *or removal* of a member of the executive
29 board of an association must be counted in public.
30 **Sec. 63.** NRS 116.31139 is hereby amended to read as follows:
31 116.31139 1. An association may employ a ~~{person engaged in~~
32 ~~property management for the common interest community.}~~ *community*
33 *manager*.
34 2. Except as otherwise provided in this section, a ~~{person engaged in~~
35 ~~property management for a common interest community}~~ *community*
36 *manager* must:
37 (a) Hold a permit to engage in property management that is issued
38 pursuant to the provisions of chapter 645 of NRS; or
39 (b) Hold a certificate issued by the ~~{real estate commission}~~ *division*
40 pursuant to subsection 3.
41 3. The ~~{real estate}~~ commission shall provide by regulation for the
42 issuance of certificates for ~~{the management of common interest~~
43 ~~communities to persons}~~ *community managers* who are not otherwise
44 authorized to engage in property management pursuant to the provisions of
45 chapter 645 of NRS. The regulations:
46 (a) Must establish the qualifications for the issuance of such a
47 certificate, including the education and experience required to obtain such
48 a certificate;



- 1 (b) May require applicants to pass an examination in order to obtain a
2 certificate;
- 3 (c) Must establish standards of practice for ~~{persons engaged in property~~
4 ~~management for a common interest community;}~~ *community managers;*
- 5 (d) Must establish the grounds for initiating disciplinary action against a
6 person to whom a certificate has been issued, including, without limitation,
7 the grounds for placing conditions, limitations or restrictions on a
8 certificate and for the suspension or revocation of a certificate; and
- 9 (e) Must establish rules of practice and procedure for conducting
10 disciplinary hearings. *No certificate may be revoked or suspended without*
11 *first giving notice and holding a hearing pursuant to section 19 of this*
12 *act.*
- 13 The ~~{real estate division of the department of business and industry}~~
14 *division* may investigate the ~~{property}~~ *community* managers to whom
15 certificates have been issued to ensure their compliance with the standards
16 of practice adopted pursuant to this subsection and collect a fee for the
17 issuance of a certificate by the ~~{commission}~~ *division* in an amount not to
18 exceed the administrative costs of issuing the certificate.
- 19 4. The provisions of subsection 2 do not apply to:
- 20 (a) A person who is engaged in ~~{property management for}~~ *the*
21 *management of* a common-interest community on October 1, ~~{1999,}~~
22 *2001*, and is granted an exemption from the requirements of subsection 2
23 by the administrator upon demonstration that he is qualified and competent
24 to engage in ~~{property management for}~~ *the management of* a common-
25 interest community.
- 26 (b) A financial institution.
- 27 (c) An attorney licensed to practice in this state.
- 28 (d) A trustee.
- 29 (e) An employee of a corporation who manages only the property of the
30 corporation ~~{, unless that corporation is also an association.}~~
- 31 (f) A declarant.
- 32 (g) A receiver.
- 33 ~~{5. As used in this section, "property management" means the~~
34 ~~physical, administrative or financial maintenance and management of real~~
35 ~~property, or the supervision of those activities for a fee, commission or~~
36 ~~other compensation or valuable consideration.}~~
- 37 *(h) An officer or member of the executive board of an association who*
38 *acts as a community manager for the association.*
- 39 **Sec. 64.** NRS 116.3115 is hereby amended to read as follows:
- 40 116.3115 1. Until the association makes an assessment for common
41 expenses, the declarant shall pay all common expenses. After an
42 assessment has been made by the association, assessments must be made at
43 least annually, based on a budget adopted at least annually by the
44 association in accordance with the requirements set forth in NRS
45 116.31151. Except for an association for a time-share project governed by
46 the provisions of chapter 119A of NRS, and unless the declaration imposes
47 more stringent standards, the budget must include a budget for the daily
48 operation of the association and the money for the reserve required by
49 paragraph (b) of subsection 2.



