

CHAPTER.....

AN ACT relating to property; making various changes relating to common-interest communities; creating and prescribing the powers and duties of the Commission for Common-Interest Communities; revising provisions relating to the powers and duties of the Ombudsman for Owners in Common-Interest Communities and the Real Estate Division of the Department of Business and Industry; revising provisions governing the regulation of persons who manage common-interest communities; authorizing the Commission to adjudicate certain violations relating to common-interest communities and to impose fines and take other action with regard to such violations; providing that a unit's owner has the right to display the flag of the United States under certain circumstances; enacting and revising provisions governing the conduct and activities of unit-owners' associations, the members of executive boards and declarants; enacting provisions relating to the transient commercial use of a unit; authorizing the use of delegates or representatives to exercise voting rights in certain common-interest communities; authorizing an association to impose construction penalties under certain circumstances and to place and foreclose a lien on a unit for failure to pay such penalties; revising provisions relating to the imposition of fines; making various changes relating to meetings, quorums, voting and the election and removal of members of the executive board; authorizing certain common-interest communities to expend money received as a credit against the residential construction tax for certain purposes; revising provisions relating to the foreclosure of certain liens; making various changes relating to the books, records, reports, studies and other papers of an association; and providing other matters properly relating thereto.

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

**Section 1.** Chapter 116 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 48, inclusive, of this act.

**Sec. 2.** *“Certificate” means a certificate for the management of a common-interest community issued by the Division.*

**Sec. 3.** *“Commission” means the Commission for Common-Interest Communities created by section 13 of this act.*

Sec. 4. *“Community manager” means a person who provides for or otherwise engages in the management of a common-interest community.*

Sec. 5. *“Complaint” means a complaint filed by the Administrator pursuant to section 31 of this act.*

Sec. 6. *“Division” means the Real Estate Division of the Department of Business and Industry.*

Sec. 7. *“Hearing panel” means a hearing panel appointed by the Commission pursuant to section 19 of this act.*

Sec. 8. *“Management of a common-interest community” means the physical, administrative or financial maintenance and management of a common-interest community, or the supervision of those activities, for a fee, commission or other valuable consideration.*

Sec. 9. *“Ombudsman” means the Ombudsman for Owners in Common-Interest Communities.*

Sec. 10. *“Party to the complaint” means the Division and the respondent.*

Sec. 11. *“Permit” means a permit to engage in property management issued pursuant to the provisions of chapter 645 of NRS.*

Sec. 12. *“Respondent” means a person against whom:*

*1. An affidavit has been filed pursuant to section 30 of this act.*

*2. A complaint has been filed pursuant to section 31 of this act.*

Sec. 13. *1. The Commission for Common-Interest Communities is hereby created.*

*2. The Commission consists of five members appointed by the Governor. The Governor shall appoint to the Commission:*

*(a) One member who is a unit’s owner residing in this state and who has served as a member of an executive board in this state;*

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

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

*(d) One member who is a certified public accountant licensed to practice in this state pursuant to the provisions of chapter 628 of NRS; and*

*(e) One member who is an attorney licensed to practice in this state.*

*3. Each member of the Commission must be a resident of this state. At least three members of the Commission must be residents of a county whose population is 400,000 or more.*

*4. Each member of the Commission must have resided in a common-interest community or have been actively engaged in a*

*business or profession related to common-interest communities for not less than 3 years immediately preceding the date of his appointment.*

*5. After the initial terms, each member of the Commission serves a term of 3 years. Each member may serve not more than two consecutive full terms. If a vacancy occurs during a member's term, the Governor shall appoint a person qualified under this section to replace the member for the remainder of the unexpired term.*

*6. While engaged in the business of the Commission, each member is entitled to receive:*

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

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

*Sec. 14. 1. The Division shall provide or arrange to have provided to each member of the Commission courses of instruction concerning rules of procedure and substantive law appropriate for members of the Commission.*

*2. Each member of the Commission must attend the courses of instruction not later than 6 months after the date that the member is first appointed to the Commission.*

*Sec. 15. 1. At the first meeting of each fiscal year, the Commission shall elect from its members a Chairman, a Vice Chairman and a Secretary.*

*2. The Commission shall meet at least once each calendar quarter and at other times on the call of the Chairman or a majority of its members.*

*3. A majority of the members of the Commission constitutes a quorum for the transaction of all business.*

*Sec. 16. 1. The provisions of this chapter shall be administered by the Division, subject to the administrative supervision of the Commission.*

*2. The Commission and the Division may do all things necessary and convenient to carry out the provisions of this chapter, including, without limitation, prescribing such forms and adopting such procedures as are necessary to carry out the provisions of this chapter.*

*3. The Commission or the Administrator, with the approval of the Commission, may adopt such regulations as are necessary to carry out the provisions of this chapter.*

*4. The Commission may by regulation delegate any authority conferred upon it by the provisions of this chapter to the Administrator to be exercised pursuant to the regulations adopted by the Commission.*

5. When regulations are proposed by the Administrator, in addition to other notices required by law, the Administrator shall provide copies of the proposed regulations to the Commission not later than 30 days before the next meeting of the Commission. The Commission shall approve, amend or disapprove any proposed regulations at that meeting.

6. All regulations adopted by the Commission, or adopted by the Administrator with the approval of the Commission, must be published by the Division and offered for sale at a reasonable fee.

7. The Division may publish or supply a reference manual or study guide for community managers and may offer it for sale at a reasonable fee.

**Sec. 17.** Any notice or other information that is required to be served upon the Commission pursuant to the provisions of this chapter may be delivered to the principal office of the Division.

**Sec. 18.** 1. Except as otherwise provided in this section and within the limits of legislative appropriations, the Division may employ experts, attorneys, investigators, consultants and other personnel as are necessary to carry out the provisions of this chapter.

2. The Attorney General shall act as the attorney for the Division in all actions and proceedings brought against or by the Division pursuant to the provisions of this chapter.

3. The Attorney General shall render to the Commission and the Division opinions upon all questions of law relating to the construction or interpretation of this chapter, or arising in the administration thereof, that may be submitted to him by the Commission or the Division.

**Sec. 19.** 1. The Commission may appoint one or more hearing panels. Each hearing panel must consist of one or more independent hearing officers.

2. The Commission may by regulation delegate to one or more hearing panels the power of the Commission to conduct hearings and other proceedings, determine violations, impose fines and penalties and take other disciplinary action authorized by the provisions of this chapter.

3. While acting under the authority of the Commission, a hearing panel and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the Commission and its members.

4. A final order of a hearing panel:

(a) May be appealed to the Commission if, not later than 20 days after the date that the final order is issued by the hearing panel, any party aggrieved by the final order files a written notice of appeal with the Commission.

*(b) Must be reviewed and approved by the Commission if, not later than 40 days after the date that the final order is issued by the hearing panel, the Division, upon the direction of the Chairman of the Commission, provides written notice to all parties of the intention of the Commission to review the final order.*

*Sec. 20. The Commission or a hearing panel may conduct a hearing by means of an audio or video teleconference to one or more locations if the audio or video technology used at the hearing provides the persons present at each location with the ability to hear and communicate with the persons present at each other location.*

*Sec. 21. The Commission and its members, each hearing panel and its members, the Administrator, the Ombudsman, the Division, and the experts, attorneys, investigators, consultants and other personnel of the Commission and the Division are immune from any civil liability for any decision or action taken in good faith and without malicious intent in carrying out the provisions of this chapter.*

*Sec. 22. 1. The Commission shall conduct such hearings and other proceedings as are required by the provisions of this chapter.*

*2. The Commission shall collect and maintain or cause to be collected and maintained accurate information relating to:*

*(a) The number and kind of common-interest communities in this state;*

*(b) The effect of the provisions of this chapter and any regulations adopted pursuant thereto on the development and construction of common-interest communities, the residential lending market for units within common-interest communities and the operation and management of common-interest communities;*

*(c) Violations of the provisions of this chapter and any regulations adopted pursuant thereto;*

*(d) The accessibility and use of, and the costs related to, the arbitration and mediation procedures set forth in NRS 38.300 to 38.360, inclusive, and the decisions rendered and awards made pursuant to those arbitration and mediation procedures;*

*(e) The number of foreclosures which were completed on units within common-interest communities and which were based on liens for the failure of the unit's owner to pay any assessments levied against the unit or any fines imposed against the unit's owner;*

*(f) The study of the reserves required by NRS 116.31152; and*

*(g) Other issues that the Commission determines are of concern to units' owners, associations, community managers, developers and other persons affected by common-interest communities.*

*3. The Commission shall develop and promote:*

*(a) Educational guidelines for conducting the elections of the members of an executive board, the meetings of an executive board and the meetings of the units' owners of an association; and*

*(b) Educational guidelines for the enforcement of the governing documents of an association through liens, penalties and fines.*

*4. The Commission shall recommend and approve for accreditation programs of education and research relating to common-interest communities, including, without limitation:*

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

*(b) The sale and resale of units within common-interest communities;*

*(c) Alternative methods that may be used to resolve disputes relating to common-interest communities; and*

*(d) The enforcement, including by foreclosure, of liens on units within common-interest communities for the failure of the unit's owner to pay any assessments levied against the unit or any fines imposed against the unit's owner.*

**Sec. 23.** *The Commission may:*

*1. By regulation, establish standards for subsidizing proceedings for mediation and arbitration conducted pursuant to NRS 38.300 to 38.360, inclusive, to ensure that such proceedings are not lengthy and are affordable and readily accessible to all parties;*

*2. By regulation, establish standards for subsidizing educational programs for the benefit of units' owners, members of executive boards and officers of associations;*

*3. Accept any gifts, grants or donations; and*

*4. Enter into agreements with other entities that are required or authorized to carry out similar duties in this state or in other jurisdictions and cooperate with such entities to develop uniform procedures for carrying out the provisions of this chapter and for accumulating information needed to carry out those provisions.*

**Sec. 24.** *1. The Commission shall by regulation provide for the issuance by the Division of certificates to community managers. The regulations:*

*(a) Must establish the qualifications for the issuance of such a certificate, including, without limitation, the education and experience required to obtain such a certificate.*

*(b) May require applicants to pass an examination in order to obtain a certificate. If the regulations require such an examination, the Commission shall by regulation establish fees to pay the costs of the examination, including any costs which are necessary for the administration of the examination.*

(c) *May require an investigation of an applicant's background. If the regulations require such an investigation, the Commission shall by regulation establish fees to pay the costs of the investigation.*

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

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

2. *The Division may collect a fee for the issuance of a certificate in an amount not to exceed the administrative costs of issuing the certificate.*

