

SENATE BILL NO. 438—COMMITTEE ON COMMERCE AND LABOR

MARCH 24, 2003

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes related to common-interest communities. (BDR 10-791)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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

AN ACT relating to common-interest communities; requiring community managers to be certified by the Real Estate Division of the Department of Business and Industry; providing for a construction penalty if a unit's owner fails to adhere to a certain schedule; providing for delegate or representative voting in certain common-interest community associations; requiring the election or removal of a member of the executive board of an association to be conducted by secret ballot or by delegate voting; revising the circumstances under which an association may foreclose on its lien for unpaid assessments; changing the time within which certain information must be provided to a prospective purchaser of a unit; and providing other matters properly relating thereto.

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

1 **Section 1.** Chapter 116 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 18, inclusive, of this
3 act.

4 **Sec. 2.** *“Certificate” means a certificate for the management*
5 *of a common-interest community issued by the Division pursuant*
6 *to NRS 116.31139.*

7 **Sec. 3.** *“Community manager” means a person who provides*
8 *for the management of a common-interest community.*



1 **Sec. 4.** *"Division" means the Real Estate Division of the*
2 *Department of Business and Industry.*

3 **Sec. 5.** *"Management of a common-interest community"*
4 *means the physical, administrative or financial maintenance and*
5 *management of a common-interest community, or the supervision*
6 *of those activities, for a fee, commission or other valuable*
7 *consideration.*

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

11 **Sec. 7.** *If a matter governed by this chapter is also governed*
12 *by chapter 82 of NRS and there is a conflict between the*
13 *provisions of this chapter and the provisions of chapter 82 of NRS,*
14 *the provisions of this chapter prevail.*

15 **Sec. 8.** *An application for a certificate to act as a community*
16 *manager must:*

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

18 2. *Be accompanied by the statement required pursuant to*
19 *section 9 of this act.*

20 **Sec. 9.** 1. *An applicant for a certificate to act as a*
21 *community manager must submit to the Division the statement*
22 *prescribed by the Welfare Division of the Department of Human*
23 *Resources pursuant to NRS 425.520. The statement must be*
24 *completed and signed by the applicant.*

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

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

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

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

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

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

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



1 *order to determine the actions that the applicant may take to*
2 *satisfy the arrearage.*

3 **Sec. 10.** 1. *If the Division receives a copy of a court order*
4 *issued pursuant to NRS 425.540 that provides for the suspension*
5 *of all professional, occupational and recreational licenses,*
6 *certificates and permits issued to the holder of a certificate to act*
7 *as a community manager, the Division shall deem the certificate to*
8 *be suspended at the end of the 30th day after the date the court*
9 *order was issued unless the Division receives a letter issued to the*
10 *holder of the certificate by the district attorney or other public*
11 *agency pursuant to NRS 425.550 stating that the holder of the*
12 *certificate has complied with a subpoena or warrant or has*
13 *satisfied the arrearage pursuant to NRS 425.560.*

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

20 **Sec. 11.** 1. *If the executive board of an association receives*
21 *a written complaint from a unit's owner alleging that the board*
22 *has violated any provision of this chapter or any provision of the*
23 *governing documents of the association, the executive board shall,*
24 *if action is required by the board, place the subject of the*
25 *complaint on the agenda of the next regularly scheduled meeting*
26 *of the executive board.*

27 2. *The executive board, or an authorized representative of the*
28 *association, shall, within 10 business days after receiving such a*
29 *complaint, acknowledge the receipt of the complaint.*

30 **Sec. 12.** *An officer or member of the executive board of an*
31 *association or a person engaged in the management of a common-*
32 *interest community shall not solicit or accept any form of*
33 *compensation, gratuity or other remuneration that would*
34 *improperly influence or would appear to a reasonable person to*
35 *influence improperly the decisions made by those persons, or*
36 *would result or would appear to a reasonable person to result in a*
37 *conflict of interest.*

38 **Sec. 13.** *A member of an executive board of an association*
39 *shall not take any retaliatory action against a unit's owner*
40 *because the unit's owner has:*

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

43 2. *Requested in good faith to review the books, records and*
44 *papers of the association pursuant to NRS 116.31175.*



1 **Sec. 14. 1.** *An officer or a member of the executive board*
2 *of an association shall not:*

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

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

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

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

14 (b) *A declarant from entering into a contract with an*
15 *association or the payment of any consideration to the declarant*
16 *for any goods or services furnished by the declarant to the*
17 *association.*

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

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

22 **Sec. 15. 1.** *If the declaration so provides, in a common-*
23 *interest community that consists of at least 1,000 units, the voting*
24 *rights of the units' owners in the association for that common-*
25 *interest community may be exercised by delegates or*
26 *representatives.*

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

32 3. *For the purposes of subsection 1, each unit that a*
33 *declarant has reserved the right to create pursuant to NRS*
34 *116.2105 and for which developmental rights exist must be*
35 *counted in determining the number of units in a common-interest*
36 *community.*

37 **Sec. 16. 1.** *If a common-interest community is developed in*
38 *separate phases and the declarant, including a successor declarant*
39 *who does not control the association established by the initial*
40 *declarant, is constructing any common elements that will be added*
41 *to the common elements of the association following the date*
42 *members of the association, other than the declarant or a*
43 *successor declarant, may elect a majority of the members of the*
44 *executive board of the association, the declarant is responsible for:*



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

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

7 2. *Before conveying the additional common elements to the*
8 *association, the declarant shall deliver to the association a study of*
9 *the reserves for the additional common elements which satisfies*
10 *the requirements of NRS 116.31152.*

11 **Sec. 17.** *The executive board of a master association of any*
12 *common-interest community that was created before January 1,*
13 *1975, and is located in a county whose population is 400,000 or*
14 *more may record an amendment to the declaration pursuant to*
15 *which the master association reallocates the costs of administering*
16 *the common elements of the master association among the units of*
17 *the common-interest community uniformly and based upon the*
18 *actual costs associated with each unit.*