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- 1 2. Except for assessments under subsections 4 to 7, inclusive:
2 (a) All common expenses, including a reserve, must be assessed against
3 all the units in accordance with the allocations set forth in the declaration
4 pursuant to subsections 1 and 2 of NRS 116.2107.
5 (b) The association shall establish an adequate reserve, funded on a
6 reasonable basis, for the repair, replacement and restoration of the major
7 components of the common elements. The reserve may be used only for
8 those purposes, including, without limitation, repairing, replacing and
9 restoring roofs, roads and sidewalks, and must not be used for daily
10 maintenance.
11 3. Any past due assessment for common expenses or installment
12 thereof bears interest at the rate established by the association not
13 exceeding 18 percent per year.
14 4. To the extent required by the declaration:
15 (a) Any common expense associated with the maintenance, repair,
16 restoration or replacement of a limited common element must be assessed
17 against the units to which that limited common element is assigned,
18 equally, or in any other proportion the declaration provides;
19 (b) Any common expense or portion thereof benefiting fewer than all of
20 the units must be assessed exclusively against the units benefited; and
21 (c) The costs of insurance must be assessed in proportion to risk and the
22 costs of utilities must be assessed in proportion to usage.
23 5. Assessments to pay a judgment against the association may be made
24 only against the units in the common-interest community at the time the
25 judgment was entered, in proportion to their liabilities for common
26 expenses.
27 6. If any common expense is caused by the misconduct of any unit's
28 owner, the association may assess that expense exclusively against his unit.
29 7. The association of a common-interest community created before
30 January 1, 1992, is not required to make an assessment against a vacant lot
31 located within the community that is owned by the declarant.
32 8. If liabilities for common expenses are reallocated, assessments for
33 common expenses and any installment thereof not yet due must be
34 recalculated in accordance with the reallocated liabilities.
35 9. The association shall provide written notice to the owner of each
36 unit of a meeting at which an assessment for a capital improvement ~~for the~~
37 ~~commencement of a civil action~~ is to be considered or action is to be taken
38 on such an assessment at least 21 calendar days before the meeting.
39 ~~Except as otherwise provided in this subsection, the association may~~
40 ~~commence a civil action only upon a vote or written agreement of the~~
41 ~~owners of units to which at least a majority of the votes of the members of~~
42 ~~the association are allocated. The provisions of this subsection do not apply~~
43 ~~to a civil action that is commenced:~~
44 ~~—(a) By an association for a time share project governed by the~~
45 ~~provisions of chapter 119A of NRS;~~
46 ~~—(b) To enforce the payment of an assessment;~~
47 ~~—(c) To enforce the declaration, bylaws or rules of the association;~~
48 ~~—(d) To proceed with a counterclaim; or~~



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1 ~~—(c) To protect the health, safety and welfare of the members of the~~
2 ~~association. If a civil action is commenced pursuant to this paragraph~~
3 ~~without the required vote or agreement, the action must be ratified within~~
4 ~~90 days after the commencement of the action by a vote or written~~
5 ~~agreement of the owners of the units to which at least a majority of votes of~~
6 ~~the members of the association are allocated. If the association, after~~
7 ~~making a good faith effort, cannot obtain the required vote or agreement to~~
8 ~~commence or ratify such a civil action, the association may thereafter seek~~
9 ~~to dismiss the action without prejudice for that reason only if a vote or~~
10 ~~written agreement of the owners of the units to which at least a majority of~~
11 ~~votes of the members of the association are allocated was obtained at the~~
12 ~~time the approval to commence or ratify the action was sought.~~
13 ~~—10. At least 10 days before an association commences or seeks to~~
14 ~~ratify the commencement of a civil action, the association shall provide a~~
15 ~~written statement to all units' owners that includes:~~
16 ~~—(a) A reasonable estimate of the costs of the civil action, including~~
17 ~~reasonable attorney's fees;~~
18 ~~—(b) An explanation of the potential benefits of the civil action and the~~
19 ~~potential adverse consequences if the association does not commence the~~
20 ~~action or if the outcome of the action is not favorable to the association;~~
21 ~~and~~
22 ~~—(c) All disclosures that are required to be made upon the sale of the~~
23 ~~property.~~
24 ~~—11. No person other than a unit's owner may request the dismissal of a~~
25 ~~civil action commenced by the association on the ground that the~~
26 ~~association failed to comply with any provision of this section.]~~
27 **Sec. 65.** NRS 116.31152 is hereby amended to read as follows:
28 116.31152 1. The executive board of an association shall:
29 (a) Cause to be conducted at least once every 5 years, a study of the
30 reserves required to repair, replace and restore the major components of the
31 common elements;
32 (b) Review the results of that study at least annually to determine if
33 those reserves are sufficient; and
34 (c) Make any adjustments it deems necessary to maintain the required
35 reserves.
36 2. The study required by subsection 1 must be conducted by a person
37 qualified by training and experience to conduct such a study, including a
38 member of the executive board, a unit's owner or the ~~property~~
39 **community** manager of the association who is so qualified. The study must
40 include, without limitation:
41 (a) A summary of an inspection of the major components of the
42 common elements the association is obligated to repair, replace or restore;
43 (b) An identification of the major components of the common elements
44 that the association is obligated to repair, replace or restore which have a
45 remaining useful life of less than 30 years;
46 (c) An estimate of the remaining useful life of each major component
47 identified pursuant to paragraph (b);



