

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; requiring community managers to be certified by the real estate division of the department of business and industry; 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; changing the time within which certain information must be provided to a prospective purchaser of a unit; 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 20, 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.** *“Community manager” means a person who holds a*
7 *certificate or permit and provides for the management of a common-*
8 *interest community.*

9 **Sec. 4.** *“Division” means the real estate division of the department*
10 *of business and industry.*

11 **Sec. 5.** *“Management of a common-interest community” means the*
12 *physical, administrative or financial maintenance and management of a*
13 *common-interest community, or the supervision of those activities, for a*
14 *fee, commission or other valuable consideration.*

15 **Sec. 6.** *“Permit” means a permit to engage in property management*
16 *issued pursuant to the provisions of chapter 645 of NRS.*



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1 *Sec. 7. If a matter governed by this chapter is also governed by*
2 *chapter 82 of NRS and there is a conflict between the provisions of this*
3 *chapter and the provisions of chapter 82 of NRS, the provisions of this*
4 *chapter prevail.*

5 *Sec. 8. In conducting any meetings, a rural agricultural residential*
6 *common-interest community must comply with the provisions set forth in*
7 *chapter 241 of NRS concerning open meetings which are generally*
8 *applicable to public bodies.*

9 *Sec. 9. An application for a certificate to act as a community*
10 *manager must:*

- 11 1. *Include the social security number of the applicant; and*
- 12 2. *Be accompanied by the statement required pursuant to section 10*
13 *of this act.*

14 *Sec. 10. 1. An applicant for a certificate to act as a community*
15 *manager must submit to the division the statement prescribed by the*
16 *welfare division of the department of human resources pursuant to NRS*
17 *425.520. The statement must be completed and signed by the applicant.*

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

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

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

23 3. *A certificate may not be issued if the applicant:*

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

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

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

38 *Sec. 11. 1. If the division receives a copy of a court order issued*
39 *pursuant to NRS 425.540 that provides for the suspension of all*
40 *professional, occupational and recreational licenses, certificates and*
41 *permits issued to the holder of a certificate to act as a community*
42 *manager, the division shall deem the certificate to be suspended at the*
43 *end of the 30th day after the date the court order was issued unless the*
44 *division receives a letter issued to the holder of the certificate by the*
45 *district attorney or other public agency pursuant to NRS 425.550 stating*
46 *that the holder of the certificate has complied with a subpoena or*
47 *warrant or has satisfied the arrearage pursuant to NRS 425.560.*

48 2. *The division shall reinstate a certificate that has been suspended*
49 *by a district court pursuant to NRS 425.540 if the division receives a*



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

5 **Sec. 12.** *1. If the executive board of an association receives a*
6 *written complaint from a unit's owner alleging that the board has*
7 *violated any provision of this chapter or any provision of the governing*
8 *documents of the association, the executive board shall, if action is*
9 *required by the board, place the subject of the complaint on the agenda*
10 *of the next regularly scheduled meeting of the executive board.*

11 *2. The executive board, or an authorized representative of the*
12 *association, shall, within 10 days after receiving such a complaint,*
13 *acknowledge the receipt of the complaint and notify the unit's owner*
14 *that, if action is required by the board, the subject of the complaint will*
15 *be placed on the agenda of the next regularly scheduled meeting of the*
16 *executive board.*

17 **Sec. 13.** *An officer or member of the executive board of an*
18 *association or a person engaged in the management of a common-*
19 *interest community shall not solicit or accept any form of compensation,*
20 *gratuity or other remuneration that would improperly influence or would*
21 *appear to a reasonable person to influence improperly the decisions*
22 *made by those persons, or would result or would appear to a reasonable*
23 *person to result in a conflict of interest.*

24 **Sec. 14.** *A member of an executive board of an association shall not*
25 *take any retaliatory action against a unit's owner because the unit's*
26 *owner has:*

27 *1. Complained in good faith about any alleged violation of this*
28 *chapter or the governing documents of the association; or*

29 *2. Requested in good faith to review the books, records and papers of*
30 *the association.*

31 **Sec. 15.** *1. An officer or a member of the executive board of an*
32 *association shall not:*

33 *(a) On or after October 1, 2001, enter into a contract or renew a*
34 *contract with the association to provide goods or services to the*
35 *association; or*

36 *(b) Otherwise accept any commission, personal profit or*
37 *compensation of any kind from the association for providing goods or*
38 *services to the association.*

39 *2. Except as otherwise provided in NRS 116.3105, the provisions of*
40 *this section do not prohibit:*

41 *(a) The payment of a salary or other income to an officer or a member*
42 *of an executive board of an association for acting in his official capacity.*

43 *(b) A declarant from entering into a contract with an association or*
44 *the payment of any consideration to the declarant for any goods or*
45 *services furnished by the declarant to the association.*

46 *(c) The declarant from serving as an officer or a member of the*
47 *executive board of the association.*

48 *3. As used in this section, "declarant" includes any agent, employee*
49 *or affiliate of a declarant.*