**Sec. 25.** 1. *An applicant for a certificate shall submit to the Division:*

(a) *The social security number of the applicant; and*

(b) *The statement prescribed by the Welfare Division of the Department of Human Resources pursuant to NRS 425.520. The statement must be completed and signed by the applicant.*

2. *The Division shall include the statement required pursuant to subsection 1 in:*

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

(b) *A separate form prescribed by the Division.*

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

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

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

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

**Sec. 26.** 1. *If the Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to the holder of a certificate, the*



*Division shall deem the certificate to be suspended at the end of the 30th day after the date the court order was issued unless the Division receives a letter issued to the holder of the certificate by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the certificate has complied with a subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

*2. The Division shall reinstate a certificate that has been suspended by a district court pursuant to NRS 425.540 if the Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the holder of the certificate that he has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

**Sec. 27.** *As used in sections 27 to 37, inclusive, of this act, unless the context otherwise requires, "violation" means a violation of any provision of this chapter, any regulation adopted pursuant thereto or any order of the Commission or a hearing panel.*

**Sec. 28. 1.** *In carrying out the provisions of sections 27 to 37, inclusive, of this act, the Division and the Ombudsman have jurisdiction to investigate and the Commission and each hearing panel has jurisdiction to take appropriate action against any person who commits a violation, including, without limitation:*

*(a) Any association and any officer, employee or agent of an association.*

*(b) Any member of an executive board.*

*(c) Any community manager who holds a permit or certificate and any other community manager.*

*(d) Any declarant or affiliate of a declarant.*

*(e) Any unit's owner.*

*(f) Any tenant of a unit's owner if the tenant has entered into an agreement with the unit's owner to abide by the governing documents of the association and the provisions of this chapter and any regulations adopted pursuant thereto.*

*2. The jurisdiction set forth in subsection 1 applies to any officer, employee or agent of an association or any member of an executive board who commits a violation and who:*

*(a) Currently holds his office, employment, agency or position or who held his office, employment, agency or position at the commencement of proceedings against him.*

*(b) Resigns his office, employment, agency or position:*

*(1) After the commencement of proceedings against him; or*

*(2) Within 1 year after the violation is discovered or reasonably should have been discovered.*

**Sec. 29. 1.** *The rights, remedies and penalties provided by sections 27 to 37, inclusive, of this act are cumulative and do not*



*abrogate and are in addition to any other rights, remedies and penalties that may exist at law or in equity.*

*2. If the Commission, a hearing panel or another agency or officer elects to take a particular action or pursue a particular remedy or penalty authorized by sections 27 to 37, inclusive, of this act or another specific statute, that election is not exclusive and does not preclude the Commission, the hearing panel or another agency or officer from taking any other actions or pursuing any other remedies or penalties authorized by sections 27 to 37, inclusive, of this act or another specific statute.*

*3. In carrying out the provisions of sections 27 to 37, inclusive, of this act, the Commission or a hearing panel shall not intervene in any internal activities of an association except to the extent necessary to prevent or remedy a violation.*

**Sec. 30.** *1. Except as otherwise provided in this section, a person who is aggrieved by an alleged violation may, not later than 1 year after the person discovers or reasonably should have discovered the alleged violation, file with the Division a written affidavit that sets forth the facts constituting the alleged violation. The affidavit may allege any actual damages suffered by the aggrieved person as a result of the alleged violation.*

*2. An aggrieved person may not file such an affidavit unless the aggrieved person has, on at least two separate occasions, provided the respondent by certified mail, return receipt requested, with written notices of the alleged violation set forth in the affidavit. The notices must:*

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

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

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

*3. A written affidavit filed with the Division pursuant to this section must be:*

*(a) On a form prescribed by the Division.*

*(b) Be accompanied by evidence that:*

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

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

*4. The Commission or a hearing panel may impose an administrative fine of not more than \$1,000 against any person who knowingly files a false or fraudulent affidavit with the Division.*

**Sec. 31.** *1. Upon receipt of an affidavit that complies with the provisions of section 30 of this act, the Division shall refer the affidavit to the Ombudsman.*

*2. The Ombudsman shall give such guidance to the parties as the Ombudsman deems necessary to assist the parties to resolve the alleged violation.*

*3. If the parties are unable to resolve the alleged violation with the assistance of the Ombudsman, the Ombudsman shall provide to the Division a report concerning the alleged violation and any information collected by the Ombudsman during his efforts to assist the parties to resolve the alleged violation.*

*4. Upon receipt of the report from the Ombudsman, the Division shall conduct an investigation to determine whether good cause exists to proceed with a hearing on the alleged violation.*

*5. If, after investigating the alleged violation, the Division determines that the allegations in the affidavit are not frivolous, false or fraudulent and that good cause exists to proceed with a hearing on the alleged violation, the Administrator shall file a formal complaint with the Commission and schedule a hearing on the complaint before the Commission or a hearing panel.*

**Sec. 32.** *1. Except as otherwise provided in subsection 2, if the Administrator files a formal complaint with the Commission, the Commission or a hearing panel shall hold a hearing on the complaint not later than 90 days after the date that the complaint is filed.*

*2. The Commission or the hearing panel may continue the hearing upon its own motion or upon the written request of a party to the complaint, for good cause shown, including, without limitation, the existence of proceedings for mediation or arbitration or a civil action involving the facts that constitute the basis of the complaint.*

*3. The Division shall give the respondent written notice of the date, time and place of the hearing on the complaint at least 30 days before the date of the hearing. The notice must be:*

*(a) Delivered personally to the respondent or mailed to the respondent by certified mail, return receipt requested, to his last known address.*

*(b) Accompanied by:*

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

*(2) Copies of all communications, reports, affidavits and depositions in the possession of the Division that are relevant to the complaint.*

*4. At any hearing on the complaint, the Division may not present evidence that was obtained after the notice was given to the respondent pursuant to this section, unless the Division proves to the satisfaction of the Commission or the hearing panel that:*

(a) *The evidence was not available, after diligent investigation by the Division, before such notice was given to the respondent; and*

(b) *The evidence was given or communicated to the respondent immediately after it was obtained by the Division.*

5. *The respondent must file an answer not later than 30 days after the date that notice of the complaint is delivered or mailed by the Division. The answer must:*

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

(b) *Be delivered personally to the Division or mailed to the Division by certified mail, return receipt requested.*

6. *If the respondent does not file an answer within the time required by subsection 5, the Division may, after giving the respondent written notice of the default, request the Commission or the hearing panel to enter a finding of default against the respondent. The notice of the default must be delivered personally to the respondent or mailed to the respondent by certified mail, return receipt requested, to his last known address.*

**Sec. 33.** *Any party to the complaint may be represented by an attorney at any hearing on the complaint.*

**Sec. 34.** 1. *After conducting its hearings on the complaint, the Commission or the hearing panel shall render a final decision on the merits of the complaint not later than 20 days after the date of the final hearing.*

2. *The Commission or the hearing panel shall notify all parties to the complaint of its decision in writing by certified mail, return receipt requested, not later than 60 days after the date of the final hearing. The written decision must include findings of fact and conclusions of law.*

**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 \$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 \$1,000 for each violation.*

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

*5. Notwithstanding any other provision of this section, unless the respondent has knowingly and willfully committed a violation, 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.*

**Sec. 36.** *If the Commission or a hearing panel, after notice and hearing, finds that the executive board of an association or any person acting on behalf of the association has committed a violation, the Commission or the hearing panel may take any or all of the following actions:*

*1. Order an audit of the association.*

*2. Require the executive board to hire a community manager who holds a permit or certificate.*

**Sec. 37.** *1. If the Commission or the Division has reasonable cause to believe, based on evidence satisfactory to it, that any person has committed a violation or will continue to commit violations, the Commission or the Division may bring an action in the district court for the county in which the person resides or, if the person does not reside in this state, in any court of competent jurisdiction in this state, to enjoin that person from continuing to commit the violations or from doing any act in furtherance of the violations.*

*2. The action must be brought in the name of the State of Nevada.*

*3. The court may issue the injunction without:*

*(a) Proof of actual damages sustained by any person.*

*(b) The filing of any bond.*

**Sec. 38. 1.** *Notwithstanding any provision of the governing documents to the contrary, and except as otherwise provided in this section, a unit's owner is entitled to display the flag of the United States, in a manner that is consistent with the Federal Flag Code, from or on:*

*(a) A flagpole or staff which is located on exterior property within the boundaries of his unit or which is attached to an exterior limited common element that forms a part of the boundaries of his unit.*

*(b) A window, ledge, sill, railing, patio, terrace or balcony of his unit or an exterior limited common element that forms a part of the boundaries of his unit, whether or not the flag is displayed from a flagpole or staff.*

*2. An association may adopt rules that:*

*(a) Prohibit the display of the flag of the United States in a manner that is inconsistent with the Federal Flag Code.*

*(b) Prohibit the display of the flag of the United States if the flag exceeds 4 feet in its vertical dimension or 6 feet in its horizontal dimension. For the purposes of this paragraph, the horizontal dimension of the flag is the dimension that is parallel with the horizontal stripes of the flag, regardless of the position in which the flag is displayed.*

*(c) Establish a maximum number of flags of the United States that may be displayed from, on or around the exterior of a unit. The maximum number may be one.*

*(d) Prohibit the display of the flag of the United States from a flagpole or staff that exceeds 25 feet in height.*

*(e) Prohibit the display of the flag of the United States in a manner that poses a real and substantial danger to health or safety.*

*3. As used in this section:*

*(a) "Federal Flag Code" means the rules and customs pertaining to the display and use of the flag of the United States which are codified in 4 U.S.C. §§ 5 to 10, inclusive, as altered, modified or repealed by the President of the United States pursuant to 4 U.S.C. § 10, and any additional rules pertaining to the display and use of the flag of the United States which are prescribed by the President pursuant to 4 U.S.C. § 10.*

*(b) "Flag of the United States" does not include a depiction or emblem of the flag of the United States that is made of balloons, flora, lights, paint, paving materials, roofing, siding or any other similar building, decorative or landscaping component or material.*

**Sec. 39. 1.** *If an executive board receives a written complaint from a unit's owner alleging that the executive board has violated any provision of this chapter or any provision of the*

*governing documents of the association, the executive board shall, if action is required by the executive board, place the subject of the complaint on the agenda of the next regularly scheduled meeting of the executive board.*