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1 (d) An estimate of the cost of repair, replacement or restoration of each
2 major component identified pursuant to paragraph (b) during and at the end
3 of its useful life; and

4 (e) An estimate of the total annual assessment that may be required to
5 cover the cost of repairing, replacement or restoration of the major
6 components identified pursuant to paragraph (b), after subtracting the
7 reserves of the association as of the date of the study.

8 3. The ~~administrator~~ *commission* shall adopt by regulation the
9 qualifications required for conducting a study required by subsection 1.

10 **Sec. 66.** NRS 116.31155 is hereby amended to read as follows:

11 116.31155 1. An association shall:

12 (a) If the association is required to pay the fee imposed by NRS 78.150
13 or 82.193, pay to the administrator a fee established by regulation of the
14 ~~administrator~~ *commission* for every unit in the association used for
15 residential use.

16 (b) If the association is organized as a trust or partnership, pay to the
17 administrator a fee established by regulation of the ~~administrator~~
18 *commission* for each unit in the association.

19 2. The fees required to be paid pursuant to this section must be:

20 (a) Paid at such times as are established by the ~~administrator~~ *division*.

21 (b) Deposited with the state treasurer for credit to the account for ~~the~~
22 ~~ombudsman for owners in~~ common-interest communities created pursuant
23 to NRS 116.1117.

24 (c) Established on the basis of the actual cost of administering the
25 *provisions of sections 11 to 27, inclusive, of this act, the commission and*
26 *the* office of the ombudsman for owners in common-interest communities
27 and not on a basis which includes any subsidy for ~~the office~~ *those*
28 *purposes*. In no event may the fees required to be paid pursuant to this
29 section exceed \$3 per unit.

30 3. A unit's owner may not be required to pay any portion of the fees
31 required to be paid pursuant to this section to a master association and to an
32 association organized pursuant to NRS 116.3101.

33 4. Upon the payment of the fees required by this section, the
34 administrator shall provide to the association evidence that it paid the fees
35 in compliance with this section.

36 **Sec. 67.** NRS 116.31158 is hereby amended to read as follows:

37 116.31158 1. Each association shall, at the time it pays the fee
38 required by NRS 116.31155, register with the ombudsman for owners in
39 common-interest communities on a form prescribed by the ombudsman.

40 2. The form for registration must include, without limitation, the
41 information required to be maintained pursuant to paragraph ~~(d)~~ *(e)* of
42 subsection 4 of NRS 116.1116.