19 **Sec. 18.** 1. *Notwithstanding any other provision of this*
20 *chapter, a construction penalty is enforceable against a unit's*
21 *owner if the maximum amount of the construction penalty and the*
22 *schedule for imposing the construction penalty are set forth in:*

23 (a) *The declaration;*

24 (b) *An instrument related to the common-interest community*
25 *recorded before the date the unit's owner acquired title to the unit;*
26 *or*

27 (c) *A contract between the unit's owner and the association.*

28 2. *As used in this section, "construction penalty" means an*
29 *assessment, fine, penalty or other charge imposed on a unit's*
30 *owner because of the failure of any person to adhere to a schedule*
31 *for the completion of the design, commencement of the*
32 *construction or completion of the construction of a unit or an*
33 *improvement within the unit, or for the issuance of any necessary*
34 *permit for the occupancy of the unit or the use of the improvement*
35 *within the unit.*

36 **Sec. 19.** NRS 116.1103 is hereby amended to read as follows:

37 116.1103 ~~[In]~~ *As used in the declaration and bylaws* ~~[NRS~~
38 ~~116.3106), unless specifically provided otherwise or]~~ *of an*
39 *association and in this chapter, unless* the context otherwise
40 requires, ~~[and in this chapter,]~~ the words and terms defined in NRS
41 116.110305 to 116.110393, inclusive, *and sections 2 to 6, inclusive,*
42 *of this act* have the meanings ascribed to them in those sections.



1 **Sec. 20.** NRS 116.110305 is hereby amended to read as
2 follows:

3 116.110305 “Administrator” means the Administrator of the
4 ~~Real Estate Division of the Department of Business and Industry.~~
5 *Division.*

6 **Sec. 21.** NRS 116.11145 is hereby amended to read as
7 follows:

8 116.11145 1. To carry out the purposes of this chapter, the
9 Real Estate Commission, or any member thereof ~~[]~~ *acting on*
10 *behalf of the Commission*, may issue subpoenas to compel the
11 attendance of witnesses and the production of books, records and
12 other papers.

13 2. If any person fails to comply with a subpoena issued by the
14 Commission pursuant to this section , ~~[within 10 days after its~~
15 ~~issuance.]~~ the Commission may petition the district court for an
16 order of the court compelling compliance with the subpoena.

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

23 4. If it appears to the court that the subpoena was regularly
24 issued by the Commission, the court shall enter an order compelling
25 compliance with the subpoena, and upon failure to obey the order
26 the person shall be dealt with as for contempt of court.

27 **Sec. 22.** NRS 116.1116 is hereby amended to read as follows:

28 116.1116 1. The Office of the Ombudsman for Owners in
29 Common-Interest Communities is hereby created within the ~~Real~~
30 ~~Estate Division of the Department of Business and Industry.~~
31 *Division.*

32 2. The Administrator shall appoint the Ombudsman for Owners
33 in Common-Interest Communities. The Ombudsman for Owners in
34 Common-Interest Communities is in the unclassified service of the
35 State.

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

39 4. The Ombudsman for Owners in Common-Interest
40 Communities shall:

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

43 (b) Assist owners in common-interest communities to
44 understand their rights and responsibilities as set forth in this
45 chapter and the governing documents of their associations,



1 including, without limitation, publishing materials related to those
2 rights and responsibilities;

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

6 (d) *Assist in resolving complaints filed with the Office or the*
7 *Division alleging a violation of the provisions of this chapter or*
8 *the governing documents of the association; and*

9 (e) Compile and maintain a registration of each association
10 organized within the State which includes, without limitation:

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

13 (2) The name of the person engaged in ~~{property~~
14 ~~management-for}~~ *the management of* the common-interest
15 community or the name of the person who manages the property at
16 the site of the common-interest community;

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

19 (4) The name of the declarant;

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

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

23 (7) *The number of completed foreclosures on units within*
24 *the common-interest community for the failure to pay assessments*
25 *levied against those units or fines imposed against units' owners;*
26 *and*

27 (8) *Whether a study of the reserves of the association,*
28 *conducted pursuant to NRS 116.31152, exists and, if so, the date*
29 *on which it was completed.*

30 **Sec. 23.** NRS 116.1117 is hereby amended to read as follows:

31 116.1117 1. There is hereby created the Account for ~~{the~~
32 ~~Ombudsman-for-Owners-in}~~ Common-Interest Communities in
33 the State General Fund. The Account must be administered by the
34 Administrator.

35 2. The fees collected pursuant to NRS 116.31155 must be
36 credited to the Account.

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

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

41 (a) *Defray* the costs and expenses of administering the Office of
42 the Ombudsman for Owners in Common-Interest Communities ;
43 and ~~{for the payment of fees for a mediator or an arbitrator pursuant~~
44 ~~to NRS 38.330.}~~



1 ***(b) Subsidize proceedings for mediation and arbitration***
2 ***conducted pursuant to NRS 38.300 to 38.360, inclusive, in***
3 ***accordance with the regulations adopted by the Division.***

4 **Sec. 24.** NRS 116.1201 is hereby amended to read as follows:

5 116.1201 1. Except as otherwise provided in this section and
6 NRS 116.1203, this chapter applies to all common-interest
7 communities created within this state.

8 2. This chapter does not apply to:

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

10 (1) The landscape of the common elements of a common-
11 interest community;

12 (2) Facilities for flood control; or

13 (3) A rural agricultural residential common-interest
14 community.

15 (b) A planned community in which all units are restricted
16 exclusively to nonresidential use unless the declaration provides that
17 the chapter does apply to that planned community. This chapter
18 applies to a planned community containing both units that are
19 restricted exclusively to nonresidential use and other units that are
20 not so restricted, only if the declaration so provides or the real estate
21 comprising the units that may be used for residential purposes
22 would be a planned community in the absence of the units that may
23 not be used for residential purposes.

