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PROPOSED AMENDMENTS TO SB 100

(April 8, 2003)

Proposed amendment submitted by:

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Amend Section 35:

Sec. 35. *1. If the Commission or the hearing panel, after notice and hearing, finds that the respondent has committed a violation, the Commission or the hearing panel may take any or all of the following actions:*

(a) Issue an order directing the respondent to cease and desist from continuing to engage in the unlawful conduct that resulted in the violation.

(b) Issue an order directing the respondent to take affirmative action to correct any conditions resulting from the violation.

(c) Impose an administrative fine of not more than ~~[\$5,000]~~ \$1, 000 for each violation.

2. If the respondent is a member of an executive board or an officer of an association, the Commission or the hearing panel may order the respondent removed from his office or position if the Commission or the hearing panel, after notice and hearing, finds that:

(a) The respondent has knowingly and willfully committed a violation; and

(b) The removal is in the best interest of the association.

3. If the respondent violates any order issued by the Commission or the hearing panel pursuant to this section, the Commission or the hearing panel, after notice and hearing, may impose an administrative fine of not more than ~~[\$5,000]~~ \$1,000 for each violation.

4. If the Commission or the hearing panel takes any disciplinary action pursuant to this section, it may order the respondent to pay the costs of the proceedings incurred by the Commission or the hearing panel, or both, including, without limitation, the cost of the investigation and reasonable attorney's fees.

5. Notwithstanding any other provision of this section, if the respondent is a member of an executive board or an officer of an association:

(a) The association is liable for all fines and costs imposed against the respondent pursuant to this section; and

(b) The respondent may not be held personally liable for those fines and costs.

Amend Section 54:

Sec. 1. NRS 116.1201 is hereby amended to read as follows:

116.1201 1. Except as otherwise provided in this section and NRS 116.1203, this chapter applies to all common-interest communities created within this state.

2. This chapter does not apply to:

(a) Associations created for the limited purpose of maintaining:

(1) The landscape of the common elements of a common-interest community; *or*

(2) Facilities for flood control. ~~{; or~~

~~_____ (3) A rural agricultural residential common-interest community.}~~ **(3) A rural agricultural residential common interest community.**

(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that ~~{the}~~ **this** chapter does apply to that planned community. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted ~~{;}~~ only if the declaration so provides or **if** the real estate comprising the units that may be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.

(c) Common-interest communities or units located outside of this state, but the provisions of NRS 116.4102 to 116.4108, inclusive, apply to all contracts for the disposition thereof signed in this state by any party unless exempt under subsection 2 of NRS 116.4101.

(d) **A common-interest community that was created before January 1, 1992, is located in a county whose population is less than 50,000, and has less than 50 percent of the units within the community put to residential use, unless a majority of the units' owners otherwise elect in writing.**

(e) Except as otherwise provided in this chapter, time shares governed by the provisions of chapter 119A of NRS.

3. The provisions of this chapter do not:

(a) Prohibit a common-interest community created before January 1, 1992, from providing for separate classes of voting for the units' owners of the association;

(b) Require a common-interest community created before January 1, 1992, to comply with the provisions of NRS 116.2101 to 116.2122, inclusive;

(c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992; or

(d) Prohibit a common-interest community created before January 1, 1992, **or a common-interest community described in section 46 of this act** from providing for a representative form of government.

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

5. ~~{For the purposes of this section, the Administrator}~~ **The Commission** shall establish, by regulation, the criteria for determining whether an association ~~{is created for the limited purpose of maintaining the landscape of the common elements of a common-interest community, maintaining facilities for flood control or maintaining a rural agricultural residential}~~ **or a common-interest community {;}** **satisfies the requirements for an exemption from any provision of this chapter.**