43 **Sec. 68.** NRS 116.31162 is hereby amended to read as follows:

44 116.31162 1. Except as otherwise provided in subsection 4, in a
45 condominium, a cooperative where the owner's interest in a unit is real
46 estate as determined pursuant to NRS 116.1105, or a planned community,
47 the association may foreclose its lien by sale after:

48 (a) The association has mailed by certified or registered mail, return
49 receipt requested, to the unit's owner or his successor in interest, at his



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1 address if known, and at the address of the unit, a notice of delinquent
2 assessment which states the amount of the assessments and other sums
3 which are due in accordance with subsection 1 of NRS 116.3116, a
4 description of the unit against which the lien is imposed, and the name of
5 the record owner of the unit;

6 (b) The association *has provided written certification to the*
7 *ombudsman for owners in common-interest communities that notices*
8 *have been given in accordance with NRS 116.31162;*

9 (c) *Not less than 30 days after mailing the notice of delinquent*
10 *assessment pursuant to paragraph (a), the association* or other person
11 conducting the sale has executed and caused to be recorded, with the
12 county recorder of the county in which the common-interest community or
13 any part of it is situated, a notice of default and election to sell the unit to
14 satisfy the lien, which contains the same information as the notice of
15 delinquent assessment, but must also describe the deficiency in payment
16 and the name and address of the person authorized by the association to
17 enforce the lien by sale; and

18 ~~††~~ (d) The unit's owner or his successor in interest has failed to pay
19 the amount of the lien, including costs, fees and expenses incident to its
20 enforcement, for ~~††~~ 90 days following the recording of the notice of
21 default and election to sell.

22 2. The notice of default and election to sell must be signed by the
23 person designated in the declaration or by the association for that purpose,
24 or if no one is designated, by the president of the association.

25 3. The period of ~~††~~ 90 days begins on the first day following the
26 later of:

27 (a) The day on which the notice of default is recorded; or

28 (b) The day on which a copy of the notice of default is mailed by
29 certified or registered mail, return receipt requested, to the unit's owner or
30 his successor in interest at his address if known, and at the address of the
31 unit.

32 4. The association may not foreclose a lien by sale for the assessment
33 of a fine for a violation of the declaration, bylaws, rules or regulations of
34 the association, unless the violation is of a type that threatens the health,
35 safety or welfare of the residents of the common-interest community.

36 **Sec. 69.** NRS 116.31175 is hereby amended to read as follows:

37 116.31175 1. Except as otherwise provided in this subsection, the
38 executive board of an association shall, upon the written request of a unit's
39 owner, make available the books, records and other papers of the
40 association for review during the regular working hours of the association
41 ~~††~~, *including, without limitation, all records filed with a court relating to*
42 *a civil or criminal action to which the association is a party.* The
43 provisions of this subsection do not apply to:

44 (a) The personnel records of the employees of the association ~~††~~ ,
45 *except for those records relating to the salaries and benefits of those*
46 *employees;* and

47 (b) The records of the association relating to another unit's owner.



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2. If the executive board refuses to allow a unit's owner to review the books, records or other papers of the association, the ombudsman for owners in common-interest communities may:

(a) On behalf of the unit's owner and upon written request, review the books, records or other papers of the association during the regular working hours of the association; and

(b) If he is denied access to the books, records or other papers, request the commission to issue a subpoena for their production.

3. The books, records and other papers of an association must be maintained for at least 10 years.

Sec. 70. NRS 116.41095 is hereby amended to read as follows:

116.41095 The information statement required by NRS 116.4103 and 116.4109 must be in substantially the following form:

BEFORE YOU PURCHASE PROPERTY IN A
COMMON-INTEREST COMMUNITY
DID YOU KNOW . . .

1. YOU ARE AGREEING TO RESTRICTIONS ON HOW YOU CAN USE YOUR PROPERTY?

These restrictions are contained in a document known as the Declaration of Covenants, Conditions and Restrictions (C, C & R's) that should be provided for your review before making your purchase. The C, C & R's become a part of the title to your property. They bind you and every future owner of the property whether or not you have read them or had them explained to you. The C, C & R's, together with other "governing documents" (such as association bylaws and rules and regulations), are intended to preserve the character and value of properties in the community, but may also restrict what you can do to improve or change your property and limit how you use and enjoy your property. By purchasing a property encumbered by C, C & R's, you are agreeing to limitations that could affect your lifestyle and freedom of choice. You should review the C, C & R's and other governing documents before purchasing to make sure that these limitations and controls are acceptable to you.