- 1 **Sec. 16.** *1. Notwithstanding any other provision of this chapter, in*
2 *a common-interest community that has at least 2,000 units, some or all of*
3 *the authority of the members of a master association may be exercised by*
4 *delegates, including, without limitation, the voting rights of the members*
5 *of the master association, if the declaration so provides.*
6 *2. For the purpose of determining whether a common-interest*
7 *community has at least 2,000 units, units that a declarant has reserved*
8 *the right to create pursuant to NRS 116.2105 and for which*
9 *developmental rights exist must be included.*
10 **Sec. 17.** *1. If a common-interest community is developed in*
11 *separate phases and the declarant, including a successor declarant who*
12 *does not control the association established by the initial declarant, is*
13 *constructing any common elements that will be added to the association's*
14 *common elements, the declarant is responsible for:*
15 *(a) Paying all expenses related to the common elements which are*
16 *incurred before the conveyance of the common elements to the*
17 *association; and*
18 *(b) Except as otherwise provided in NRS 116.31038, delivering to the*
19 *association the declarant's share of the amount specified in the study of*
20 *reserves completed pursuant to subsection 2.*
21 *2. Before conveying the common elements to the association, the*
22 *declarant shall deliver to the association a study of the reserves for the*
23 *additional common elements which satisfies the requirements of NRS*
24 *116.31152.*
25 **Sec. 18.** *1. Except as otherwise provided in subsection 2, in a*
26 *county whose population is 400,000 or more, a person who owns or,*
27 *directly or indirectly, has an interest in, one or more units within a*
28 *planned community that are restricted to residential use by the*
29 *declaration, may use that unit or one of those units for a transient*
30 *commercial use only if:*
31 *(a) The governing documents of the association and any master*
32 *association do not prohibit such use; and*
33 *(b) Persons entitled to cast at least a majority of the votes in the*
34 *association and any master association approve the transient commercial*
35 *use of the unit.*
36 *2. A declarant who owns or, directly or indirectly, has an interest in,*
37 *one or more units within a planned community under the governing*
38 *documents of the association that are restricted to residential use by the*
39 *declaration, may not use that unit or one of those units for a transient*
40 *commercial use.*
41 *3. The association and any master association may establish*
42 *requirements for such use pursuant to subsection 1, including the*
43 *payment of additional fees that are related to any increase in services or*
44 *other costs associated with the transient commercial use of the unit.*
45 *4. As used in this section:*
46 *(a) "Remuneration" means any compensation, money, rent or other*
47 *valuable consideration given in return for the occupancy, possession or*
48 *use of a unit.*



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1 (b) "Transient commercial use" means the use of a unit, for
2 remuneration, as a hostel, hotel, inn, motel, resort, vacation rental or
3 other form of transient lodging if the term of the occupancy, possession
4 or use of the unit is for less than 30 consecutive calendar days.

5 Sec. 19. The executive board of a master association of any
6 common-interest community that was created before January 1, 1975,
7 and is located in a county whose population is 400,000 or more may
8 record an amendment to the declaration pursuant to which the master
9 association reallocates the costs of administering the common elements
10 of the master association among the units of the common-interest
11 community uniformly and based upon the actual costs associated with
12 each unit.

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

25 Sec. 21. NRS 116.1103 is hereby amended to read as follows:
26 116.1103 ~~It is~~ As used in the declaration and bylaws ~~(NRS 116.3106),~~
27 ~~unless specifically provided otherwise or~~ of an association and in this
28 chapter, unless the context otherwise requires, ~~and in this chapter,~~ the
29 words and terms defined in NRS 116.110305 to 116.110393, inclusive,
30 and sections 2 to 6, inclusive, of this act have the meanings ascribed to
31 them in those sections.

32 Sec. 22. NRS 116.110305 is hereby amended to read as follows:
33 116.110305 "Administrator" means the administrator of the ~~real~~
34 ~~estate division of the department of business and industry.~~ division.

35 Sec. 23. NRS 116.11145 is hereby amended to read as follows:
36 116.11145 1. To carry out the purposes of this chapter, the real estate
37 commission, or any member thereof ~~it~~ acting on behalf of the
38 commission, may issue subpoenas to compel the attendance of witnesses
39 and the production of books, records and other papers.

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

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



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

5 **Sec. 24.** NRS 116.1116 is hereby amended to read as follows:

6 116.1116 1. The office of the ombudsman for owners in common-
7 interest communities is hereby created within the ~~real-estate division of~~
8 ~~the department of business and industry.~~ *division.*

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

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

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

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

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

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

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

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

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

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

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

36 (4) The name of the declarant;

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

38 (6) The total annual assessment made by the association ~~it~~ ;

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

42 (8) *Whether a study of the reserves of the association exists and, if*
43 *so, the date on which it was completed.*

44 **Sec. 25.** NRS 116.1117 is hereby amended to read as follows:

45 116.1117 1. There is hereby created the account for ~~the ombudsman~~
46 ~~for owners in~~ common-interest communities in the state general fund. The
47 account must be administered by the administrator.

48 2. The fees collected pursuant to NRS 116.31155 must be credited to
49 the account.