*2. Not later than 10 business days after the date that the association receives such a complaint, the executive board or an authorized representative of the association shall acknowledge the receipt of the complaint and notify the unit's owner that, if action is required by the executive board, the subject of the complaint will be placed on the agenda of the next regularly scheduled meeting of the executive board.*

**Sec. 40.** *A member of an executive board, an officer of an association or a community manager shall not solicit or accept any form of compensation, gratuity or other remuneration that:*

*1. Would improperly influence or would appear to a reasonable person to improperly influence the decisions made by those persons; or*

*2. Would result or would appear to a reasonable person to result in a conflict of interest for those persons.*

**Sec. 41.** *An executive board, a member of an executive board or an officer, employee or agent of an association shall not take, or direct or encourage another person to take, any retaliatory action against a unit's owner because the unit's owner has:*

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

*2. Requested in good faith to review the books, records or other papers of the association.*

**Sec. 42.** *1. Except as otherwise provided in this section, a member of an executive board or an officer of an association shall not:*

*(a) On or after October 1, 2003, enter into a contract or renew a contract with the association to provide goods or services to the association; or*

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

*2. The provisions of this section do not prohibit a declarant, an affiliate of a declarant or an officer, employee or agent of a declarant or an affiliate of a declarant from:*

*(a) Receiving any commission, personal profit or compensation from the association, the declarant or an affiliate of the declarant for any goods or services furnished to the association;*

*(b) Entering into contracts with the association, the declarant or affiliate of the declarant; or*

(c) *Serving as a member of the executive board or as an officer of the association.*

**Sec. 43.** 1. *If a common-interest community is developed in separate phases and any declarant or successor declarant is constructing any common elements that will be added to the association's common elements after the date on which the units' owners other than the declarant may elect a majority of the members of the executive board, the declarant or successor declarant who is constructing such additional common elements is responsible for:*

(a) *Paying all expenses related to the additional common elements which are incurred before the conveyance of the additional common elements to the association; and*

(b) *Except as otherwise provided in NRS 116.31038, delivering to the association that declarant's share of the amount specified in the study of the reserves completed pursuant to subsection 2.*

2. *Before conveying the additional common elements to the association, the declarant or successor declarant who constructed the additional common elements shall deliver to the association a study of the reserves for the additional common elements which satisfies the requirements of NRS 116.31152.*

3. *As used in this section, "successor declarant" includes, without limitation, any successor declarant who does not control the association established by the initial declarant.*

**Sec. 44.** 1. *Except as otherwise provided in subsection 2, in a county whose population is 400,000 or more, a person who owns, or directly or indirectly has an interest in, one or more units within a planned community that are restricted to residential use by the declaration, may use that unit or one of those units for a transient commercial use only if:*

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

(b) *The executive board of the association and any master association approve the transient commercial use of the unit, except that such approval is not required if the planned community and one or more hotels are subject to the governing documents of a master association and those governing documents do not prohibit such use; and*

(c) *The unit is properly zoned for the transient commercial use and any license required by the local government for the transient commercial use is obtained.*

2. *In a county whose population is 400,000 or more, a declarant who owns, or directly or indirectly has an interest in, one or more units within a planned community under the governing documents of the association that are restricted to residential use by the declaration, may use that unit or those units*



*for a transient commercial use during the period that the declarant is offering units for sale within the planned community if such use complies with the requirements set forth in paragraphs (a) and (c) of subsection 1.*

*3. The association and any master association may establish requirements for the transient commercial use of a unit pursuant to the provisions of this section, including, without limitation, the payment of additional fees that are related to any increase in services or other costs associated with the transient commercial use of the unit.*

*4. As used in this section:*

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

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

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

*Sec. 46. 1. If the declaration so provides, in a common-interest community that consists of at least 1,000 units, the voting rights of the units' owners in the association for that common-interest community may be exercised by delegates or representatives.*

*2. In addition to a common-interest community identified in subsection 1, if the declaration so provides, in a common-interest community created before October 1, 1999, the voting rights of the units' owners in the association for that common-interest community may be exercised by delegates or representatives.*

*3. For the purposes of subsection 1, each unit that a declarant has reserved the right to create pursuant to NRS 116.2105 and for which developmental rights exist must be counted in determining the number of units in a common-interest community.*

*4. Notwithstanding any provision in the declaration, the election of any delegate or representative must be conducted by secret written ballot.*

5. *When an election of a delegate or representative is conducted by secret written ballot:*

(a) *The secretary or other officer of the association specified in the bylaws of the association shall cause a secret written ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.*

(b) *Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.*

(c) *Only the secret written ballots that are returned to the association in the manner prescribed on the ballot may be counted to determine the outcome of the election.*

(d) *The secret written ballots must be opened and counted at a meeting called for the purpose of electing delegates or representatives. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.*

(e) *A candidate for delegate or representative may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association in the manner prescribed on the ballot before those secret written ballots have been opened and counted at a meeting called for that purpose.*

**Sec. 47. 1.** *A unit's owner shall adhere to a schedule required by the association for:*

(a) *The completion of the design of a unit or the design of an improvement to a unit;*

(b) *The commencement of the construction of a unit or the construction of an improvement to a unit;*

(c) *The completion of the construction of a unit or the construction of an improvement to the unit; or*

(d) *The issuance of a permit which is necessary for the occupancy of a unit or for the use of an improvement to a unit.*

2. *The association may impose and enforce a construction penalty against a unit's owner who fails to adhere to a schedule as required pursuant to subsection 1 if:*

(a) *The maximum amount of the construction penalty and the schedule are set forth in:*

(1) *The declaration;*

(2) *Another document related to the common-interest community that is recorded before the date on which the unit's owner acquired title to the unit; or*

(3) *A contract between the unit's owner and the association; and*

*(b) The unit's owner receives notice of the alleged violation which informs him that he has a right to a hearing on the alleged violation.*

*3. For the purposes of this chapter, a construction penalty is not a fine.*

**Sec. 47.5.** *In conducting any meetings, a rural agricultural residential common-interest community must comply with the provisions set forth in chapter 241 of NRS concerning open meetings which are generally applicable to public bodies.*

**Sec. 48.** *If a matter governed by this chapter is also governed by chapter 78 of NRS, NRS 81.010 to 81.160, inclusive, or chapter 82 of NRS and there is a conflict between the provisions of this chapter and the provisions of chapter 78 of NRS, NRS 81.010 to 81.160, inclusive, or chapter 82 of NRS, the provisions of this chapter prevail.*

**Sec. 49.** NRS 116.1103 is hereby amended to read as follows:

116.1103 ~~Hi~~ *As used in this chapter and in* the declaration and bylaws ~~[(NRS 116.3106), unless specifically provided otherwise or]~~ *of an association, unless* the context otherwise requires, ~~[and in this chapter,]~~ the words and terms defined in NRS 116.110305 to 116.110393, inclusive, *and sections 2 to 12, inclusive, of this act* have the meanings ascribed to them in those sections.

**Sec. 50.** NRS 116.110305 is hereby amended to read as follows:

116.110305 “Administrator” means the *Real Estate* Administrator . ~~[of the Real Estate Division of the Department of Business and Industry.]~~

**Sec. 51.** NRS 116.11145 is hereby amended to read as follows:

116.11145 1. To carry out the purposes of this chapter, the ~~[Real Estate]~~ Commission, or any member thereof ~~[.]~~ *acting on behalf of the Commission or acting on behalf of a hearing panel,* may issue subpoenas to compel the attendance of witnesses and the production of books, records and other papers.

2. If any person fails to comply with a subpoena issued by the Commission *or any member thereof* pursuant to this section within ~~[10]~~ 20 days after ~~[its issuance,]~~ *the date of service of the subpoena,* the Commission may petition the district court for an order of the court compelling compliance with the subpoena.

3. Upon such a petition, the court shall enter an order directing the person subpoenaed to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than ~~[10]~~ 20 days after the date of *service of* the order, and show cause why he has not complied with the subpoena. A certified copy must be served upon the person subpoenaed.

4. If it appears to the court that the subpoena was regularly issued by the Commission ~~{}~~ *or any member thereof pursuant to this section*, the court shall enter an order compelling compliance with the subpoena, and upon failure to obey the order the person shall be dealt with as for contempt of court.

**Sec. 52.** NRS 116.1116 is hereby amended to read as follows:

116.1116 1. The Office of the Ombudsman for Owners in Common-Interest Communities is hereby created within the ~~{Real Estate Division of the Department of Business and Industry.}~~ *Division.*

2. The Administrator shall appoint the Ombudsman . ~~{for Owners in Common-Interest Communities.}~~ The Ombudsman ~~{for Owners in Common-Interest Communities}~~ is in the unclassified service of the State.

3. The Ombudsman ~~{for Owners in Common-Interest Communities}~~ must be qualified by training and experience to perform the duties and functions of his office.

4. ~~{The Ombudsman for Owners in Common-Interest Communities}~~ *In addition to any other duties set forth in this chapter, the Ombudsman* shall:

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

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

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

(d) *When appropriate, investigate disputes involving the provisions of this chapter or the governing documents of an association and assist in resolving such disputes; and*

(e) Compile and maintain a registration of each association organized within the State which includes, without limitation ~~{}~~ , *the following information:*

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

(2) The name of ~~{the person engaged in property management}~~ *each community manager* for the common-interest community ~~{or}~~ *and* the name of ~~{the}~~ *any other* person who ~~{manages}~~ *is authorized to manage* the property at the site of the common-interest community;

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

(4) The name of the declarant;

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

(6) The total annual assessment made by the association ~~{,}~~;

*(7) The number of foreclosures which were completed on units within the common-interest community and which were based on liens for the failure of the unit's owner to pay any assessments levied against the unit or any fines imposed against the unit's owner; and*

*(8) Whether the study of the reserves of the association has been conducted pursuant to NRS 116.31152 and, if so, the date on which it was completed.*

**Sec. 53.** NRS 116.1117 is hereby amended to read as follows:

116.1117 1. There is hereby created the Account for ~~{the Ombudsman for Owners in}~~ Common-Interest Communities in the State General Fund. The Account must be administered by the Administrator.