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

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

31 3. The provisions of this chapter do not:

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

35 (b) Require a common-interest community created before
36 January 1, 1992, to comply with the provisions of NRS 116.2101 to
37 116.2122, inclusive; *or*

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

41 ~~—(d) Prohibit a common-interest community created before~~
42 ~~January 1, 1992, from providing for a representative form of~~
43 ~~government.]~~

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



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

7 **Sec. 25.** NRS 116.1206 is hereby amended to read as follows:

8 116.1206 1. Any *provision contained in a* declaration, bylaw
9 or other governing document of a common-interest community
10 ~~[created before January 1, 1992,]~~ *in effect on October 1, 2003,* that
11 does not conform to the provisions of this chapter ~~[shall]~~ :

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

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

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

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

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

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

41 **Sec. 26.** NRS 116.2103 is hereby amended to read as follows:

42 116.2103 1. ~~[All provisions of the declaration and bylaws are~~
43 ~~severable.]~~ *The inclusion in a governing document of an*
44 *association of a provision that violates any provision of this*
45 *chapter does not render any other provision of the governing*



1 *document invalid or otherwise unenforceable if such other*
2 *provisions can be given effect in accordance with their original*
3 *intent and the provisions of this chapter.*

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

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

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

15 **Sec. 27.** NRS 116.2105 is hereby amended to read as follows:
16 116.2105 1. The declaration must contain:

17 (a) The names of the common-interest community and the
18 association and a statement that the common-interest community is
19 either a condominium, cooperative or planned community;

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

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

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

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

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

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

43 (h) A description of any developmental rights ~~{NRS~~
44 ~~116.11034}~~ and other special declarant's rights ~~{NRS~~
45 ~~116.110385}~~ reserved by the declarant, together with a legally



1 sufficient description of the real estate to which each of those rights
2 applies, and a time within which each of those rights must be
3 exercised;

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

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

11 (2) A statement whether, if any developmental right is
12 exercised in any portion of the real estate subject to that
13 developmental right, that developmental right must be exercised in
14 all or in any other portion of the remainder of that real estate;

15 (j) Any other conditions or limitations under which the rights
16 described in paragraph (h) may be exercised or will lapse;

17 (k) An allocation to each unit of the allocated interests in the
18 manner described in NRS 116.2107 ~~and~~ *and a statement of whether*
19 *voting by delegates is required or permitted pursuant to section 15*
20 *of this act;*

21 (l) Any restrictions:

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

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

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

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

34 2. The declaration may contain any other matters the declarant
35 considers appropriate.

36 **Sec. 28.** NRS 116.2111 is hereby amended to read as follows:

37 116.2111 ~~Subject~~

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

41 ~~and~~ *(a)* May make any improvements or alterations to his unit
42 that do not impair the structural integrity or mechanical systems or
43 lessen the support of any portion of the common-interest
44 community;



1 ~~12-1~~ (b) May not change the appearance of the common
2 elements, or the exterior appearance of a unit or any other portion of
3 the common-interest community, without permission of the
4 association; and

5 ~~13-1~~ (c) After acquiring an adjoining unit or an adjoining part of
6 an adjoining unit, may remove or alter any intervening partition or
7 create apertures therein, even if the partition in whole or in part is a
8 common element, if those acts do not impair the structural integrity
9 or mechanical systems or lessen the support of any portion of the
10 common-interest community. Removal of partitions or creation of
11 apertures under this ~~subsection~~ paragraph is not an alteration of
12 boundaries.

13 **2. An association may not:**

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

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

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

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

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

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

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

38 **Sec. 29.** NRS 116.212 is hereby amended to read as follows:

39 116.212 1. If the declaration provides that any of the powers
40 described in NRS 116.3102 are to be exercised by or may be
41 delegated to a profit or nonprofit corporation that exercises those or
42 other powers on behalf of one or more common-interest
43 communities or for the benefit of the units' owners of one or more
44 common-interest communities, or on behalf of a common-interest
45 community and a time-share plan created pursuant to chapter 119A



* S B 4 3 8 *

1 of NRS, all provisions of this chapter applicable to unit-owners'
2 associations apply to any such corporation, except as modified by
3 this section.

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

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

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

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

20 4. The rights and responsibilities of units' owners with respect
21 to the unit-owners' association set forth in NRS 116.3103 to
22 116.31038, inclusive, 116.3108, 116.3109, 116.311 and 116.3112
23 *and section 15 of this act* apply in the conduct of the affairs of a
24 master association only to persons who elect the board of a master
25 association, whether or not those persons are otherwise units'
26 owners within the meaning of this chapter.

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

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

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

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



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

4 **Sec. 30.** NRS 116.3102 is hereby amended to read as follows:

5 116.3102 1. Except as otherwise provided in subsection 2,
6 and subject to the provisions of the declaration, the association may:

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

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

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

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

16 (e) Make contracts and incur liabilities;

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

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

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

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

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

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

31 (j) Impose and receive any payments, fees or charges for the use,
32 rental or operation of the common elements, other than limited
33 common elements described in subsections 2 and 4 of NRS
34 116.2102, and for services provided to units' owners;

35 (k) Impose charges for late payment of assessments ~~[and, except~~
36 ~~as otherwise provided in NRS 116.31031, after notice and an~~
37 ~~opportunity to be heard, levy]~~ ;

38 *(l) Impose construction penalties pursuant to the provisions of*
39 *section 15 of this act;*

40 *(m) Impose* reasonable fines for violations of the ~~[declaration,~~
41 ~~bylaws, rules and regulations]~~ *governing documents* of the
42 association ~~;~~

43 ~~—(l)—~~ *only if the association complies with the requirements of*
44 *NRS 116.31031;*



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

4 ~~[(m)]~~ (o) Provide for the indemnification of its officers and
5 executive board and maintain directors' and officers' liability
6 insurance;

7 ~~[(n)]~~ (p) Assign its right to future income, including the right to
8 receive assessments for common expenses, but only to the extent the
9 declaration expressly so provides;

10 ~~[(o)]~~ (q) Exercise any other powers conferred by the declaration
11 or bylaws;

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

14 ~~[(q)]~~ (s) Direct the removal of vehicles improperly parked on
15 property owned or leased by the association, pursuant to NRS
16 487.038; and

17 ~~[(r)]~~ (t) Exercise any other powers necessary and proper for the
18 governance and operation of the association.