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



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

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

8 **Sec. 27.** NRS 116.1206 is hereby amended to read as follows:

9 116.1206 1. Any *provision contained in a* declaration, bylaw or
10 other governing document of a common-interest community ~~created~~
11 ~~before January 1, 1992,~~ *in effect on October 1, 2001,* that does not
12 conform to the provisions of this chapter ~~shall~~ :

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

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

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

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

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

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

37 **Sec. 28.** NRS 116.2103 is hereby amended to read as follows:

38 116.2103 1. ~~All provisions of the declaration and bylaws are~~
39 ~~severable.~~ *The inclusion in a governing document of an association of a*
40 *provision that violates any provision of this chapter does not render any*
41 *other provision of the governing document invalid or otherwise*
42 *unenforceable if such other provisions can be given effect in accordance*
43 *with their original intent and the provisions of this chapter.*

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

47 3. In the event of a conflict between the provisions of the declaration
48 and the bylaws, the declaration prevails except to the extent the declaration
49 is inconsistent with this chapter.



1 4. Title to a unit and common elements is not rendered unmarketable
2 or otherwise affected by reason of an insubstantial failure of the declaration
3 to comply with this chapter. Whether a substantial failure impairs
4 marketability is not affected by this chapter.
5 **Sec. 29.** NRS 116.2105 is hereby amended to read as follows:
6 116.2105 1. The declaration must contain:
7 (a) The names of the common-interest community and the association
8 and a statement that the common-interest community is either a
9 condominium, cooperative or planned community;
10 (b) The name of every county in which any part of the common-interest
11 community is situated;
12 (c) A sufficient description of the real estate included in the common-
13 interest community;
14 (d) A statement of the maximum number of units that the declarant
15 reserves the right to create;
16 (e) In a condominium or planned community, a description of the
17 boundaries of each unit created by the declaration, including the unit's
18 identifying number or, in a cooperative, a description, which may be by
19 plats or plans, of each unit created by the declaration, including the unit's
20 identifying number, its size or number of rooms, and its location within a
21 building if it is within a building containing more than one unit;
22 (f) A description of any limited common elements, other than those
23 specified in subsections 2 and 4 of NRS 116.2102, as provided in
24 paragraph (g) of subsection 2 of NRS 116.2109 and, in a planned
25 community, any real estate that is or must become common elements;
26 (g) A description of any real estate, except real estate subject to
27 developmental rights, that may be allocated subsequently as limited
28 common elements, other than limited common elements specified in
29 subsections 2 and 4 of NRS 116.2102, together with a statement that they
30 may be so allocated;
31 (h) A description of any developmental rights ~~{(NRS 116.11034)}~~ and
32 other special declarant's rights ~~{(NRS 116.110385)}~~ reserved by the
33 declarant, together with a legally sufficient description of the real estate to
34 which each of those rights applies, and a time within which each of those
35 rights must be exercised;
36 (i) If any developmental right may be exercised with respect to different
37 parcels of real estate at different times, a statement to that effect together
38 with:
39 (1) Either a statement fixing the boundaries of those portions and
40 regulating the order in which those portions may be subjected to the
41 exercise of each developmental right or a statement that no assurances are
42 made in those regards; and
43 (2) A statement whether, if any developmental right is exercised in
44 any portion of the real estate subject to that developmental right, that
45 developmental right must be exercised in all or in any other portion of the
46 remainder of that real estate;
47 (j) Any other conditions or limitations under which the rights described
48 in paragraph (h) may be exercised or will lapse;



1 (k) An allocation to each unit of the allocated interests in the manner
2 described in NRS 116.2107 ~~H~~ *and a statement of whether voting by*
3 *delegates is required or permitted pursuant to section 16 of this act;*

4 (l) Any restrictions:

5 (1) On use, occupancy and alienation of the units; and

6 (2) On the amount for which a unit may be sold or on the amount that
7 may be received by a unit's owner on sale, condemnation or casualty to the
8 unit or to the common-interest community, or on termination of the
9 common-interest community;

10 (m) The file number and book or other information to show where
11 easements and licenses are recorded appurtenant to or included in the
12 common-interest community or to which any portion of the common-
13 interest community is or may become subject by virtue of a reservation in
14 the declaration; and

15 (n) All matters required by NRS 116.2106 to 116.2109, inclusive,
16 116.2115, ~~and~~ 116.2116 and 116.31032.

17 2. The declaration may contain any other matters the declarant
18 considers appropriate.

19 **Sec. 30.** NRS 116.2111 is hereby amended to read as follows:

20 116.2111 ~~Subject~~

21 *1. Except as otherwise provided in this section and subject to the*
22 *provisions of the declaration and other provisions of law, a unit's owner:*

23 ~~H~~ *(a) May make any improvements or alterations to his unit that do*
24 *not impair the structural integrity or mechanical systems or lessen the*
25 *support of any portion of the common-interest community;*

26 ~~I-1~~ *(b) May not change the appearance of the common elements, or the*
27 *exterior appearance of a unit or any other portion of the common-interest*
28 *community, without permission of the association; and*

29 ~~I-3~~ *(c) After acquiring an adjoining unit or an adjoining part of an*
30 *adjoining unit, may remove or alter any intervening partition or create*
31 *apertures therein, even if the partition in whole or in part is a common*
32 *element, if those acts do not impair the structural integrity or mechanical*
33 *systems or lessen the support of any portion of the common-interest*
34 *community. Removal of partitions or creation of apertures under this*
35 ~~subsection~~ *paragraph is not an alteration of boundaries.*

36 *2. An association may not:*

37 *(a) Require the removal of any structure, fixture or other*
38 *improvement made to a unit if it was approved by the association in*
39 *writing before it was installed or constructed in accordance with*
40 *procedures set forth in the governing documents of the association.*