2. YOU WILL HAVE TO PAY OWNERS' ASSESSMENTS FOR AS LONG AS YOU OWN YOUR PROPERTY?

As an owner in a common-interest community, you are responsible for paying your share of expenses relating to the common elements, such as landscaping, shared amenities and the operation of any homeowner's association. The obligation to pay these assessments binds you and every future owner of the property. Owners' fees are usually assessed by the homeowner's association and due monthly. You have to pay dues whether or not you agree with the way the association is managing the property or spending the assessments. The executive board of the association may have the power to change and increase the amount of the assessment and to levy special assessments against your property to meet extraordinary expenses. In some communities, major components of the community such as roofs and private roads must be maintained and replaced by the association. If the association is not well managed or fails to maintain adequate reserves



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1 to repair, replace and restore common elements, you may be required to
2 pay large, special assessments to accomplish these tasks.

3 3. IF YOU FAIL TO PAY OWNERS' ASSESSMENTS, YOU
4 COULD LOSE YOUR HOME?

5 If you do not pay these assessments when due, the association usually has
6 the power to collect them by selling your property in a nonjudicial
7 foreclosure sale. If fees become delinquent, you may also be required to
8 pay penalties and the association's costs and attorney's fees to become
9 current. If you dispute the obligation or its amount, your only remedy to
10 avoid the loss of your home may be to file a lawsuit and ask a court to
11 intervene in the dispute.

12 4. YOU MAY BECOME A MEMBER OF A HOMEOWNER'S
13 ASSOCIATION THAT HAS THE POWER TO AFFECT HOW YOU
14 USE AND ENJOY YOUR PROPERTY?

15 Many common-interest communities have a homeowner's association. In a
16 new development, the association will usually be controlled by the
17 developer until a certain number of units have been sold. After the period
18 of developer control, the association may be controlled by property owners
19 like yourself who are elected by homeowners to sit on an executive board
20 and other boards and committees formed by the association. The
21 association, and its executive board, are responsible for assessing
22 homeowners for the cost of operating the association and the common or
23 shared elements of the community and for the day to day operation and
24 management of the community. Because homeowners sitting on the
25 executive board and other boards and committees of the association may
26 not have the experience or professional background required to understand
27 and carry out the responsibilities of the association properly, the
28 association may hire professional managers to carry out these
29 responsibilities.

30 Homeowner's associations operate on democratic principles. Some
31 decisions require all homeowners to vote, some decisions are made by the
32 executive board or other boards or committees established by the
33 association or governing documents. Although the actions of the
34 association and its executive board are governed by state laws, the C, C &
35 R's and other documents that govern the common-interest community,
36 decisions made by these persons will affect your use and enjoyment of
37 your property, your lifestyle and freedom of choice, and your cost of living
38 in the community. You may not agree with decisions made by the
39 association or its governing bodies even though the decisions are ones
40 which the association is authorized to make. Decisions may be made by a
41 few persons on the executive board or governing bodies that do not
42 necessarily reflect the view of the majority of homeowners in the
43 community. If you do not agree with decisions made by the association, its
44 executive board or other governing bodies, your remedy is typically to
45 attempt to use the democratic processes of the association to seek the
46 election of members of the executive board or other governing bodies that
47 are more responsive to your needs. If persons controlling the association or
48 its management are not complying with state laws or the governing
49 documents, your remedy is typically to seek to mediate or arbitrate the



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1 dispute and, if mediation or arbitration is unsuccessful, file a lawsuit and
2 ask a court to resolve the dispute. In addition to your personal cost in
3 mediation or arbitration, or to prosecute a lawsuit, you may be responsible
4 for paying your share of the association's cost in defending against your
5 claim. There is no government agency in this state that investigates or
6 intervenes to resolve disputes in homeowner's associations.

7 5. YOU ARE REQUIRED TO PROVIDE PROSPECTIVE BUYERS
8 OF YOUR PROPERTY WITH INFORMATION ABOUT LIVING IN
9 YOUR COMMON-INTEREST COMMUNITY?