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

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

25 116.31031 1. ~~[(1)]~~ *Except as otherwise provided in this*
26 *section, if* a unit's owner ~~[(1)]~~ or a tenant or guest of a unit's owner ~~[(1)]~~
27 ~~does not comply with~~ *violates* a provision of the governing
28 documents of an association, the executive board of the association
29 may, if the governing documents so provide:

30 (a) Prohibit, for a reasonable time, the unit's owner ~~[(1)]~~ or the
31 tenant or guest of the unit's owner ~~[(1)]~~ from:

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

34 (2) Using the common elements. The provisions of this
35 subparagraph do not prohibit the unit's owner ~~[(1)]~~ or the tenant or
36 guest of the unit's owner ~~[(1)]~~ from using any vehicular or pedestrian
37 ingress or egress to go to or from the unit, including any area used
38 for parking.

39 (b) Require the unit's owner ~~[(1)]~~ or the tenant or guest of the
40 unit's owner ~~[(1)]~~ to pay a fine for each ~~[(1)]~~ *failure to comply that does*
41 ~~not threaten the health and welfare of the common interest~~
42 ~~community.] violation.~~ *violation.* The fine must be commensurate with the
43 severity of the violation . ~~[(1)]~~ *but* *If the violation does not threaten*
44 *the health, safety or welfare of the common-interest community,*



1 *the fine* must not exceed \$100 for each violation . ~~for a total amount~~
2 ~~of \$500, whichever is less.~~

3 2. *The executive board may not require the unit's owner or*
4 *the tenant or guest of the unit's owner to pay a fine for a violation*
5 *of the governing documents unless:*

6 (a) *Not less than 30 days before the alleged violation, the*
7 *unit's owner or the tenant or guest of the unit's owner had been*
8 *provided with written notice of the applicable provisions of the*
9 *governing documents that form the basis of the violation;*

10 (b) *The association provided written notice by regular mail to*
11 *the unit's owner that:*

12 (1) *Sets forth the alleged violation, the provision of the*
13 *governing documents alleged to have been violated and any*
14 *required corrective action; and*

15 (2) *Includes a statement that informs the unit's owner of*
16 *the opportunity to request a hearing on the alleged violation*
17 *before the imposition of any fine; and*

18 (c) *The unit's owner was afforded a reasonable time to cure*
19 *the alleged violation before the imposition of any fine.*

20 3. *A unit's owner shall have a minimum of 10 days after the*
21 *date notice is received by the unit's owner pursuant to paragraph*
22 *(b) of subsection 2 to request a hearing on an alleged violation.*

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

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

36 5. *The provisions of this section establish the minimum*
37 *procedural requirements that the executive board must follow*
38 *before it may require the unit's owner or the tenant or guest of the*
39 *unit's owner to pay a fine for a violation or a continuing violation.*
40 *The provisions of this section do not preempt any provisions of the*
41 *governing documents that provide greater procedural protections*
42 *to the unit's owner or the tenant or guest of the unit's owner.*



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

3 116.31034 1. Except as otherwise provided in subsection 5 of
4 NRS 116.212, not later than the termination of any period of
5 declarant's control, the units' owners shall elect an executive board
6 of at least three members, at least a majority of whom must be units'
7 owners. The executive board shall elect the officers. The members
8 and officers of the executive board shall take office upon election.

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

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

16 (b) *Provide for terms of office that are staggered in such a*
17 *manner that, to the extent possible, an equal number of members*
18 *of the executive board are elected at each election. The provisions*
19 *of this paragraph do not apply to:*

20 (1) *Members of the executive board appointed by the*
21 *declarant; and*

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

24 3. Not less than 30 days before the preparation of a ballot for
25 the election of members of the executive board, the secretary or
26 other officer specified in the bylaws of the association shall cause
27 notice to be given to each unit's owner of his eligibility to serve as a
28 member of the executive board. Each unit's owner who is qualified
29 to serve as a member of the executive board may have his name
30 placed on the ballot along with the names of the nominees selected
31 by the members of the executive board or a nominating committee
32 established by the association.

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

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



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

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

6 ~~[5-]~~ 6. The election of any member of the executive board
7 must be conducted by secret written ballot ~~[. -The]~~ *unless the*
8 *declaration of the association provides that voting rights may be*
9 *exercised by delegates or representatives as set forth in section 15*
10 *of this act. If the election is conducted by secret written ballot, the*
11 secretary or other officer specified in the bylaws of the association
12 shall cause to be sent prepaid by United States mail to the mailing
13 address of each unit within the common-interest community or to
14 any other mailing address designated in writing by the unit's owner,
15 a secret ballot and a return envelope.

16 ~~[6-]~~ 7. Each member of the executive board shall, within ~~[30]~~
17 *90* days after his appointment or election, certify in writing *to the*
18 *association, on a form prescribed by the Administrator*, that he has
19 read and understands the governing documents of the association
20 and the provisions of this chapter to the best of his ability. *The*
21 *Administrator may require the association to submit a copy of the*
22 *certification of each member of the executive board of that*
23 *association at the time the association registers with the*
24 *Ombudsman for Owners in Common-Interest Communities*
25 *pursuant to the provisions of NRS 116.31158.*

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

28 116.31036 1. Notwithstanding any provision of the
29 declaration or bylaws to the contrary, the units' owners, by a two-
30 thirds vote of all persons ~~[present-and]~~ entitled to vote at any
31 meeting of the units' owners at which a quorum is present, may
32 remove any member of the executive board with or without cause,
33 other than a member appointed by the declarant.