41 *(b) Unreasonably restrict, prohibit or otherwise impede the lawful*
42 *rights of a unit's owner to have reasonable access to his unit.*

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

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

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



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

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

10 **Sec. 31.** NRS 116.31031 is hereby amended to read as follows:

11 116.31031 1. If a unit's owner, or a tenant or guest of a unit's owner,
12 does not comply with a provision of the governing documents of an
13 association, the executive board of the association may, if the governing
14 documents so provide:

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

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

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

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

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

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

41 **Sec. 32.** NRS 116.31034 is hereby amended to read as follows:

42 116.31034 1. Except as otherwise provided in subsection 5 of NRS
43 116.212, not later than the termination of any period of declarant's control,
44 the units' owners shall elect an executive board of at least three members,
45 at least a majority of whom must be units' owners. The executive board
46 shall elect the officers. The members and officers of the executive board
47 shall take office upon election.



1 2. The term of office of a member of the executive board may not
2 exceed 2 years. A member of the executive board may be elected to
3 succeed himself. The governing documents of the association must ~~set~~ :
4 (a) *Set* forth the month during which elections for the members of the
5 executive board must be held after the termination of any period of the
6 declarant's control.

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

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

18 4. *A person may not be an officer or member of the executive board*
19 *if he or any member of his immediate family engages in the management*
20 *of the common-interest community.*

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

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

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

33 ~~5. The~~

34 6. *Except as otherwise provided in section 16 of this act, the* election
35 of any member of the executive board must be conducted by secret written
36 ballot. The secretary or other officer specified in the bylaws of the
37 association shall cause to be sent prepaid by United States mail to the
38 mailing address of each unit within the common-interest community or to
39 any other mailing address designated in writing by the unit's owner, a
40 secret ballot and a return envelope.

41 ~~6.7~~ 7. Each member of the executive board shall, within 30 days after
42 his appointment or election, certify in writing that he has read and
43 understands the governing documents of the association and the provisions
44 of this chapter to the best of his ability.

45 **Sec. 33.** NRS 116.31036 is hereby amended to read as follows:

46 116.31036 1. Notwithstanding any provision of the declaration or
47 bylaws to the contrary, the units' owners, by a two-thirds vote of all
48 persons ~~present and~~ entitled to vote at any meeting of the units' owners at
49 which a quorum is present, may remove any member of the executive



1 board with or without cause, other than a member appointed by the
2 declarant.

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

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

20 **Sec. 34.** NRS 116.3106 is hereby amended to read as follows:

21 116.3106 1. The bylaws of the association must provide:

22 (a) The number of members of the executive board and the titles of the
23 officers of the association;

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

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

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

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

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

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

36 *(h) Procedural rules for conducting elections.*

37 2. Except as otherwise provided in the declaration, the bylaws may
38 provide for any other matters the association deems necessary and
39 appropriate.

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

41 **Sec. 35.** NRS 116.31065 is hereby amended to read as follows:

42 116.31065 The rules adopted by an association:

43 1. Must be reasonably related to the purpose for which they are
44 adopted.

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

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



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

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

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

9 (a) The ~~person alleged to have violated the rule has received notice of~~
10 ~~the alleged violation that informs him of his opportunity to request a~~
11 ~~hearing on the alleged violation.~~ *association has given written notice by*
12 *regular mail to the unit's owner that:*

13 *(1) Sets forth the alleged violation and any required corrective*
14 *action; and*

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

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

20 (c) At least 30 days before the alleged violation, the ~~person alleged to~~
21 ~~have violated the rule~~ *unit's owner* was given written notice of the rule or
22 any amendment to the rule.

23 **Sec. 36.** NRS 116.31083 is hereby amended to read as follows:

24 116.31083 1. A meeting of the executive board of an association
25 must be held at least once every 90 days.

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

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

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

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

43 4. The notice of a meeting of the executive board of an association
44 must state the time and place of the meeting and include a copy of the
45 agenda for the meeting or the date on which and the locations where copies
46 of the agenda may be conveniently obtained by the units' owners of the
47 association. The notice must include notification of the right of a unit's
48 owner to:



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

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

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

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

- 16 (a) A current reconciliation of the operating account of the association;
17 (b) A current reconciliation of the reserve account of the association;
18 (c) The actual revenues and expenses for the reserve account, compared
19 to the budget for that account for the current year;
20 (d) The latest account statements prepared by the financial institutions
21 in which the accounts of the association are maintained;
22 (e) An income and expense statement, prepared on at least a quarterly
23 basis, for the operating and reserve accounts of the association; and
24 (f) The current status of any civil action or claim submitted to
25 arbitration or mediation in which the association is a party.