10 The law requires you to provide to a prospective purchaser of your
11 property, before you enter into a purchase agreement, a copy of the
12 community's governing documents, including the C, C & R's, association
13 bylaws, and rules and regulations, as well as a copy of this document. You
14 are also required to provide a copy of the association's current financial
15 statement, operating budget and information regarding the amount of the
16 monthly assessment for common expenses, including the amount set aside
17 as reserves for the repair, replacement and restoration of common
18 elements. You are also required to inform prospective purchasers of any
19 outstanding judgments or lawsuits pending against the association of which
20 you are aware. You are also required to provide a copy of the minutes from
21 the most recent meeting of the homeowner's association or its executive
22 board. For more information regarding these requirements, see Nevada
23 Revised Statutes 116.4103.

24 6. YOU HAVE CERTAIN RIGHTS REGARDING OWNERSHIP IN
25 A COMMON-INTEREST COMMUNITY THAT ARE GUARANTEED
26 YOU BY THE STATE?

27 Pursuant to provisions of chapter 116 of Nevada Revised Statutes, you
28 have the right:

29 (a) To be notified of all meetings of the association and its executive
30 board, except in cases of emergency.


31 (b) To attend and speak at all meetings of the association and its
32 executive board, except in some cases where the executive board is
33 authorized to meet in closed, executive session.

34 (c) To request a special meeting of the association upon petition of at
35 least 10 percent of the homeowners.

36 (d) To inspect, examine, photocopy and audit financial and other
37 records of the association.

38 (e) To be notified of all changes in the community's rules and
39 regulations and other actions by the association or board that affect you.

40 7. QUESTIONS?

41 Although they may be voluminous, you should take the time to read and
42 understand the documents that will control your ownership of a property in
43 a common-interest community. You may wish to ask your real estate
44 professional, lawyer or other person with experience to explain anything
45 you do not understand. You may also request assistance from the
46 ombudsman for owners in common-interest communities, Nevada Real
47 Estate Division, at (telephone number) , or the *commission for*
48 *common-interest communities, at (telephone number).*



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1 Buyer or prospective buyer's initials: _____
2 Date: _____

3 **Sec. 71.** NRS 38.330 is hereby amended to read as follows:

4 38.330 1. If all parties named in a written claim filed pursuant to
5 NRS 38.320 agree to have the claim submitted for mediation, the parties
6 shall reduce the agreement to writing and shall select a mediator from the
7 list of mediators maintained by the division pursuant to NRS 38.340. Any
8 mediator selected must be available within the geographic area. If the
9 parties fail to agree upon a mediator, the division shall appoint a mediator
10 from the list of mediators maintained by the division. Any mediator
11 appointed must be available within the geographic area. Unless otherwise
12 provided by an agreement of the parties, mediation must be completed
13 within 60 days after the parties agree to mediation. Any agreement
14 obtained through mediation conducted pursuant to this section must, within
15 20 days after the conclusion of mediation, be reduced to writing by the
16 mediator and a copy thereof provided to each party. The agreement may be
17 enforced as any other written agreement. Except as otherwise provided in
18 this section, the parties are responsible for all costs of mediation conducted
19 pursuant to this section.

20 2. If all the parties named in the claim do not agree to mediation, the
21 parties shall select an arbitrator from the list of arbitrators maintained by
22 the division pursuant to NRS 38.340. Any arbitrator selected must be
23 available within the geographic area. If the parties fail to agree upon an
24 arbitrator, the division shall appoint an arbitrator from the list maintained
25 by the division. Any arbitrator appointed must be available within the
26 geographic area. Upon appointing an arbitrator, the division shall provide
27 the name of the arbitrator to each party.

28 3. The division may provide for the payment of the fees for a mediator
29 or an arbitrator selected or appointed pursuant to this section from the
30 account for ~~the ombudsman for owners in~~ common-interest communities
31 created pursuant to NRS 116.1117, to the extent that money is available in
32 the account for this purpose.

33 4. Except as otherwise provided in this section and except where
34 inconsistent with the provisions of NRS 38.300 to 38.360, inclusive, the
35 arbitration of a claim pursuant to this section must be conducted in
36 accordance with the provisions of NRS 38.075 to ~~38.105,~~ 38.135,
37 inclusive, ~~38.115, 38.125, 38.135,~~ 38.155 and 38.165. At any time during
38 the arbitration of a claim relating to the interpretation, application or
39 enforcement of any covenants, conditions or restrictions applicable to
40 residential property or any bylaws, rules or regulations adopted by an
41 association, the arbitrator may issue an order prohibiting the action upon
42 which the claim is based. An award must be made within 30 days after the
43 conclusion of arbitration, unless a shorter period is agreed upon by the
44 parties to the arbitration.