34 2. *The removal of any member of the executive board must be*
35 *conducted by secret written ballot or by a delegate or*
36 *representative when authorized pursuant to section 15 of this act.*
37 *If the removal of a member of the executive board is conducted by*
38 *secret written ballot, the secretary or other officer specified in the*
39 *bylaws of the association shall cause to be sent prepaid by United*
40 *States mail to the mailing address of each unit within the*
41 *common-interest community or to any other mailing address*
42 *designated in writing by the unit's owner, a secret ballot and a*
43 *return envelope.*

44 3. If a member of an executive board is sued for liability for
45 actions undertaken in his role as a member of the board, the



1 association shall indemnify him for his losses or claims ~~{}~~ and
2 undertake all costs of defense, unless it is proven that he acted with
3 willful or wanton misfeasance or with gross negligence. After such
4 proof, the association is no longer liable for the cost of defense ~~{}~~
5 and may recover costs already expended from the member of the
6 executive board who so acted. Members of the executive board are
7 not personally liable to the victims of crimes occurring on the
8 property. Punitive damages may not be recovered against the
9 association, but may be recovered from persons whose activity gave
10 rise to the damages.

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

12 116.3106 1. The bylaws of the association must provide:

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

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

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

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

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

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

28 (g) A method for amending the bylaws ~~{}~~; *and*

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

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

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

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

36 116.31065 The rules adopted by an association:

37 1. Must be reasonably related to the purpose for which they are
38 adopted.

39 2. Must be sufficiently explicit in their prohibition, direction or
40 limitation to inform a unit's owner ~~{}~~ or a tenant or guest of a unit's
41 owner ~~{}~~ of any action or omission required for compliance.

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

44 4. Must be consistent with the governing documents of the
45 association and must not arbitrarily restrict conduct or require the



1 construction of any capital improvement by a unit's owner that is
2 not required by the governing documents of the association.

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

6 6. May be enforced by the ~~{assessment}~~ *association through*
7 *the imposition* of a fine only if ~~[-~~

8 ~~(a) The person alleged to have violated the rule has received~~
9 ~~notice of the alleged violation that informs him of his opportunity to~~
10 ~~request a hearing on the alleged violation.~~

11 ~~—(b) At least 30 days before the alleged violation, the person~~
12 ~~alleged to have violated the rule was given written notice of the rule~~
13 ~~or any amendment to the rule -.]~~ *the association complies with the*
14 *requirements set forth in NRS 116.31031.*

15 **Sec. 36.** NRS 116.3108 is hereby amended to read as follows:

16 116.3108 1. A meeting of the units' owners of an association
17 must be held at least once each year. If the governing documents of
18 a common-interest community do not designate an annual meeting
19 date of the units' owners, a meeting of the units' owners must be
20 held 1 year after the date of the last meeting of the units' owners. If
21 the units' owners have not held a meeting for 1 year, a meeting of
22 the units' owners must be held on the following March 1. Special
23 meetings of the units' owners of an association may be called by the
24 president, a majority of the executive board or by units' owners
25 having 10 percent, or any lower percentage specified in the bylaws,
26 of the votes in the association.

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

39 (a) Have a copy of the minutes or a summary of the minutes of
40 the meeting distributed to him upon request and, if required by the
41 executive board, upon payment to the association of the cost of
42 making the distribution.

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



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

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

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

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

18 4. If the association adopts a policy imposing a fine on a unit's
19 owner *or a tenant or guest of a unit's owner* for ~~the~~ *a* violation *or*
20 *continuing violation* of the ~~declaration, bylaws or other rules~~
21 ~~established by~~ *governing documents of* the association, the
22 secretary or other officer specified in the bylaws shall prepare and
23 cause to be hand-delivered or sent prepaid by United States mail to
24 the mailing address of each unit or to any other mailing address
25 designated in writing by the unit's owner, a schedule of the fines
26 that may be imposed for those violations ~~[-]~~
27 *or continuing violations.*

28 5. Not more than 30 days after any meeting of the units'
29 owners, the secretary or other officer specified in the bylaws shall
30 cause the minutes or a summary of the minutes of the meeting to be
31 made available to the units' owners. A copy of the minutes or a
32 summary of the minutes must be provided to any unit's owner who
33 pays the association the cost of providing the copy to him.

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

36 (a) Could not have been reasonably foreseen;

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

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

41 (d) Makes it impracticable to comply with the provisions of
42 subsection 2 or 3.



1 **Sec. 37.** NRS 116.31083 is hereby amended to read as
2 follows:

3 116.31083 1. A meeting of the executive board of an
4 association must be held at least once every 90 days.

5 2. Except in an emergency or unless the bylaws of an
6 association require a longer period of notice, the secretary or other
7 officer specified in the bylaws of the association shall, not less than
8 10 days before the date of a meeting of the executive board, cause
9 notice of the meeting to be given to the units' owners. Such notice
10 must be:

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

14 (b) If the association offers to send notice by electronic mail,
15 sent by electronic mail at the request of the unit's owner to an
16 electronic mail address designated in writing by the unit's owner; or

17 (c) Published in a newsletter or other similar publication that is
18 circulated to each unit's owner.

19 3. In an emergency, the secretary or other officer specified in
20 the bylaws of the association shall, if practicable, cause notice of the
21 meeting to be sent prepaid by United States mail to the mailing
22 address of each unit within the common-interest community. If
23 delivery of the notice in this manner is impracticable, the notice
24 must be hand-delivered to each unit within the common-interest
25 community or posted in a prominent place or places within the
26 common elements of the association.

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

33 (a) Have a copy of the minutes or a summary of the minutes of
34 the meeting distributed to him upon request and, if required by the
35 executive board, upon payment to the association of the cost of
36 making the distribution.

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

39 5. The agenda of the meeting of the executive board of an
40 association must comply with the provisions of subsection 3 of NRS
41 116.3108. The period required to be devoted to comments by units'
42 owners and discussion of those comments must be scheduled for the
43 beginning of each meeting. In an emergency, the executive board
44 may take action on an item which is not listed on the agenda as an
45 item on which action may be taken.