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

28 (a) *Include:*

- 29 (1) *The date, time and place of the meeting;*
30 (2) *Those members of the executive board who were present and*
31 *those members who were absent;*
32 (3) *The substance of all matters proposed, discussed or decided and,*
33 *at the request of any member of the executive board, a record of each*
34 *member's vote on any matter decided by vote; and*
35 (4) *The substance of remarks made by any unit's owner who*
36 *addresses the executive board if he requests that the minutes reflect his*
37 *remarks or, if he has prepared written remarks, a copy of his prepared*
38 *remarks if he submits a copy for inclusion;*

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

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

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

46 8. *A unit's owner may record on audiotape or any other means of*
47 *sound reproduction a meeting of the executive board, unless the board is*
48 *meeting in executive session, if the members of the board and units'*



1 *owners who are in attendance are notified of the intent of the unit's*
2 *owner to record the meeting.*

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

5 (a) Could not have been reasonably foreseen;

6 (b) Affects the health, welfare and safety of the units' owners of the
7 association;

8 (c) Requires the immediate attention of, and possible action by, the
9 executive board; and

10 (d) Makes it impracticable to comply with the provisions of subsection
11 2 or 5.

12 **Sec. 37.** NRS 116.31085 is hereby amended to read as follows:

13 116.31085 1. Except as otherwise provided in this section, a unit's
14 owner may attend any meeting of the units' owners of the association or of
15 the executive board and speak at any such meeting. The executive board
16 may establish reasonable limitations on the time a unit's owner may speak
17 at such a meeting.

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

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

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

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

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

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

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



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1 **Sec. 38.** NRS 116.3109 is hereby amended to read as follows:

2 116.3109 1. Except as otherwise provided in this section and unless
3 the bylaws provide otherwise, a quorum is present throughout any meeting
4 of the association if persons entitled to cast 20 percent of the votes that
5 may be cast for election of the executive board are present in person or by
6 proxy at the beginning of the meeting.

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

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

26 ~~{3-}~~ 4. For the purposes of ~~{determining whether a quorum is present~~
27 ~~for the election of}~~ *electing* any member of the executive board, *a quorum*
28 *is not required and* only the secret written ballots that are returned to the
29 association may be counted.

30 **Sec. 39.** NRS 116.311 is hereby amended to read as follows:

31 116.311 1. If only one of several owners of a unit is present at a
32 meeting of the association, that owner is entitled to cast all the votes
33 allocated to that unit. If more than one of the owners are present, the votes
34 allocated to that unit may be cast only in accordance with the agreement of
35 a majority in interest of the owners, unless the declaration expressly
36 provides otherwise. There is majority agreement if any one of the owners
37 cast the votes allocated to that unit without protest made promptly to the
38 person presiding over the meeting by any of the other owners of the unit.

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

49 (a) It is not dated or purports to be revocable without notice;



1 (b) It does not designate the votes that must be cast on behalf of the
2 unit's owner who executed the proxy; or

3 (c) The holder of the proxy does not disclose at the beginning of the
4 meeting for which the proxy is executed the number of proxies pursuant to
5 which he will be casting votes . ~~{and the voting instructions received for~~
6 ~~each proxy.}~~

7 A proxy terminates immediately after the conclusion of the meeting for
8 which it was executed. A vote may not be cast pursuant to a proxy for the
9 election *or removal* of a member of the executive board of an association.

10 3. Only a vote cast in person, by secret ballot or by proxy, may be
11 counted.

12 4. If the declaration requires that votes on specified matters affecting
13 the common-interest community be cast by lessees rather than units'
14 owners of leased units:

15 (a) The provisions of subsections 1 and 2 apply to lessees as if they
16 were units' owners;

17 (b) Units' owners who have leased their units to other persons may not
18 cast votes on those specified matters; and

19 (c) Lessees are entitled to notice of meetings, access to records,
20 and other rights respecting those matters as if they were units'
21 owners.

22 Units' owners must also be given notice, in the manner provided in NRS
23 116.3108, of all meetings at which lessees are entitled to vote.

24 5. No votes allocated to a unit owned by the association may be cast.

25 6. Votes cast for the election *or removal* of a member of the executive
26 board of an association must be counted in public.

27 **Sec. 40.** NRS 116.31139 is hereby amended to read as follows:

28 116.31139 1. An association may employ a ~~{person engaged in~~
29 ~~property management for the common interest community.}~~ *community*
30 *manager.*

31 2. Except as otherwise provided in this section, a ~~{person engaged in~~
32 ~~property management for a common interest community}~~ *community*
33 *manager* must:

34 (a) Hold a permit to engage in property management that is issued
35 pursuant to the provisions of chapter 645 of NRS; or

36 (b) Hold a certificate issued by the ~~{real estate commission}~~ *division*
37 pursuant to subsection 3.

38 3. The ~~{real estate commission}~~ *division* commission shall provide by
39 regulation for the issuance of certificates for ~~{the management of common~~
40 ~~interest communities to persons}~~ *community managers* who are not
41 otherwise authorized to engage in property management pursuant to the
42 provisions of chapter 645 of NRS. The regulations:

43 (a) Must establish the qualifications for the issuance of such a
44 certificate, including the education and experience required to obtain such
45 a certificate;

46 (b) May require applicants to pass an examination in order to obtain a
47 certificate;

48 (c) Must establish standards of practice for ~~{persons engaged in property~~
49 ~~management for a common interest community.}~~ *community managers;*



1 (d) Must establish the grounds for initiating disciplinary action against a
2 person to whom a certificate has been issued, including, without limitation,
3 the grounds for placing conditions, limitations or restrictions on a
4 certificate and for the suspension or revocation of a certificate; and

5 (e) Must establish rules of practice and procedure for conducting
6 disciplinary hearings.