2. ~~{The}~~ *Except as otherwise provided in subsection 3, all money received by the Commission, a hearing panel or the Division pursuant to this chapter, including, without limitation, the fees collected pursuant to NRS 116.31155, must be ~~{credited to}~~ deposited into the Account.*

3. *If the Commission imposes a fine or penalty, the Commission shall deposit the money collected from the imposition of the fine or penalty with the State Treasurer for credit to the State General Fund. If the money is so deposited, the Commission may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is required to pay attorney's fees or the costs of an investigation, or both.*

4. The interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account.

~~{4.}~~ 5. The money in the Account must be used solely to defray ~~{the}~~:

(a) *The costs and expenses of ~~{administering}~~ the Commission and the Office of the Ombudsman ~~{for Owners in Common-Interest Communities and for the payment of fees for a mediator or an arbitrator}~~; and*

*(b) If authorized by the Commission or any regulations adopted by the Commission, the costs and expenses of subsidizing proceedings for mediation and arbitration conducted pursuant to NRS ~~{38.330.}~~ 38.300 to 38.360, inclusive.*

**Sec. 54.** 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;
    - (2) Facilities for flood control; or
    - (3) ~~[A]~~ *Except as otherwise provided in section 47.5 of this act, 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.*

**Sec. 55.** NRS 116.1203 is hereby amended to read as follows:

116.1203 1. Except as otherwise provided in subsection 2, if a planned community contains no more than 12 units and is not subject to any developmental rights, it is subject only to NRS 116.1105, 116.1106 and 116.1107 unless the declaration provides that this entire chapter is applicable.

2. Except for NRS 116.3104, 116.31043, 116.31046 and 116.31138, *the provisions of* NRS 116.3101 to 116.3119, inclusive, *and section 47 of this act* and *the definitions set forth in NRS* 116.110305 to 116.110393, inclusive, *and sections 2 to 12, inclusive, of this act,* to the extent *that such definitions are* necessary in construing any of those ~~[sections.]~~ *provisions,* apply to a residential planned community containing more than six units.

**Sec. 56.** NRS 116.1206 is hereby amended to read as follows:

116.1206 1. Any *provision contained in a* declaration, bylaw or other governing document of a common-interest community ~~[created before January 1, 1992, that does not conform to]~~ *that violates* the provisions of this chapter shall be deemed to conform with those provisions by operation of law, and any such declaration, bylaw or other governing document is not required to be amended to conform to those provisions.

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

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

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

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



**Sec. 57.** NRS 116.2103 is hereby amended to read as follows:

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

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

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

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

**Sec. 58.** NRS 116.2111 is hereby amended to read as follows:

116.2111 ~~[Subject]~~

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

~~[1.]~~ *(a)* May make any improvements or alterations to his unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the common-interest community;

~~[2.]~~ *(b)* May not change the appearance of the common elements, or the exterior appearance of a unit or any other portion of the common-interest community, without permission of the association; and

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

*2. An association may not:*

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

*(b) Unreasonably restrict, prohibit or withhold approval for a unit's owner to add to a unit:*

*(1) Improvements such as ramps, railings or elevators that are necessary to improve access to the unit for any occupant of the unit who has a disability;*

*(2) Additional locks to improve the security of the unit; or*

*(3) Shutters to improve the security of the unit or to aid in reducing the costs of energy for the unit.*

*(c) With regard to approving or disapproving any improvement or alteration made to a unit, act in violation of any state or federal law.*

*3. Any improvement or alteration made pursuant to subsection 2 that is visible from any other portion of the common-interest community must be installed, constructed or added 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. 59.** NRS 116.212 is hereby amended to read as follows:

116.212 1. If the declaration provides that any of the powers described in NRS 116.3102 are to be exercised by or may be delegated to a profit or nonprofit corporation that exercises those or other powers on behalf of one or more common-interest communities or for the benefit of the units' owners of one or more common-interest communities, or on behalf of a common-interest community and a time-share plan created pursuant to chapter 119A of NRS, all provisions of this chapter applicable to unit-owners' associations apply to any such corporation, except as modified by this section.

2. Unless it is acting in the capacity of an association described in NRS 116.3101, a master association may exercise the powers set forth in paragraph (b) of subsection 1 of NRS 116.3102 only to the extent expressly permitted in:

(a) The declarations of common-interest communities which are part of the master association or expressly described in the delegations of power from those common-interest communities to the master association; or

(b) The declaration of the common-interest community which is a part of the master association and the time-share instrument creating the time-share plan governed by the master association.

3. If the declaration of any common-interest community provides that the executive board may delegate certain powers to a master association, the members of the executive board have no liability for the acts or omissions of the master association with respect to those powers following delegation.

4. The rights and responsibilities of units' owners with respect to the unit-owners' association set forth in NRS 116.3103 ~~to 116.31038, inclusive,~~ , 116.31032, 116.31034, 116.31036,

116.3108, **116.31085**, 116.3109, 116.311 and 116.3112 **and section 46 of this act** apply in the conduct of the affairs of a master association only to persons who elect the board of a master association, whether or not those persons are otherwise units' owners within the meaning of this chapter.

5. Even if a master association is also an association described in NRS 116.3101, the certificate of incorporation or other instrument creating the master association and the declaration of each common-interest community, the powers of which are assigned by the declaration or delegated to the master association, may provide that the executive board of the master association must be elected after the period of the declarant's control in any of the following ways:

(a) All units' owners of all common-interest communities subject to the master association may elect all members of the master association's executive board.

(b) All members of the executive boards of all common-interest communities subject to the master association may elect all members of the master association's executive board.

(c) All units' owners of each common-interest community subject to the master association may elect specified members of the master association's executive board.

(d) All members of the executive board of each common-interest community subject to the master association may elect specified members of the master association's executive board.

**Sec. 60.** NRS 116.3102 is hereby amended to read as follows:

116.3102 1. Except as otherwise provided in subsection 2, and subject to the provisions of the declaration, the association may:

(a) Adopt and amend bylaws, rules and regulations;

(b) Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from units' owners;

(c) Hire and discharge managing agents and other employees, agents and independent contractors;

(d) Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common-interest community;

(e) Make contracts and incur liabilities;

(f) Regulate the use, maintenance, repair, replacement and modification of common elements;

(g) Cause additional improvements to be made as a part of the common elements;

(h) Acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:

(1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and

(2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112;

(i) Grant easements, leases, licenses and concessions through or over the common elements;

(j) Impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subsections 2 and 4 of NRS 116.2102, and for services provided to units' owners;

(k) Impose charges for late payment of assessments, *impose construction penalties when authorized pursuant to section 47 of this act* and, except as otherwise provided in NRS 116.31031, after notice and an opportunity to be heard, levy reasonable fines for violations of the ~~[declaration, bylaws, rules and regulations]~~ *governing documents* of the association;

(l) Impose reasonable charges for the preparation and recordation of amendments to the declaration, the information required by NRS 116.4109 or statements of unpaid assessments;

(m) Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance;

(n) Assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides;

(o) Exercise any other powers conferred by the declaration or bylaws;

(p) Exercise all other powers that may be exercised in this state by legal entities of the same type as the association;

(q) Direct the removal of vehicles improperly parked on property owned or leased by the association, pursuant to NRS 487.038; and

(r) Exercise any other powers necessary and proper for the governance and operation of the association.

2. The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

**Sec. 61.** 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]~~ *violates any* 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 [F] or the tenant or guest of the unit's owner [F] 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 [F] or the tenant or guest of the unit's owner [F] from using any vehicular or pedestrian ingress or egress to go to or from the unit, including any area used for parking.

(b) ~~[Require]~~ *Impose a fine against* the unit's owner [F] or the tenant or guest of the unit's owner [F] ~~to pay a fine~~ for each ~~[failure to comply that does not threaten the health and welfare of the common-interest community.]~~ *violation, except that a fine may not be imposed for a violation that is the subject of a construction penalty pursuant to section 47 of this act.* The fine must be commensurate with the severity of the violation, but must not exceed \$100 for each violation or a total amount of \$500, whichever is less. *The limitations on the amount of the fine do not apply to any interest, charges or costs that may be collected by the association pursuant to this section if the fine becomes past due.*

2. If a fine is imposed pursuant to subsection 1 and the violation is not cured within 14 days, or ~~[a]~~ *within any* longer period ~~[as]~~ *that* 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. Any additional fine 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.

**4. Any past due fine:**

(a) *Bears interest at the rate established by the association, not to exceed the legal rate per annum.*

(b) *May include any costs of collecting the past due fine at a rate established by the association. If the past due fine is for a violation that does not threaten the health, safety or welfare of the residents of the common-interest community, the rate established by the association for the costs of collecting the past due fine:*

*(1) May not exceed \$20, if the outstanding balance is less than \$200.*

*(2) May not exceed \$50, if the outstanding balance is \$200 or more, but is less than \$500.*

*(3) May not exceed \$100, if the outstanding balance is \$500 or more, but is less than \$1,000.*

*(4) May not exceed \$250, if the outstanding balance is \$1,000 or more, but is less than \$5,000.*

*(5) May not exceed \$500, if the outstanding balance is \$5,000 or more.*

*(c) May include any costs incurred by the association during a civil action to enforce the payment of the past due fine.*

*5. As used in this section:*

*(a) "Costs of collecting" includes, without limitation, any collection fee, filing fee, recording fee, referral fee, fee for postage or delivery, and any other fee or cost that an association may reasonably charge to the unit's owner for the collection of a past due fine. The term does not include any costs incurred by an association during a civil action to enforce the payment of a past due fine.*

*(b) "Outstanding balance" means the amount of a past due fine that remains unpaid before any interest, charges for late payment or costs of collecting the past due fine are added.*

**Sec. 62.** 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, the units' owners shall elect an executive board of at least three members, at least a majority of whom must be units' owners. The executive board shall elect the officers ~~[ ] of the association.~~ The members ~~[and officers]~~ of the executive board *and the officers of the association* shall take office upon election.

2. The term of office of a member of the executive board may not exceed 2 years ~~[.A.]~~, *except for members who are appointed by the declarant. Unless the governing documents provide otherwise, there is no limitation on the number of terms that a person may serve as a member of the executive board .* ~~[may be elected to succeed himself.]~~

3. The governing documents of the association must ~~[set forth the month during which elections for the members of the executive board must be held after the termination of any period of the declarant's control.~~

~~—3.]~~ *provide for terms of office that are staggered in such a manner that, to the extent possible, an equal number of members of the executive board are elected at each election. The provisions of this subsection do not apply to:*

*(a) Members of the executive board who are appointed by the declarant; and*

*(b) Members of the executive board who serve a term of 1 year or less.*

4. Not less than 30 days before the preparation of a ballot for the election of members of the executive board, the secretary or

other officer specified in the bylaws of the association shall cause notice to be given to each unit's owner of his eligibility to serve as a member of the executive board. Each unit's owner who is qualified to serve as a member of the executive board may have his name placed on the ballot along with the names of the nominees selected by the members of the executive board or a nominating committee established by the association.