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

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

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

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

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

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

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

17 7. ~~[[The]]~~ *Except as otherwise provided in the subsection, the*
18 *minutes of a meeting of the executive board of an association must*
19 ~~be]~~ :

20 (a) *Include:*

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

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

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

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

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

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

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

38 8. *A unit's owner may record on audiotape or any other*
39 *means of sound reproduction a meeting of the executive board,*
40 *unless the board is meeting in executive session, if the unit's*
41 *owner, before recording the meeting, provides notice of his intent*
42 *to record the meeting:*

43 (a) *In writing, to the president or the secretary of the*
44 *association at least 24 hours before the start of the meeting; and*



1 ***(b) To the other units' owners in attendance at the meeting***
2 ***before beginning the recording of the meeting.***

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

5 (a) Could not have been reasonably foreseen;

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

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

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

12 **Sec. 38.** NRS 116.31085 is hereby amended to read as
13 follows:

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

19 2. ~~[An]~~ ***The*** executive board may meet in executive session to:

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

24 (b) Discuss ~~[matters relating to personnel;]~~ ***an employee of the***
25 ***association, an employee of a community manager of the***
26 ***common-interest community or an employee of an independent***
27 ***contractor who is working for the association;*** or

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

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



1 4. Except as otherwise provided in this subsection, any matter
2 discussed in executive session must be generally noted in the
3 minutes of the meeting of the executive board. The executive board
4 shall maintain minutes of any decision made pursuant to subsection
5 3 and, upon request, provide a copy of the decision to the unit's
6 owner *or the tenant or guest of the unit's owner* who ~~was the~~
7 ~~subject of~~ *requested* the hearing or to his designated representative.

8 5. Except as otherwise provided in subsection 3, a unit's owner
9 *or a tenant or guest of the unit's owner* is not entitled to attend or
10 speak at a meeting of the executive board held in executive session.

11 **Sec. 39.** NRS 116.3109 is hereby amended to read as follows:

12 116.3109 1. Except as otherwise provided in this section and
13 unless the bylaws provide otherwise, a quorum is present throughout
14 any meeting of the association if persons entitled to cast 20 percent
15 of the votes that may be cast for election of the executive board are
16 present in person or by proxy at the beginning of the meeting.

17 2. *If the governing documents of an association provide for a*
18 *quorum at a meeting of the association that is greater than 20*
19 *percent of the votes that may be cast for election of the executive*
20 *board, and such a meeting for which proper notice has been given*
21 *cannot be held because a quorum is not present, the units' owners*
22 *in attendance, either in person or by proxy in accordance with the*
23 *governing documents of the association, may adjourn the meeting*
24 *to a time that is not less than 48 hours or more than 30 days after*
25 *the date of the meeting. At the subsequent meeting, a quorum is*
26 *present if persons entitled to cast 20 percent of the votes that may*
27 *be cast for election of the executive board are present in person or*
28 *by proxy. If fewer units' owners than that required by the quorum*
29 *requirement contained in the governing documents are present at*
30 *the subsequent meeting in person or by proxy in accordance with*
31 *the governing documents, only those matters included on the*
32 *agenda of the original meeting may be voted upon. The provisions*
33 *of this subsection do not change the number of votes required by a*
34 *governing document of an association for any particular action.*

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

39 ~~[3. For]~~

40 4. *If the election of a member of the executive board of an*
41 *association must be conducted by secret written ballot pursuant to*
42 *the provisions of subsection 6 of NRS 116.31034, then for the*
43 purposes of ~~[determining whether a quorum is present for the~~
44 ~~election of]~~ *electing* any member of the executive board ~~[.] a~~



1 *quorum is not required and* only the secret written ballots that are
2 returned to the association may be counted.

3 **Sec. 40.** NRS 116.311 is hereby amended to read as follows:

4 116.311 1. If only one of several owners of a unit is present
5 at a meeting of the association, that owner is entitled to cast all the
6 votes allocated to that unit. If more than one of the owners are
7 present, the votes allocated to that unit may be cast only in
8 accordance with the agreement of a majority in interest of the
9 owners, unless the declaration expressly provides otherwise. There
10 is majority agreement if any one of the owners cast the votes
11 allocated to that unit without protest made promptly to the person
12 presiding over the meeting by any of the other owners of the unit.

13 2. Except as otherwise provided in this section, votes allocated
14 to a unit may be cast pursuant to a proxy executed by a unit's owner.
15 A unit's owner may give a proxy only to a member of his immediate
16 family, a tenant of the unit's owner who resides in the common-
17 interest community, ~~or~~ another unit's owner who resides in the
18 common-interest community ~~or~~ *or to a delegate or representative*
19 *when authorized pursuant to section 15 of this act.* If a unit is
20 owned by more than one person, each owner of the unit may vote or
21 register protest to the casting of votes by the other owners of the unit
22 through an executed proxy. A unit's owner may revoke a proxy
23 given pursuant to this section only by actual notice of revocation to
24 the person presiding over a meeting of the association.

25 3. A proxy is void if:

- 26 (a) It is not dated or purports to be revocable without notice;
27 (b) It does not designate the votes that must be cast on behalf of
28 the unit's owner who executed the proxy; or
29 (c) The holder of the proxy does not disclose at the beginning of
30 the meeting for which the proxy is executed the number of proxies
31 pursuant to which he will be casting votes . ~~and the voting~~
32 ~~instructions received for each proxy.~~

33 4. A proxy terminates immediately after the conclusion of the
34 meeting for which it was executed.

35 5. A vote may not be cast pursuant to a proxy for the election
36 *or removal* of a member of the executive board of an association ~~or~~
37 ~~—3.] unless the proxy is exercised through a delegate or~~
38 *representative authorized pursuant to section 15 of this act.*

39 6. Only a vote cast in person, by secret ballot or by proxy, may
40 be counted.

41 ~~[4.]~~ 7. If the declaration requires that votes on specified
42 matters affecting the common-interest community be cast by lessees
43 rather than units' owners of leased units:

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



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

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

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

8 ~~[5.]~~ 8. No votes allocated to a unit owned by the association
9 may be cast.

10 ~~[6.]~~ 9. Votes cast for the election *or removal* of a member of
11 the executive board of an association must be *opened and* counted
12 in public.