7 The ~~real estate division of the department of business and industry~~
8 ~~division~~ may investigate the ~~property~~ *community* managers to whom
9 certificates have been issued to ensure their compliance with the standards
10 of practice adopted pursuant to this subsection and collect a fee for the
11 issuance of a certificate by the ~~commission~~ *division* in an amount not to
12 exceed the administrative costs of issuing the certificate.

13 4. The provisions of subsection 2 do not apply to:

14 (a) A person who is engaged in ~~property management for~~ *the*
15 *management of* a common-interest community on October 1, ~~1999,~~
16 *2001*, and is granted an exemption from the requirements of subsection 2
17 by the administrator upon demonstration that he is qualified and competent
18 to engage in ~~property management for~~ *the management of* a common-
19 interest community.

20 (b) A financial institution.

21 (c) An attorney licensed to practice in this state.

22 (d) A trustee.

23 (e) An employee of a corporation who manages only the property of the
24 corporation ~~it~~, *unless that corporation is also an association.*

25 (f) A declarant.

26 (g) A receiver.

27 ~~5. As used in this section, "property management" means the~~
28 ~~physical, administrative or financial maintenance and management of real~~
29 ~~property, or the supervision of those activities for a fee, commission or~~
30 ~~other compensation or valuable consideration.~~

31 *(h) An officer or member of the executive board of an association who*
32 *acts solely as an officer or member of the executive board.*

33 **Sec. 41.** NRS 116.31152 is hereby amended to read as follows:

34 116.31152 1. The executive board of an association shall:

35 (a) Cause to be conducted at least once every 5 years, a study of the
36 reserves required to repair, replace and restore the major components of the
37 common elements;

38 (b) Review the results of that study at least annually to determine if
39 those reserves are sufficient; and

40 (c) Make any adjustments it deems necessary to maintain the required
41 reserves.

42 2. The study required by subsection 1 must be conducted by a person
43 qualified by training and experience to conduct such a study, including a
44 member of the executive board, a unit's owner or the ~~property~~
45 *community* manager of the association who is so qualified. The study must
46 include, without limitation:

47 (a) A summary of an inspection of the major components of the
48 common elements the association is obligated to repair, replace or restore;



1 (b) An identification of the major components of the common elements
2 that the association is obligated to repair, replace or restore which have a
3 remaining useful life of less than 30 years;

4 (c) An estimate of the remaining useful life of each major component
5 identified pursuant to paragraph (b);

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

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

13 3. The administrator shall adopt by regulation the qualifications
14 required for conducting a study required by subsection 1.

15 **Sec. 42.** NRS 116.31155 is hereby amended to read as follows:

16 116.31155 1. An association shall:

17 (a) If the association is required to pay the fee imposed by NRS 78.150
18 or ~~for 82.193,~~ **82.193 or 86.263**, pay to the administrator a fee established
19 by regulation of the administrator for every unit in the association used for
20 residential use.

21 (b) If the association is organized as a trust or partnership, pay to the
22 administrator a fee established by regulation of the administrator for each
23 unit in the association.

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

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

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

29 (c) Established on the basis of the actual cost of administering the office
30 of the ombudsman for owners in common-interest communities and not on
31 a basis which includes any subsidy for the office. In no event may the fees
32 required to be paid pursuant to this section exceed \$3 per unit.

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

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

39 **Sec. 43.** NRS 116.31158 is hereby amended to read as follows:

40 116.31158 1. Each association shall, at the time it pays the fee
41 required by NRS 116.31155, register with the ombudsman for owners in
42 common-interest communities on a form prescribed by the ombudsman.

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

46 **Sec. 44.** NRS 116.31162 is hereby amended to read as follows:

47 116.31162 1. Except as otherwise provided in subsection 4, in a
48 condominium, a cooperative where the owner's interest in a unit is real



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1 estate as determined pursuant to NRS 116.1105, or a planned community,
2 the association may foreclose its lien by sale after:

3 (a) The association has mailed by certified or registered mail, return
4 receipt requested, to the unit's owner or his successor in interest, at his
5 address if known, and at the address of the unit, a notice of delinquent
6 assessment which states the amount of the assessments and other sums
7 which are due in accordance with subsection 1 of NRS 116.3116, a
8 description of the unit against which the lien is imposed, and the name of
9 the record owner of the unit;

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

19 (c) The unit's owner or his successor in interest has failed to pay the
20 amount of the lien, including costs, fees and expenses incident to its
21 enforcement, for 60 days following the recording of the notice of default
22 and election to sell.

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

26 3. The period of 60 days begins on the first day following the
27 later of:

28 (a) The day on which the notice of default is recorded; ~~to~~

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

33 (c) *The association has provided written certification to the*
34 *ombudsman for owners in common-interest communities that notices*
35 *have been given in accordance with subsection 1.*

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

40 **Sec. 45.** NRS 116.31175 is hereby amended to read as follows:

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



1 (a) The personnel records of the employees of the association ~~it~~ ,
2 *except for those records relating to the salaries and benefits of those*
3 *employees;* and

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

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

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

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

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

15 **Sec. 46.** NRS 116.4108 is hereby amended to read as follows:

16 116.4108 1. A person required to deliver a public offering statement
17 pursuant to subsection 3 of NRS 116.4102 shall provide a purchaser with a
18 copy of the current public offering statement not later than the date ~~of any~~
19 ~~contract of sale.~~ *on which an offer to purchase becomes binding on the*
20 *purchaser.* Unless the purchaser has personally inspected the unit, the
21 purchaser may cancel, by written notice, the contract of purchase until
22 midnight of the fifth calendar day following the date of execution of the
23 contract, and the contract for purchase must contain a provision to that
24 effect.