~~[4.]~~ 5. *Each person whose name is placed on the ballot as a candidate for a member of the executive board must make a good faith effort to disclose any financial, business, professional or personal relationship or interest that would result or would appear to a reasonable person to result in a potential conflict of interest for the candidate if the candidate were to be elected to serve as a member of the executive board. The candidate must make the disclosure, in writing, to each member of the association in the manner established in the bylaws of the association.*

6. *Unless a person is appointed by the declarant:*

(a) *A person may not be a member of the executive board of an association or an officer of that association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for that association.*

(b) *A person may not be a member of the executive board of a master association or an officer of that master association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for:*

(1) *That master association; or*

(2) *Any association that is subject to the governing documents of that master association.*

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

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

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

~~[5.]~~ 8. *The election of any member of the executive board must be conducted by secret written ballot ~~[The]~~ unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in section 46 of this act. If*



*the election of any member of the executive board is conducted by secret written ballot:*

(a) *The* secretary or other officer specified in the bylaws of the association shall cause *a secret ballot and a return envelope* to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner. ~~[, a secret ballot and a return envelope.~~

~~—6.]~~ (b) *Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.*

(c) *A quorum is not required for the election of any member of the executive board.*

(d) *Only the secret written ballots that are returned to the association may be counted to determine the outcome of the election.*

(e) *The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.*

(f) *The incumbent members of the executive board and each person whose name is placed on the ballot as a candidate for a member of the executive board may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.*

10. Each member of the executive board shall, within ~~[30]~~ 90 days after his appointment or election, certify in writing *to the association, on a form prescribed by the Administrator*, that he has read and understands the governing documents of the association and the provisions of this chapter to the best of his ability. *The Administrator may require the association to submit a copy of the certification of each member of the executive board of that association at the time the association registers with the Ombudsman pursuant to NRS 116.31158.*

**Sec. 63.** NRS 116.31036 is hereby amended to read as follows:

116.31036 1. Notwithstanding any provision of the declaration or bylaws to the contrary, the units' owners, by a two-thirds vote of all persons ~~[present and]~~ entitled to vote at any meeting of the units' owners at which a quorum is present, may remove any member of the executive board with or without cause, other than a member appointed by the declarant.

2. *The removal of any member of the executive board must be conducted by secret written ballot unless the declaration of the*

*association provides that voting rights may be exercised by delegates or representatives as set forth in section 46 of this act. If the removal of a member of the executive board is conducted by secret written ballot:*

*(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.*

*(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.*

*(c) Only the secret written ballots that are returned to the association may be counted to determine the outcome.*

*(d) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.*

*(e) The incumbent members of the executive board, including, without limitation, the member who is subject to the removal, may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.*

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

*4. The provisions of this section do not prohibit the Commission from taking any disciplinary action against a member of an executive board pursuant to sections 27 to 37, inclusive, of this act.*

**Sec. 64.** NRS 116.3106 is hereby amended to read as follows:

116.3106 1. The bylaws of the association must provide:

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

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

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

(d) Which ~~[:] powers,~~ if any, ~~[of its powers]~~ *that* the executive board or *the* officers *of the association* may delegate to other persons or to a ~~[managing agent;]~~ *community manager;*

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

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

(g) A method for amending the bylaws ~~[:] ; and~~

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

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

3. The bylaws must be written in plain English.

**Sec. 65.** NRS 116.3108 is hereby amended to read as follows:

116.3108 1. A meeting of the units' owners of an association must be held at least once each year. If the governing documents of a common-interest community do not designate an annual meeting date of the units' owners, a meeting of the units' owners must be held 1 year after the date of the last meeting of the units' owners. If the units' owners have not held a meeting for 1 year, a meeting of the units' owners must be held on the following March 1. Special meetings of the units' owners of an association may be called by the president, a majority of the executive board or by units' owners having 10 percent, or any lower percentage specified in the bylaws, of the votes in the association.

2. Not less than 10 nor more than 60 days in advance of any meeting of the units' owners of an association, the secretary or other officer specified in the bylaws shall cause notice of the meeting to be hand-delivered, sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner or, if the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner. The notice of the meeting must state the time and place of the meeting and include a copy of the agenda for the meeting. The notice must include notification of the right of a unit's owner to:

(a) Have a copy of the minutes or a summary of the minutes of the meeting ~~[distributed to him]~~ *provided to the unit's owner* upon request and, if required by the executive board, upon payment to the

association of the cost of ~~{making the distribution.}~~ *providing the copy to the unit's owner.*

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

3. The agenda for a meeting of the units' owners must consist of:

(a) A clear and complete statement of the topics scheduled to be considered during the meeting, including, without limitation, any proposed amendment to the declaration or bylaws, any fees or assessments to be imposed or increased by the association, any budgetary changes and any proposal to remove an officer *of the association* or member of the executive board.

(b) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items. In an emergency, the units' owners may take action on an item which is not listed on the agenda as an item on which action may be taken.

(c) A period devoted to comments by units' owners and discussion of those comments. Except in emergencies, no action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to paragraph (b).

4. If the association adopts a policy imposing ~~{a fine on a unit's owner for the violation of the declaration, bylaws or other rules established by}~~ *finest for any violations of the governing documents of* the association, the secretary or other officer specified in the bylaws shall prepare and cause to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner, a schedule of the fines that may be imposed for those violations.

5. *The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the units' owners.* Not more than 30 days after ~~{any meeting of the units' owners,}~~ *each such meeting*, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meeting to be made available to the units' owners. A copy of the minutes or a summary of the minutes must be provided to any unit's owner ~~{who pays}~~ *upon request and, if required by the executive board, upon payment to* the association *of* the cost of providing the copy to ~~{him.}~~ *the unit's owner.*

6. *Except as otherwise provided in subsection 7, the minutes of each meeting of the units' owners must include:*

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

(b) *The substance of all matters proposed, discussed or decided at the meeting; and*

(c) *The substance of remarks made by any unit's owner at the meeting if he requests that the minutes reflect his remarks or, if he*

*has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.*

*7. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of a meeting of the units' owners.*

*8. The association shall maintain the minutes of each meeting of the units' owners until the common-interest community is terminated.*

*9. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the units' owners if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the other units' owners who are in attendance at the meeting.*

**10.** As used in this section, "emergency" means any occurrence or combination of occurrences that:

- (a) Could not have been reasonably foreseen;
- (b) Affects the health, welfare and safety of the units' owners of the association;
- (c) Requires the immediate attention of, and possible action by, the executive board; and
- (d) Makes it impracticable to comply with the provisions of subsection 2 or 3.

**Sec. 66.** NRS 116.31083 is hereby amended to read as follows:

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

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

- (a) Sent prepaid by United States mail to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner;
- (b) If the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner; or
- (c) Published in a newsletter or other similar publication that is circulated to each unit's owner.

3. In an emergency, the secretary or other officer specified in the bylaws of the association shall, if practicable, cause notice of the meeting to be sent prepaid by United States mail to the mailing address of each unit within the common-interest community. If delivery of the notice in this manner is impracticable, the notice must be hand-delivered to each unit within the common-interest

community or posted in a prominent place or places within the common elements of the association.

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

(a) Have a copy of the minutes or a summary of the minutes of the meeting ~~[distributed to him]~~ *provided to the unit's owner* upon request and, if required by the executive board, upon payment to the association of the cost of ~~[making the distribution]~~ *providing the copy to the unit's owner.*

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

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

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

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

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

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

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

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

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

7. The *secretary or other officer specified in the bylaws shall cause minutes ~~[of a]~~ to be recorded or otherwise taken at each meeting of the executive board . ~~[of an association must be]~~ Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meeting to be* made available to the units' owners . ~~[in accordance with the provisions of subsection 5 of NRS 116.3108.]~~ *A copy of the minutes or a summary of the*

*minutes must be provided to any unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.*

8. *Except as otherwise provided in subsection 9 and NRS 116.31085, the minutes of each meeting of the executive board must include:*

- (a) The date, time and place of the meeting;*
- (b) Those members of the executive board who were present and those members who were absent at the meeting;*
- (c) The substance of all matters proposed, discussed or decided at the meeting;*
- (d) A record of each member's vote on any matter decided by vote at the meeting; and*
- (e) The substance of remarks made by any unit's owner who addresses the executive board at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.*

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

10. *The association shall maintain the minutes of each meeting of the executive board until the common-interest community is terminated.*

11. *A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the executive board, unless the executive board is meeting in executive session, if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the members of the executive board and the other units' owners who are in attendance at the meeting.*

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

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

**Sec. 67.** NRS 116.31085 is hereby amended to read as follows:

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



2. *An executive board may not meet in executive session to enter into, renew, modify, terminate or take any other action regarding a contract, unless it is a contract between the association and an attorney.*

3. An executive board may meet in executive session *only* to:

(a) Consult with the attorney for the association on matters relating to proposed or pending litigation if the contents of the discussion would otherwise be governed by the privilege set forth in NRS 49.035 to 49.115, inclusive ~~{-}~~ , *or to enter into, renew, modify, terminate or take any other action regarding a contract between the association and the attorney.*

(b) Discuss ~~{matters relating to personnel; or~~  
~~—(c) Discuss}~~ *the character, alleged misconduct, professional competence, or physical or mental health of a community manager or an employee of the association.*

(c) *Except as otherwise provided in subsection 4, discuss a violation of the governing documents , ~~{alleged to have been committed by a unit's owner,}~~ including, without limitation, the failure to pay an assessment . ~~{, except as otherwise provided in subsection 3.~~*

~~—3.}~~ (d) *Discuss the alleged failure of a unit's owner to adhere to a schedule required pursuant to section 47 of this act if the alleged failure may subject the unit's owner to a construction penalty.*

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

~~{4.}~~ 5. Except as otherwise provided in this subsection, any matter discussed *by the executive board when it meets* in executive session must be generally noted in the minutes of the meeting of the executive board. The executive board shall maintain minutes of any decision made pursuant to subsection ~~{3}~~ *4 concerning an alleged violation* and, upon request, provide a copy of the decision to the ~~{unit's owner who was the subject of the hearing}~~ *person who was subject to being sanctioned at the hearing* or to his designated representative.

~~[5.]~~ 6. Except as otherwise provided in subsection ~~[3.]~~ 4, a unit's owner is not entitled to attend or speak at a meeting of the executive board held in executive session.