13 **Sec. 41.** NRS 116.31139 is hereby amended to read as
14 follows:

15 116.31139 1. An association may employ a ~~[person engaged~~
16 ~~in property management for the common interest community.]~~
17 *community manager*.

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

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

23 (b) Hold a certificate issued by the ~~[Real Estate Commission]~~
24 *Division* pursuant to subsection 3.

25 3. The Real Estate Commission shall provide by regulation for
26 the issuance of certificates for ~~[the management of common interest~~
27 ~~communities to persons]~~ *community managers* who are not
28 otherwise authorized to engage in property management pursuant to
29 the provisions of chapter 645 of NRS. The regulations:

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

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

35 (c) Must establish standards of practice for ~~[persons engaged in~~
36 ~~property management for a common interest community;]~~
37 *community managers*;

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

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



1 The ~~Real Estate Division of the Department of Business and~~
2 ~~Industry~~ *Division* may investigate the ~~property~~ *community*
3 managers to whom certificates have been issued to ensure their
4 compliance with the standards of practice adopted pursuant to this
5 subsection and collect a fee for the issuance of a certificate by the
6 ~~Commission~~ *Division* in an amount not to exceed the
7 administrative costs of issuing the certificate.

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

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

15 ~~—(b)~~ A financial institution.

16 ~~[(e)]~~ (b) An attorney licensed to practice in this state.

17 ~~[(d)]~~ (c) A trustee.

18 ~~[(e)] An employee of a corporation who manages only the~~
19 ~~property of the corporation.]~~

20 ~~[(f)]~~ (d) A declarant.

21 ~~[(g)]~~ (e) A receiver.

22 ~~[5. As used in this section, “property management” means the~~
23 ~~physical, administrative or financial maintenance and management~~
24 ~~of real property, or the supervision of those activities for a fee,~~
25 ~~commission or other compensation or valuable consideration.]~~

26 (f) *An officer or member of the executive board of an*
27 *association acting solely within the scope of his capacity as an*
28 *officer or member of the executive board.*

29 **Sec. 42.** NRS 116.31152 is hereby amended to read as
30 follows:

31 116.31152 1. The executive board of an association shall:

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

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

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

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



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

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

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

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

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

16 3. The Administrator shall adopt by regulation the
17 qualifications required for conducting a study required by
18 subsection 1.

19 **Sec. 43.** NRS 116.31155 is hereby amended to read as
20 follows:

21 116.31155 1. An association shall:

22 (a) If the association is required to pay the fee imposed by NRS
23 78.150 ~~for 82.193,~~ **82.193 or 86.263**, pay to the Administrator a
24 fee established by regulation of the Administrator for every unit in
25 the association used for residential use.

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

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

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

32 (b) Deposited with the State Treasurer for credit to the Account
33 for ~~the Ombudsman for Owners in~~ Common-Interest Communities
34 created pursuant to NRS 116.1117.

35 (c) Established on the basis of the actual cost of administering
36 the Office of the Ombudsman for Owners in Common-Interest
37 Communities and not on a basis which includes any subsidy for the
38 office. In no event may the fees required to be paid pursuant to this
39 section exceed \$3 per unit.

40 3. ***The Administrator shall adopt regulations providing for a***
41 ***penalty if an association fails to pay the fees required pursuant to***
42 ***this section. The penalty must not exceed 10 percent of the fees or***
43 ***\$500, whichever is less.***

44 4. A unit's owner may not be required to pay any portion of the
45 fees ***or a penalty for the failure to pay a fee*** required to be paid



* S B 4 3 8 *

1 pursuant to this section to a master association and to an association
2 organized pursuant to NRS 116.3101.

3 ~~[4.]~~ 5. Upon the payment of the fees required by this section,
4 the Administrator shall provide to the association evidence that it
5 paid the fees in compliance with this section.

6 **Sec. 44.** NRS 116.31158 is hereby amended to read as
7 follows:

8 116.31158 1. Each association shall, at the time it pays the
9 fee required by NRS 116.31155, register with the Ombudsman for
10 Owners in Common-Interest Communities on a form prescribed by
11 the Ombudsman.

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

15 **Sec. 45.** NRS 116.3116 is hereby amended to read as follows:

16 116.3116 1. The association has a lien on a unit for any
17 assessment levied against that unit , *construction penalty imposed*
18 *on the unit's owner pursuant to section 18 of this act* or fines
19 imposed against the unit's owner from the time the assessment ,
20 *construction penalty* or fine becomes due. Unless the declaration
21 otherwise provides, fees, charges, late charges, fines and interest
22 charged pursuant to paragraphs (j) ~~[(k) and (l)]~~ to (m), inclusive,
23 of subsection 1 of NRS 116.3102 are enforceable as assessments
24 under this section. If an assessment is payable in installments, the
25 full amount of the assessment is a lien from the time the first
26 installment thereof becomes due.

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

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

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

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

39 The lien is also prior to all security interests described in paragraph
40 (b) to the extent of the assessments for common expenses based on
41 the periodic budget adopted by the association pursuant to NRS
42 116.3115 which would have become due in the absence of
43 acceleration during the 6 months immediately preceding institution
44 of an action to enforce the lien. This subsection does not affect the



1 priority of mechanics' or materialmen's liens, or the priority of liens
2 for other assessments made by the association.

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

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

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

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

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

18 8. The association upon written request shall furnish to a unit's
19 owner a statement setting forth the amount of unpaid assessments
20 against the unit. If the interest of the unit's owner is real estate, the
21 statement must be in recordable form. The statement must be
22 furnished within 10 business days after receipt of the request and is
23 binding on the association, the executive board and every unit's
24 owner.

25 9. In a cooperative, upon nonpayment of an assessment on a
26 unit, the unit's owner may be evicted in the same manner as
27 provided by law in the case of an unlawful holdover by a
28 commercial tenant, and the lien may be foreclosed as provided by
29 this section or by NRS 116.31162 to 116.31168, inclusive.

30 10. In a cooperative where the owner's interest in a unit is
31 personal property ~~[(NRS 116.1105),]~~ *as provided in NRS 116.1105,*
32 the association's lien may be foreclosed in like manner as a security
33 interest under NRS 104.9101 to 104.9709, inclusive.