25 2. If a purchaser elects to cancel a contract pursuant to subsection 1, he
26 may do so by hand delivering notice thereof to the offeror or by mailing
27 notice thereof by prepaid United States mail to the offeror or to his agent
28 for service of process. Cancellation is without penalty, and all payments
29 made by the purchaser before cancellation must be refunded promptly.

30 3. If a person required to deliver a public offering statement pursuant
31 to subsection 3 of NRS 116.4102 fails to provide a purchaser to whom a
32 unit is conveyed with a current public offering statement, the purchaser is
33 entitled to actual damages, rescission or other relief, but if the purchaser
34 has accepted a conveyance of the unit, he is not entitled to rescission.

35 **Sec. 47.** NRS 116.4109 is hereby amended to read as follows:

36 116.4109 1. Except in the case of a sale in which delivery of a public
37 offering statement is required, or unless exempt under subsection 2 of NRS
38 116.4101, a unit's owner shall furnish to a purchaser before ~~execution of~~
39 ~~any contract for sale of a unit, or otherwise before conveyance.~~ *an offer to*
40 *purchase a unit becomes binding on the purchaser:*

41 (a) A copy of the declaration, other than any plats and plans, the bylaws,
42 the rules or regulations of the association and, except for a time share
43 governed by the provisions of chapter 119A of NRS, the information
44 statement required by NRS 116.41095;

45 (b) A statement setting forth the amount of the monthly assessment for
46 common expenses and any unpaid assessment of any kind currently due
47 from the selling unit's owner;

48 (c) The current operating budget of the association and a financial
49 statement for the association; and



1 (d) A statement of any unsatisfied judgments or pending legal actions
2 against the association and the status of any pending legal actions relating
3 to the common-interest community of which the unit's owner has actual
4 knowledge.

5 2. The association, within 10 days after a request by a unit's owner,
6 shall furnish a certificate containing the information necessary to enable
7 the unit's owner to comply with this section. A unit's owner providing a
8 certificate pursuant to subsection 1 is not liable to the purchaser for any
9 erroneous information provided by the association and included in the
10 certificate.

11 3. Neither a purchaser nor the purchaser's interest in a unit is liable for
12 any unpaid assessment or fee greater than the amount set forth in the
13 certificate prepared by the association. If the association fails to furnish the
14 certificate within the 10 days allowed by subsection 2, the seller is not
15 liable for the delinquent assessment.

16 **Sec. 48.** NRS 116.41095 is hereby amended to read as follows:

17 116.41095 The information statement required by NRS 116.4103 and
18 116.4109 must be in substantially the following form:

19
20 BEFORE YOU PURCHASE PROPERTY IN A
21 COMMON-INTEREST COMMUNITY
22 DID YOU KNOW . . .

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

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

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

42 As an owner in a common-interest community, you are responsible for
43 paying your share of expenses relating to the common elements, such as
44 landscaping, shared amenities and the operation of any homeowner's
45 association. The obligation to pay these assessments binds you and every
46 future owner of the property. Owners' fees are usually assessed by the
47 homeowner's association and due monthly. You have to pay dues whether
48 or not you agree with the way the association is managing the property or
49 spending the assessments. The executive board of the association may have



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1 the power to change and increase the amount of the assessment and to levy
2 special assessments against your property to meet extraordinary expenses.
3 In some communities, major components of the community such as roofs
4 and private roads must be maintained and replaced by the association. If
5 the association is not well managed or fails to maintain adequate reserves
6 to repair, replace and restore common elements, you may be required to
7 pay large, special assessments to accomplish these tasks.

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

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

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

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

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



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1 attempt to use the democratic processes of the association to seek the
2 election of members of the executive board or other governing bodies that
3 are more responsive to your needs. If persons controlling the association or
4 its management are not complying with state laws or the governing
5 documents, your remedy is typically to seek to mediate or arbitrate the
6 dispute and, if mediation or arbitration is unsuccessful, file a lawsuit and
7 ask a court to resolve the dispute. In addition to your personal cost in
8 mediation or arbitration, or to prosecute a lawsuit, you may be responsible
9 for paying your share of the association's cost in defending against your
10 claim. There is no government agency in this state that investigates or
11 intervenes to resolve disputes in homeowner's associations.

12 5. YOU ARE REQUIRED TO PROVIDE PROSPECTIVE BUYERS
13 OF YOUR PROPERTY WITH INFORMATION ABOUT LIVING IN
14 YOUR COMMON-INTEREST COMMUNITY?

15 The law requires you to provide to a prospective purchaser of your
16 property, before you enter into a purchase agreement, a copy of the
17 community's governing documents, including the C, C & R's, association
18 bylaws, and rules and regulations, as well as a copy of this document. You
19 are also required to provide a copy of the association's current financial
20 statement, operating budget and information regarding the amount of the
21 monthly assessment for common expenses, including the amount set aside
22 as reserves for the repair, replacement and restoration of common
23 elements. You are also required to inform prospective purchasers of any
24 outstanding judgments or lawsuits pending against the association of which
25 you are aware. You are also required to provide a copy of the minutes from
26 the most recent meeting of the homeowner's association or its executive
27 board. For more information regarding these requirements, see Nevada
28 Revised Statutes 116.4103 ~~H~~ and 116.4109.