Sec. 68. NRS 116.3109 is hereby amended to read as follows:

116.3109 1. Except as otherwise provided in this section and ~~[unless the bylaws]~~ *NRS 116.31034, and except when the governing documents* provide otherwise, a quorum is present throughout any meeting of the association if ~~[persons entitled to cast 20 percent of the votes that may be cast for election of the executive board]~~ *the number of members of the association who* are present in person or by proxy at the beginning of the meeting ~~[.] equals or exceeds 20 percent of the total number of voting members of the association.~~

2. *If the governing documents of an association contain a quorum requirement for a meeting of the association that is greater than the 20 percent required by subsection 1 and, after proper notice has been given for a meeting, the members of the association who are present in person or by proxy at the meeting are unable to hold the meeting because a quorum is not present at the beginning of the meeting, the members who are present in person at the meeting may adjourn the meeting to a time that is not less than 48 hours or more than 30 days from the date of the meeting. At the subsequent meeting:*

*(a) A quorum shall be deemed to be present if the number of members of the association who are present in person or by proxy at the beginning of the subsequent meeting equals or exceeds 20 percent of the total number of voting members of the association; and*

*(b) If such a quorum is deemed to be present but the actual number of members who are present in person or by proxy at the beginning of the subsequent meeting is less than the number of members who are required for a quorum under the governing documents, the members who are present in person or by proxy at the subsequent meeting may take action only on those matters that were included as items on the agenda of the original meeting.*

*The provisions of this subsection do not change the actual number of votes that are required under the governing documents for taking action on any particular matter.*

3. Unless the ~~[bylaws]~~ *governing documents* specify a larger percentage, a quorum is deemed present throughout any meeting of the executive board if persons entitled to cast 50 percent of the votes on that board are present at the beginning of the meeting.

~~[3. For the purposes of determining whether a quorum is present for the election of any member of the executive board, only~~

~~the secret written ballots that are returned to the association may be counted.]~~

**Sec. 69.** NRS 116.311 is hereby amended to read as follows:

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

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

~~—(a) It is not dated or purports]~~

3. *Before a vote may be cast pursuant to a proxy:*

(a) *The proxy must be dated.*

(b) *The proxy must not purport* to be revocable without notice .

~~];~~

~~—(b) It does not]~~

(c) *The proxy must designate the meeting for which it is executed.*

(d) *The proxy must designate* ~~[the votes that must be cast on behalf of]~~ *each specific item on the agenda of the meeting for which* the unit's owner ~~[who]~~ has executed the proxy ~~for~~

~~—(e)]~~ , *except that the unit's owner may execute the proxy without designating any specific items on the agenda of the meeting if the proxy is to be used solely for determining whether a quorum is present for the meeting. If the proxy designates one or more specific items on the agenda of the meeting for which the unit's owner has executed the proxy, the proxy must indicate, for each specific item designated in the proxy, whether the holder of the proxy must cast a vote in the affirmative or the negative on behalf of the unit's owner. If the proxy does not indicate whether the holder of the proxy must cast a vote in the affirmative or the*

*negative for a particular item on the agenda of the meeting, the proxy must be treated, with regard to that particular item, as if the unit's owner were present but not voting on that particular item.*

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

4. A proxy terminates immediately after the conclusion of the meeting for which it ~~{was}~~ *is* executed.

5. A vote may not be cast pursuant to a proxy for the election *or removal* of a member of the executive board of an association ~~{-~~

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

~~—4.—~~ *unless the proxy is exercised through a delegate or representative authorized pursuant to section 46 of this act.*

6. *The holder of a proxy may not cast a vote on behalf of the unit's owner who executed the proxy in a manner that is contrary to the proxy.*

7. *A proxy is void if the proxy or the holder of the proxy violates any provision of subsections 1 to 6, inclusive.*

8. If the declaration requires that votes on specified matters affecting the common-interest community *must* be cast by *the lessees of leased units* rather than *the* units' owners ~~{of}~~ *who have leased the* units:

(a) The provisions of subsections 1 ~~{and 2}~~ *to 7, inclusive*, apply to *the* lessees as if they were *the* units' owners;

(b) ~~{Units'}~~ *The units'* owners who have leased their units to ~~{other persons}~~ *the lessees* may not cast votes on those specified matters; ~~{and}~~

(c) ~~{Lessees}~~ *The lessees* are entitled to notice of meetings, access to records ~~{,}~~ and other rights respecting those matters as if they were *the* units' owners ~~{-~~ *Units'}*; *and*

(d) *The units'* owners must ~~{also}~~ be given notice, in the manner provided in NRS 116.3108, of all meetings at which *the* lessees are entitled to vote.

~~{5.—No}~~

9. *If any* votes *are* allocated to a unit *that is* owned by the association, *those votes* may *not* be cast ~~{-~~

~~—6.— Votes cast for the election of a member of the executive board of an association must be counted in public.}~~ *, by proxy or otherwise, for any purpose.*

**Sec. 70.** NRS 116.31139 is hereby amended to read as follows:

116.31139 1. ~~{An association may employ a person engaged in property management for the common interest community.~~

~~—2.] Except as otherwise provided in this section, a person [engaged in property management for a common interest community must:~~

~~—(a) Hold] shall not act as a community manager unless the person holds~~ a permit ~~[to engage in property management that is issued pursuant to the provisions of chapter 645 of NRS; or~~

~~—(b) Hold] or a certificate . [issued by the Real Estate Commission pursuant to subsection 3.~~

~~—3. The Real Estate]~~

2. *The Commission shall [provide] by regulation provide for the [issuance of certificates for the management of common interest communities to persons who are not otherwise authorized to engage in property management pursuant to the provisions of chapter 645 of NRS. The regulations:*

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

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

~~—(c) Must establish] standards of practice for [persons engaged in property management for a common interest community;~~

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

~~—(e) Must establish rules of practice and procedure for conducting disciplinary hearings.~~

~~The Real Estate Division of the Department of Business and Industry] community managers who hold permits or certificates.~~

3. *The Division may investigate [the property managers to whom certificates have been issued] any community manager who holds a permit or certificate to ensure [their compliance] that the community manager is complying with the standards of practice adopted [pursuant to this subsection and collect a fee for the issuance of a certificate] by the Commission . [in an amount not to exceed the administrative costs of issuing the certificate.]*

4. *In addition to any other remedy or penalty, if the Commission or a hearing panel, after notice and hearing, finds that a community manager who holds a permit or certificate has violated any provision of this chapter or any of the standards of practice adopted by the Commission, the Commission or the hearing panel may take appropriate disciplinary action against the community manager.*

5. The provisions of ~~[subsection 2]~~ *this section* do not apply to:

(a) ~~[A person who is engaged in property management for a common interest community on October 1, 1999, and is granted an exemption from the requirements of subsection 2 by the Administrator upon demonstration that he is qualified and competent to engage in property management for a common interest community.~~

~~—(b)—~~ A financial institution ~~[-~~

~~—(c)—~~ *that is engaging in an activity permitted by law.*

(b) An attorney *who is* licensed to practice in this state ~~[-~~

~~—(d)—~~ *and who is acting in that capacity.*

(c) A trustee ~~[-~~

~~—(e)—~~ ~~An employee of a corporation who manages only] with respect to the property of the [corporation.~~

~~—(f)—~~ *trust.*

(d) A declarant ~~[-~~

~~—(g)—~~ *, an affiliate of the declarant and any officers or employees of the declarant or an affiliate of the declarant when engaging in the management of a common-interest community during the period in which the declarant controls that common-interest community.*

(e) A receiver ~~[-~~

~~—5.— As used in this section, “property management” means the physical, administrative or financial maintenance and management of real property, or the supervision of those activities for a fee, commission or other compensation or valuable consideration.] with respect to property subject to the receivership.~~

(f) *A member of an executive board or an officer of an association who is acting solely within the scope of his duties as a member of the executive board or an officer of the association.*

**Sec. 71.** NRS 116.311391 is hereby amended to read as follows:

116.311391 The expiration or revocation of a *permit or* certificate ~~[for the management of a common interest community]~~ by operation of law or by order or decision of ~~[the Real Estate Commission or a]~~ *any agency or* court of competent jurisdiction, or the voluntary surrender of such a *permit or* certificate by the holder of the *permit or* certificate does not:

1. Prohibit the ~~[Real Estate Division of the Department of Business and Industry or Real Estate]~~ Commission *or the Division* from initiating or continuing an investigation of, or action or disciplinary proceeding against, the holder of the *permit or* certificate as authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto; or

2. Prevent the imposition or collection of any fine or penalty authorized pursuant to the provisions of this chapter or the

regulations adopted pursuant thereto against the holder of the *permit or* certificate.

**Sec. 72.** NRS 116.31151 is hereby amended to read as follows:

116.31151 1. Except as otherwise provided in subsection 2 and unless the declaration of a common-interest community imposes more stringent standards, the executive board of an association shall, not less than 30 days or more than 60 days before the beginning of the fiscal year of the association, prepare and distribute to each unit's owner a copy of:

(a) The budget for the daily operation of the association. The budget must include, without limitation, the estimated annual revenue and expenditures of the association and any contributions to be made to the reserve account of the association.

(b) The budget to maintain the reserve required by paragraph (b) of subsection 2 of NRS 116.3115. The budget must include, without limitation:

(1) The current estimated replacement cost, estimated remaining life and estimated useful life of each major component of the common elements;

(2) As of the end of the fiscal year for which the budget is prepared, the current estimate of the amount of cash reserves that are necessary, and the current amount of accumulated cash reserves that are set aside, to repair, replace or restore the major components of the common elements;

(3) A statement as to whether the executive board has determined or anticipates that the levy of one or more special assessments will be required to repair, replace or restore any major component of the common elements or to provide adequate reserves for that purpose; and

(4) A general statement describing the procedures used for the estimation and accumulation of cash reserves pursuant to subparagraph (2), including, without limitation, the qualifications of the person responsible for the preparation of the study *of the reserves* required by NRS 116.31152.

2. In lieu of distributing copies of the budgets of the association required by subsection 1, the executive board may distribute to each unit's owner a summary of those budgets, accompanied by a written notice that ~~[the]~~ :

(a) *The* budgets are available for review at the business office of the association or *some* other suitable location *within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties;* and ~~[that copies]~~

(b) *Copies* of the budgets will be provided upon request.



**Sec. 73.** NRS 116.31152 is hereby amended to read as follows:

116.31152 1. The executive board of an association shall:

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

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

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

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

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

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

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

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

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

3. *The results of the study of the reserves required by subsection 1 must be submitted to the Commission not later than 45 days after the date that the executive board of the association adopts the results of the study.*

4. The ~~Administrator~~ *Commission* shall adopt by regulation the qualifications required for conducting ~~the~~ *the* study *of the reserves* required by subsection 1.