45 5. If all the parties have agreed to nonbinding arbitration, any party to
46 the arbitration may, within 30 days after a decision and award have been
47 served upon the parties, commence a civil action in the proper court
48 concerning the claim which was submitted for arbitration. Any complaint
49 filed in such an action must contain a sworn statement indicating that the



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1 issues addressed in the complaint have been arbitrated pursuant to the
2 provisions of NRS 38.300 to 38.360, inclusive. If such an action is not
3 commenced within that period, any party to the arbitration may, within 1
4 year after the service of the award, apply to the proper court for a
5 confirmation of the award pursuant to NRS 38.135.

6 6. If all the parties agree in writing to binding arbitration, the
7 arbitration must be conducted in accordance with the provisions of ~~chapter~~
8 ~~38 of NRS.~~ *this chapter*. An award procured pursuant to such arbitration
9 may be vacated and a rehearing granted upon application of a party
10 pursuant to the provisions of NRS 38.145.

11 7. If, after the conclusion of arbitration, a party:

12 (a) Applies to have an award vacated and a rehearing granted pursuant
13 to NRS 38.145; or

14 (b) Commences a civil action based upon any claim which was the
15 subject of arbitration,
16 the party shall, if he fails to obtain a more favorable award or judgment
17 than that which was obtained in the initial arbitration, pay all costs and
18 reasonable attorney's fees incurred by the opposing party after the
19 application for a rehearing was made or after the complaint in the civil
20 action was filed.

21 8. Upon request by a party, the division shall provide a statement to
22 the party indicating the amount of the fees for a mediator or an arbitrator
23 selected or appointed pursuant to this section.

24 9. As used in this section, "geographic area" means an area within 150
25 miles from any residential property or association which is the subject of a
26 written claim submitted pursuant to NRS 38.320.

27 **Sec. 72.** Notwithstanding the provisions of sections 28 and 63 of this
28 act, a person who engages in business as a community managing agent or a
29 community manager is not required to be licensed or certified pursuant to
30 the provisions of this act before January 1, 2002.

31 **Sec. 73.** As soon as practicable after October 1, 2001, the governor
32 shall appoint to the commission for common-interest communities:

33 1. One member whose term expires on October 1, 2002.

34 2. Two members whose terms expire on October 1, 2003.

35 3. Two members whose terms expire on October 1, 2004.

36 **Sec. 74.** The state treasurer shall transfer any balance remaining
37 unexpended on October 1, 2001, in the account for the ombudsman for
38 owners in common-interest communities in the state general fund to the
39 account for common-interest communities which is created pursuant to
40 NRS 116.1117, as amended by this act.

41 **Sec. 75.** On or before November 1, 2002, the commission for
42 common-interest communities created pursuant to section 11 of this act
43 shall submit a report containing the information it is required to obtain
44 pursuant to subsections 2 and 3 of section 14 of this act, and any
45 recommended legislation, to the director of the legislative counsel bureau
46 for transmittal to the 72nd session of the Nevada legislature.

47 **Sec. 76.** 1. This section and section 26 of this act become effective
48 upon passage and approval.



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1 2. Sections 1 to 25, inclusive, and 27 to 75, inclusive, of this act
2 become effective on October 1, 2001.

3 3. Sections 29, 30 and 31 of this act expire by limitation on the date on
4 which the provisions of 42 U.S.C. § 666 requiring each state to establish
5 procedures under which the state has authority to withhold or suspend, or
6 to restrict the use of professional, occupational and recreational licenses of
7 persons who:

8 (a) Have failed to comply with a subpoena or warrant relating to a
9 proceeding to determine the paternity of a child or to establish or enforce
10 an obligation for the support of a child; or

11 (b) Are in arrears in the payment for the support of one or more
12 children,

13 are repealed by the Congress of the United States.