29 6. YOU HAVE CERTAIN RIGHTS REGARDING OWNERSHIP IN
30 A COMMON-INTEREST COMMUNITY THAT ARE GUARANTEED
31 YOU BY THE STATE?

32 Pursuant to provisions of chapter 116 of Nevada Revised Statutes, you
33 have the right:

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

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

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

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

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

45 7. QUESTIONS?

46 Although they may be voluminous, you should take the time to read and
47 understand the documents that will control your ownership of a property in
48 a common-interest community. You may wish to ask your real estate
49 professional, lawyer or other person with experience to explain anything



1 you do not understand. You may also request assistance from the
2 ombudsman for owners in common-interest communities, Nevada Real
3 Estate Division, at (telephone number).

4 Buyer or prospective buyer's initials: _____

5 Date: _____

6 **Sec. 49.** NRS 38.330 is hereby amended to read as follows:

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

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

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

36 4. Except as otherwise provided in this section and except where
37 inconsistent with the provisions of NRS 38.300 to 38.360, inclusive, the
38 arbitration of a claim pursuant to this section must be conducted in
39 accordance with the provisions of sections 22, 23, 24, 26 to 29, inclusive,
40 31 and 32 of *Senate Bill No. 336 of this ~~act~~ session*. At any time during
41 the arbitration of a claim relating to the interpretation, application or
42 enforcement of any covenants, conditions or restrictions applicable to
43 residential property or any bylaws, rules or regulations adopted by an
44 association, the arbitrator may issue an order prohibiting the action upon
45 which the claim is based. An award must be made within 30 days after the
46 conclusion of arbitration, unless a shorter period is agreed upon by the
47 parties to the arbitration.

48 5. If all the parties have agreed to nonbinding arbitration, any party to
49 the arbitration may, within 30 days after a decision and award have been



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1 served upon the parties, commence a civil action in the proper court
2 concerning the claim which was submitted for arbitration. Any complaint
3 filed in such an action must contain a sworn statement indicating that the
4 issues addressed in the complaint have been arbitrated pursuant to the
5 provisions of NRS 38.300 to 38.360, inclusive. If such an action is not
6 commenced within that period, any party to the arbitration may, within 1
7 year after the service of the award, apply to the proper court for a
8 confirmation of the award pursuant to section 29 of *Senate Bill No. 336 of*
9 *this ~~act~~ session.*

10 6. If all the parties agree in writing to binding arbitration, the
11 arbitration must be conducted in accordance with the provisions of ~~chapter~~
12 ~~38 of NRS~~ *this chapter.* An award procured pursuant to such arbitration
13 may be vacated and a rehearing granted upon application of a party
14 pursuant to the provisions of section 30 of *Senate Bill No. 336 of this ~~act~~*
15 *session.*

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

17 (a) Applies to have an award vacated and a rehearing granted pursuant
18 to section 30 of *Senate Bill No. 336 of this ~~act~~ session;* or

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

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

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

32 **Sec. 50.** Section 14 of Assembly Bill No. 621 of this section is hereby
33 amended to read as follows:

34 Sec. 14. Chapter 116 of NRS is hereby amended by adding
35 thereto a new section to read as follows:

36 *The expiration or revocation of a certificate for the management*
37 *of a common-interest community by operation of law or by order or*
38 *decision of the real estate commission or a court of competent*
39 *jurisdiction, or the voluntary surrender of such a certificate by the*
40 *holder of the certificate does not:*

41 1. *Prohibit the division or real estate commission from initiating*
42 *or continuing an investigation of, or action or disciplinary*
43 *proceeding against, the holder of the certificate as authorized*
44 *pursuant to the provisions of this chapter or the regulations adopted*
45 *pursuant thereto; or*

46 2. *Prevent the imposition or collection of any fine or penalty*
47 *authorized pursuant to the provisions of this chapter or the*
48 *regulations adopted pursuant thereto against the holder of the*
49 *certificate.*



1 **Sec. 51.** Notwithstanding the provisions of section 40 of this act, a
2 person who engages in business as a community manager is not required to
3 be certified pursuant to the provisions of this act before January 1, 2002.

4 **Sec. 52.** The state treasurer shall transfer any balance remaining
5 unexpended on October 1, 2001, in the account for the ombudsman for
6 owners in common-interest communities in the state general fund to the
7 account for common-interest communities which is created pursuant to
8 NRS 116.1117, as amended by this act.

9 **Sec. 53.** 1. Section 49 of this act becomes effective at 12:01 a.m. on
10 October 1, 2001.

11 2. Sections 9, 10 and 11 of this act expire by limitation on the date on
12 which the provisions of 42 U.S.C. § 666 requiring each state to establish
13 procedures under which the state has authority to withhold or suspend, or
14 to restrict the use of professional, occupational and recreational licenses of
15 persons who:

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

19 (b) Are in arrears in the payment for the support of one or more
20 children,
21 are repealed by the Congress of the United States.