5. *If a common-interest community was developed as part of a planned unit development pursuant to chapter 278A of NRS and is subject to an agreement with a city or county to receive credit against the amount of the residential construction tax that is imposed pursuant to NRS 278.4983 and 278.4985, the association that is organized for the common-interest community may use the money from that credit for the repair, replacement or restoration of park facilities and related improvements if:*

*(a) The park facilities and related improvements are identified as major components of the common elements of the association; and*

*(b) The association is obligated to repair, replace or restore the park facilities and related improvements in accordance with the study of the reserves required by subsection 1.*

**Sec. 74.** NRS 116.31155 is hereby amended to read as follows:

116.31155 1. An association shall:

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

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

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

(a) Paid at such times as are established by the ~~[Administrator.]~~ *Division.*

(b) Deposited with the State Treasurer for credit to the Account for ~~[the Ombudsman for Owners in]~~ Common-Interest Communities created ~~[pursuant to]~~ *by* NRS 116.1117.

(c) Established on the basis of the actual ~~[cost]~~ *costs* of administering the Office of the Ombudsman ~~[for Owners in Common-Interest Communities]~~ *and the Commission* and not on a basis which includes any subsidy ~~[for the Office.]~~ *beyond those actual costs.* In no event may the fees required to be paid pursuant to this section exceed \$3 per unit.

3. *The Administrator may by regulation establish an administrative penalty to be imposed against an association that violates the provisions of this section by failing to pay the fees owed by the association within the times established by the Division. The administrative penalty that is imposed for each violation may not exceed 10 percent of the amount of the fees owed by the association or \$500, whichever amount is less.*

4. A unit's owner may not be required to pay any portion of the fees *or any administrative penalties* required to be paid pursuant to this section to a master association and to an association organized pursuant to NRS 116.3101.

~~[4.]~~ 5. Upon the payment of the fees *and any administrative penalties* required by this section, the Administrator shall provide to the association evidence that it paid the fees *and the administrative penalties* in compliance with this section.

**Sec. 75.** NRS 116.31158 is hereby amended to read as follows:

116.31158 1. Each association shall, at the time it pays the fee required by NRS 116.31155, register with the Ombudsman ~~for Owners in Common Interest Communities~~ on a form prescribed by the Ombudsman.

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

**Sec. 76.** NRS 116.3116 is hereby amended to read as follows:

116.3116 1. The association has a lien on a unit for any *construction penalty that is imposed against the unit's owner pursuant to section 47 of this act, any* assessment levied against that unit or *any* fines imposed against the unit's owner from the time the *construction penalty*, assessment or fine becomes due. Unless the declaration otherwise provides, *any penalties*, fees, charges, late charges, fines and interest charged pursuant to paragraphs (j), (k) and (l) of subsection 1 of NRS 116.3102 are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

2. A lien under this section is prior to all other liens and encumbrances on a unit except:

(a) Liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes or takes subject to;

(b) A first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent ~~or~~ or, in a cooperative, the first security interest encumbering only the unit's owner's interest and perfected before the date on which the assessment sought to be enforced became delinquent; and

(c) Liens for real estate taxes and other governmental assessments or charges against the unit or cooperative.

The lien is also prior to all security interests described in paragraph (b) to the extent of the assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 which would have become due in the absence of acceleration during the 6 months immediately preceding institution of an action to enforce the lien. This subsection does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association.

3. Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority.

4. Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required.

5. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within 3 years after the full amount of the assessments becomes due.

6. This section does not prohibit actions to recover sums for which subsection 1 creates a lien or prohibit an association from taking a deed in lieu of foreclosure.

7. A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.

8. The association, upon written request, shall furnish to a unit's owner a statement setting forth the amount of unpaid assessments against the unit. If the interest of the unit's owner is real estate ~~[.]~~ or *if a lien for the unpaid assessments may be foreclosed under NRS 116.31162 to 116.31168, inclusive*, the statement must be in recordable form. The statement must be furnished within 10 business days after receipt of the request and is binding on the association, the executive board and every unit's owner.

9. In a cooperative, upon nonpayment of an assessment on a unit, the unit's owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and :

(a) *In a cooperative where the owner's interest in a unit is real estate under NRS 116.1105*, the association's lien may be foreclosed ~~[as provided by this section or by]~~ *under NRS 116.31162 to 116.31168, inclusive*.

~~[10.]~~ (b) In a cooperative where the owner's interest in a unit is personal property ~~[.]~~ *under NRS 116.1105*, ~~[.]~~ the association's lien ~~[may]~~ :

(1) *May* be foreclosed ~~[in like manner]~~ as a security interest under NRS 104.9101 to 104.9709, inclusive ~~[.]~~ ; or

(2) *If the declaration so provides, may be foreclosed under NRS 116.31162 to 116.31168, inclusive*.

**Sec. 77.** NRS 116.31162 is hereby amended to read as follows:

116.31162 1. Except as otherwise provided in subsection 4, in a condominium, *in a planned community, in* a cooperative where the owner's interest in a unit is real estate ~~[as determined pursuant to]~~ *under NRS 116.1105*, or ~~[a planned community,]~~ *in a cooperative where the owner's interest in a unit is personal property under NRS 116.1105 and the declaration provides that a lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive*, the association may foreclose its lien by sale after:

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

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

(c) The unit's owner or his successor in interest has failed to pay the amount of the lien, including costs, fees and expenses incident to its enforcement, for ~~[60]~~ 90 days following the recording of the notice of default and election to sell.

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

3. The period of ~~[60]~~ 90 days begins on the first day following the later of:

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

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

4. The association may not foreclose a lien by sale ~~[for the assessment of]~~ *based on* a fine *or penalty* for a violation of the ~~[declaration, bylaws, rules or regulations]~~ *governing documents* of the association ~~[, unless the violation is of a type that threatens]~~ *unless:*

(a) *The violation threatens* the health, safety or welfare of the residents of the common-interest community ~~[ ]~~ ; *or*

(b) *The penalty is imposed for failure to adhere to a schedule required pursuant to section 47 of this act.*

**Sec. 78.** NRS 116.311635 is hereby amended to read as follows:

116.311635 The association or other person conducting the sale shall also, after the expiration of the ~~{60}~~ 90 days and before selling the unit:

1. Give notice of the time and place of the sale in the manner and for a time not less than that required by law for the sale of real property upon execution, except that a copy of the notice of sale must be mailed, on or before the date of first publication or posting, by certified or registered mail, return receipt requested, to the unit's owner or his successor in interest at his address , if known, and to the address of the unit.

2. Mail, on or before the date of first publication or posting, a copy of the notice by first-class mail to:

(a) Each person entitled to receive a copy of the notice of default and election to sell notice under NRS 116.31163; ~~{and}~~

(b) The holder of a recorded security interest or the purchaser of the unit, if either of them has notified the association, before the mailing of the notice of sale, of the existence of the security interest, lease or contract of sale, as applicable ~~{}~~; and

*(c) The Ombudsman.*

**Sec. 79.** NRS 116.31175 is hereby amended to read as follows:

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

(a) The personnel records of the employees of the association ~~{}~~ ~~and~~, *except for those records relating to the number of hours worked and the salaries and benefits of those employees;*

(b) The records of the association relating to another unit's owner ~~{}~~, *except for those records described in subsection 2; and*

*(c) A contract between the association and an attorney.*

2. *The executive board of an association shall maintain a general record concerning each violation of the governing documents, other than a violation involving a failure to pay an assessment, for which the executive board has imposed a fine, a construction penalty or any other sanction. The general record:*

*(a) Must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction*

*imposed was a fine or construction penalty, the general record must specify the amount of the fine or construction penalty.*

*(b) Must not contain the name or address of the person against whom the sanction was imposed or any other personal information which may be used to identify the person or the location of the unit, if any, that is associated with the violation.*

*(c) Must be maintained in an organized and convenient filing system or data system that allows a unit's owner to search and review the general records concerning violations of the governing documents.*

3. 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, *or any member thereof acting on behalf of the Commission*, to issue a subpoena for their production.

4. *The books, records and other papers of an association must be maintained for at least 10 years. The provisions of this subsection do not apply to:*

*(a) The minutes of a meeting of the units' owners which must be maintained in accordance with NRS 116.3108; or*

*(b) The minutes of a meeting of the executive board which must be maintained in accordance with NRS 116.31083.*

5. *The executive board shall not require a unit's owner to pay an amount in excess of \$10 per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of this section.*

**Sec. 80.** NRS 116.31177 is hereby amended to read as follows:

116.31177 1. The executive board of an association shall maintain and make available for review at the business office of the association or *some* other suitable location ~~[-:]~~ *within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties:*

(a) The financial statement of the association;

(b) The budgets of the association required to be prepared pursuant to NRS 116.31151; and

(c) The study of the reserves of the association required to be conducted pursuant to NRS 116.31152.

2. The executive board shall provide a copy of any of the records required to be maintained pursuant to subsection 1 to a unit's owner or the Ombudsman ~~for Owners in Common Interest Communities~~ within 14 days after receiving a written request



therefor. The executive board may charge a fee to cover the actual costs of preparing a copy, but not to exceed 25 cents per page.

**Sec. 81.** NRS 116.3118 is hereby amended to read as follows:

116.3118 **1.** The association shall keep financial records sufficiently detailed to enable the association to comply with NRS 116.4109.

**2.** All financial and other records *of the association* must be :

(a) *Maintained and made available for review at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties; and*

(b) *Made* reasonably available for any unit's owner and his authorized agents to inspect, examine, photocopy and audit.

**Sec. 82.** NRS 116.4108 is hereby amended to read as follows:

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

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

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

**Sec. 83.** NRS 116.4109 is hereby amended to read as follows:

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

(a) A copy of the declaration, other than any plats and plans, the bylaws, the rules or regulations of the association and the information statement required by NRS 116.41095;

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

(c) The current operating budget of the association and a financial statement for the association ~~§~~, *which must include a summary of the financial components of the study of the reserves of the association required by NRS 116.31152*; and

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

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

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

4. *Upon the request of a unit's owner, a purchaser to whom the unit's owner has provided a certificate pursuant to subsection 1 or an authorized agent of the unit's owner or the purchaser, the association shall make the entire study of the reserves of the association which is required by NRS 116.31152 reasonably available for the unit's owner, purchaser or authorized agent to inspect, examine, photocopy and audit. The study must be made available at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties.*

**Sec. 84.** 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 to repair, replace and restore common elements, you may be required to pay large, special assessments to accomplish these tasks.

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

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

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

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

Homeowner's associations operate on democratic principles. Some decisions require all homeowners to vote, some decisions are made by the executive board or other boards or committees established by the association or governing documents. Although the actions of the association and its executive board are governed by state laws, the C, C & R's and other documents that govern the common-interest community, decisions made by these persons will affect your use and enjoyment of your property, your lifestyle and freedom of choice, and your cost of living in the community. You may not agree with decisions made by the association or its governing bodies even though the decisions are ones which the association is authorized to make. Decisions may be made by a few persons on the executive board or governing bodies that do not necessarily reflect the view of the majority of homeowners in the community. If you do not agree with decisions made by the association, its executive board or other governing bodies, your remedy is typically to attempt to use the democratic processes of the association to seek the election of members of the executive board or other governing bodies that are more responsive to your needs. If persons controlling the association or its management are not complying with state laws or the governing documents, your remedy is typically to seek to mediate or arbitrate the dispute and, if mediation or arbitration is unsuccessful, file a lawsuit and ask a court to resolve the dispute. In addition to your personal cost in mediation or arbitration, or to prosecute a lawsuit, you may be responsible for paying your share of the association's cost in defending against your claim. There is no government agency in this state that investigates or intervenes to resolve disputes in homeowner's associations.

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

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

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

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

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

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

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

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

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

**7. QUESTIONS?**

Although they may be voluminous, you should take the time to read and understand the documents that will control your ownership of a property in a common-interest community. You may wish to ask your real estate professional, lawyer or other person with experience to explain anything you do not understand. You may also request assistance from the Ombudsman for Owners in Common-Interest Communities, Nevada Real Estate Division, at (telephone number).

Buyer or prospective buyer's initials: \_\_\_\_\_

Date: \_\_\_\_\_

**Sec. 85.** NRS 38.300 is hereby amended to read as follows:

38.300 As used in NRS 38.300 to 38.360, inclusive, unless the context otherwise requires:

1. "Assessments" means:

(a) Any charge which an association may impose against an owner of residential property pursuant to a declaration of covenants, conditions and restrictions, including any late charges, interest and costs of collecting the charges; and

(b) Any *penalties*, fines, fees and other charges which may be imposed by an association pursuant to paragraphs (j), (k) and (l) of subsection 1 of NRS 116.3102.

2. "Association" has the meaning ascribed to it in NRS 116.110315.

3. "Civil action" includes an action for money damages or equitable relief. The term does not include an action in equity for injunctive relief in which there is an immediate threat of irreparable harm, or an action relating to the title to residential property.

4. "Division" means the Real Estate Division of the Department of Business and Industry.

5. "Residential property" includes, but is not limited to, real estate within a planned community subject to the provisions of chapter 116 of NRS. The term does not include commercial property if no portion thereof contains property which is used for residential purposes.

**Sec. 86.** NRS 38.330 is hereby amended to read as follows:

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

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

3. The Division may provide for the payment of the fees for a mediator or an arbitrator selected or appointed pursuant to this section from the Account for ~~the Ombudsman for Owners in~~ Common-Interest Communities created ~~pursuant to~~ by NRS 116.1117, to the extent that :

*(a) The Commission for Common-Interest Communities approves the payment; and*

*(b) There is money ~~is~~* available in the account for this purpose.

4. Except as otherwise provided in this section and except where inconsistent with the provisions of NRS 38.300 to 38.360, inclusive, the arbitration of a claim pursuant to this section must be conducted in accordance with the provisions of NRS 38.231, 38.232, 38.233, 38.236 to 38.239, inclusive, 38.242 and 38.243. At any time during the arbitration of a claim relating to the interpretation, application or enforcement of any covenants, conditions or restrictions applicable to residential property or any bylaws, rules or regulations adopted by an association, the arbitrator may issue an order prohibiting the action upon which the claim is based. An award must be made within 30 days after the conclusion of arbitration, unless a shorter period is agreed upon by the parties to the arbitration.

5. If all the parties have agreed to nonbinding arbitration, any party to the arbitration may, within 30 days after a decision and award have been served upon the parties, commence a civil action in the proper court concerning the claim which was submitted for arbitration. Any complaint filed in such an action must contain a sworn statement indicating that the issues addressed in the complaint have been arbitrated pursuant to the provisions of NRS 38.300 to 38.360, inclusive. If such an action is not commenced within that period, any party to the arbitration may, within 1 year after the service of the award, apply to the proper court for a confirmation of the award pursuant to NRS 38.239.

6. If all the parties agree in writing to binding arbitration, the arbitration must be conducted in accordance with the provisions of *this* chapter . ~~[38 of NRS.]~~ An award procured pursuant to such arbitration may be vacated and a rehearing granted upon application of a party pursuant to the provisions of NRS 38.241.



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

(a) Applies to have an award vacated and a rehearing granted pursuant to NRS 38.241; or

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

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

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

**Sec. 87.** NRS 78.150 is hereby amended to read as follows:

78.150 1. A corporation organized pursuant to the laws of this state shall, on or before the first day of the second month after the filing of its articles of incorporation with the Secretary of State, file with the Secretary of State a list, on a form furnished by him, containing:

(a) The name of the corporation;

(b) The file number of the corporation, if known;

(c) The names and titles of the president, secretary, treasurer and of all the directors of the corporation;

(d) The mailing or street address, either residence or business, of each officer and director listed, following the name of the officer or director;

(e) The name and street address of the resident agent of the corporation; and

(f) The signature of an officer of the corporation certifying that the list is true, complete and accurate.

2. The corporation shall annually thereafter, on or before the last day of the month in which the anniversary date of incorporation occurs in each year, file with the Secretary of State, on a form furnished by him, an annual list containing all of the information required in subsection 1.

3. Each list required by subsection 1 or 2 must be accompanied by a declaration under penalty of perjury that the corporation has complied with the provisions of chapter 364A of NRS.

4. Upon filing the list required by:

(a) Subsection 1, the corporation shall pay to the Secretary of State a fee of \$165.

(b) Subsection 2, the corporation shall pay to the Secretary of State a fee of \$85.

5. The Secretary of State shall, 60 days before the last day for filing each annual list required by subsection 2, cause to be mailed to each corporation which is required to comply with the provisions of NRS 78.150 to 78.185, inclusive, and which has not become delinquent, a notice of the fee due pursuant to subsection 4 and a reminder to file the annual list required by subsection 2. Failure of any corporation to receive a notice or form does not excuse it from the penalty imposed by law.

6. If the list to be filed pursuant to the provisions of subsection 1 or 2 is defective in any respect or the fee required by subsection 4 or 8 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a corporation not in default which is received by the Secretary of State more than 60 days before its due date shall be deemed an amended list for the previous year and must be accompanied by a fee of \$85 for filing. A payment submitted pursuant to this subsection does not satisfy the requirements of subsection 2 for the year to which the due date is applicable.

8. If the corporation is an association as defined in NRS 116.110315, the Secretary of State shall not accept the filing required by this section unless it is accompanied by evidence of the payment of the fee required to be paid pursuant to NRS 116.31155 that is provided to the association pursuant to ~~subsection 4 of~~ that section.

**Sec. 88.** As soon as practicable after July 1, 2003, the Governor shall appoint to the Commission for Common-Interest Communities:

1. One member whose term begins on October 1, 2003, and expires on October 1, 2004.

2. Two members whose terms begin on October 1, 2003, and expire on October 1, 2005.

3. Two members whose terms begin on October 1, 2003, and expire on October 1, 2006.

**Sec. 89.** 1. Notwithstanding the provisions of this act and except as otherwise provided in subsection 2, during the period from October 1, 2003, until January 1, 2004, the Real Estate Commission, the Real Estate Administrator, the Ombudsman for Owners in Common-Interest Communities and the Real Estate Division of the Department of Business and Industry shall continue to exercise all the powers and perform all the duties that, before October 1, 2003, were assigned to them pursuant to the provisions of chapter 116 of NRS.

2. During the period described in subsection 1, the Commission for Common-Interest Communities, the Real Estate

Administrator, the Ombudsman for Owners in Common-Interest Communities and the Real Estate Division of the Department of Business and Industry may exercise any power and perform any duty assigned to them pursuant to the provisions of chapter 116 of NRS, as amended by this act, if the exercise of the power or the performance of the duty is necessary as an organizational, preparatory or preliminary measure to prepare them to carry out those provisions.

**Sec. 90.** 1. The State Treasurer shall transfer any balance remaining unexpended on October 1, 2003, in the Account for the Ombudsman for Owners in Common-Interest Communities in the State General Fund to the Account for Common-Interest Communities which is created by NRS 116.1117, as amended by this act.

2. On and after October 1, 2003, the State Treasurer shall treat any outstanding claims against the Account for the Ombudsman for Owners in Common-Interest Communities as claims against the Account for Common-Interest Communities.

**Sec. 91.** 1. Any administrative regulations adopted by an officer or an agency whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency remain in force until amended by the officer or agency to which the responsibility for the adoption of the regulations has been transferred.

2. Any contracts or other agreements entered into by an officer or agency whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency are binding upon the officer or agency to which the responsibility for the administration of the provisions of the contract or other agreement has been transferred. Such contracts and other agreements may be enforced by the officer or agency to which the responsibility for the enforcement of the provisions of the contract or other agreement has been transferred.

3. Any action taken by an officer or agency whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency remains in effect as if taken by the officer or agency to which the responsibility for the enforcement of such actions has been transferred.

**Sec. 92.** 1. Not later than July 1, 2005, an association or master association of a common-interest community shall have conducted elections of members of the executive board so that the terms of the members of the executive board are staggered as required by the provisions of NRS 116.31034, as amended by section 62 of this act.

2. As used in this section:

(a) "Association" has the meaning ascribed to it in NRS 116.110315.

(b) "Common-interest community" has the meaning ascribed to it in NRS 116.110323.

(c) "Executive board" has the meaning ascribed to it in NRS 116.110345.

(d) "Master association" has the meaning ascribed to it in NRS 116.110358.

**Sec. 93.** 1. This section and section 88 of this act become effective on July 1, 2003.

2. Sections 1 to 23, inclusive, 38 to 69, inclusive, 72 to 87, inclusive, and 89 to 92, inclusive, of this act become effective on October 1, 2003.

3. Sections 24 to 37, inclusive, 70 and 71 of this act become effective on October 1, 2003, for the purpose of adopting regulations and on January 1, 2004, for all other purposes.

4. Sections 25 and 26 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

(b) Are in arrears in the payment for the support of one or more children,  
are repealed by the Congress of the United States, whichever is earlier.