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

36 116.31162 1. Except as otherwise provided in subsection 4,
37 in a condominium, a cooperative where the owner's interest in a unit
38 is real estate as determined pursuant to NRS 116.1105, or a planned
39 community, the association may foreclose its lien by sale after:

40 (a) The association has mailed by certified or registered mail,
41 return receipt requested, to the unit's owner or his successor in
42 interest, at his address if known, and at the address of the unit, a
43 notice of delinquent assessment which states the amount of the
44 assessments and other sums which are due in accordance with
45 subsection 1 of NRS 116.3116, a description of the unit against



1 which the lien is imposed, and the name of the record owner of the
2 unit;

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

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

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

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

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

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

28 4. The association may not foreclose a lien ~~[by sale for the~~
29 ~~assessment of]~~ *based on* a fine for a violation *or continuing*
30 *violation* of the ~~[declaration, bylaws, rules or regulations]~~ *governing*
31 *documents* of the association, unless ~~[the violation is of a type]~~ .

32 (a) *The fine is imposed for a violation or continuing violation*
33 *that threatens the health, safety or welfare of the residents of the*
34 *common-interest community* ~~[.]~~ *; or*

35 (b) *The fine is a construction penalty imposed pursuant to*
36 *section 18 of this act.*

37 **Sec. 47.** NRS 116.311635 is hereby amended to read as
38 follows:

39 116.311635 The association or other person conducting the
40 sale shall also, after the expiration of the 60 days and before selling
41 the unit:

42 1. Give notice of the time and place of the sale in the manner
43 and for a time not less than that required by law for the sale of real
44 property upon execution, except that a copy of the notice of sale
45 must be mailed, on or before the date of first publication or posting,



1 by certified or registered mail, return receipt requested, to the unit's
2 owner or his successor in interest at his address if known, and to the
3 address of the unit.

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

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

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

12 *(c) The Ombudsman for Owners in Common-Interest*
13 *Communities.*

14 **Sec. 48.** NRS 116.31175 is hereby amended to read as
15 follows:

16 116.31175 1. Except as otherwise provided in this
17 subsection, the executive board of an association shall, upon the
18 written request of a unit's owner, make available the books, records
19 and other papers of the association for review during the regular
20 working hours of the association ~~and~~, *including, without limitation,*
21 *all records filed with a court relating to a civil or criminal action*
22 *to which the association is a party.* The provisions of this
23 subsection do not apply to:

24 (a) The personnel records of the employees of the association ~~and~~
25 *, except for those records relating to the salaries and benefits of*
26 *those employees;* and

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

29 2. If the executive board refuses to allow a unit's owner to
30 review the books, records or other papers of the association, the
31 Ombudsman for Owners in Common-Interest Communities may:

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

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

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

39 **Sec. 49.** NRS 116.4109 is hereby amended to read as follows:

40 116.4109 1. Except in the case of a sale in which delivery of
41 a public offering statement is required, or unless exempt under
42 subsection 2 of NRS 116.4101, a unit's owner shall furnish to a
43 purchaser before execution of any contract for sale of a unit, or
44 ~~otherwise~~ *in the absence of a contract for sale* before
45 conveyance:



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

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

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

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

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

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

24 **Sec. 50.** NRS 116.41095 is hereby amended to read as
25 follows:

26 116.41095 The information statement required by NRS
27 116.4103 and 116.4109 must be in substantially the following form:

28
29 **BEFORE YOU PURCHASE PROPERTY IN A**
30 **COMMON-INTEREST COMMUNITY**
31 **DID YOU KNOW . . .**

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

34 These restrictions are contained in a document known as the
35 Declaration of Covenants, Conditions and Restrictions (C, C & R's)
36 that should be provided for your review before making your
37 purchase. The C, C & R's become a part of the title to your
38 property. They bind you and every future owner of the property
39 whether or not you have read them or had them explained to you.
40 The C, C & R's, together with other "governing documents" (such
41 as association bylaws and rules and regulations), are intended to
42 preserve the character and value of properties in the community, but
43 may also restrict what you can do to improve or change your
44 property and limit how you use and enjoy your property. By
45 purchasing a property encumbered by C, C & R's, you are agreeing



1 to limitations that could affect your lifestyle and freedom of choice.
2 You should review the C, C & R's and other governing documents
3 before purchasing to make sure that these limitations and controls
4 are acceptable to you.

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

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

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

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

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

36 Many common-interest communities have a homeowner's
37 association. In a new development, the association will usually be
38 controlled by the developer until a certain number of units have
39 been sold. After the period of developer control, the association may
40 be controlled by property owners like yourself who are elected by
41 homeowners to sit on an executive board and other boards and
42 committees formed by the association. The association, and its
43 executive board, are responsible for assessing homeowners for the
44 cost of operating the association and the common or shared
45 elements of the community and for the day to day operation and



1 management of the community. Because homeowners sitting on the
2 executive board and other boards and committees of the association
3 may not have the experience or professional background required to
4 understand and carry out the responsibilities of the association
5 properly, the association may hire professional managers to carry
6 out these responsibilities.

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

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

39 The law requires you to provide to a prospective purchaser of your
40 property, before you enter into a purchase agreement, a copy of the
41 community's governing documents, including the C, C & R's,
42 association bylaws, and rules and regulations, as well as a copy of
43 this document. You are also required to provide a copy of the
44 association's current financial statement, operating budget and
45 information regarding the amount of the monthly assessment for



1 common expenses, including the amount set aside as reserves for the
2 repair, replacement and restoration of common elements. You are
3 also required to inform prospective purchasers of any outstanding
4 judgments or lawsuits pending against the association of which you
5 are aware. You are also required to provide a copy of the minutes
6 from the most recent meeting of the homeowner's association or its
7 executive board. For more information regarding these
8 requirements, see Nevada Revised Statutes 116.4103 ~~H~~ and
9 **116.4109.**

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

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

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

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

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

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

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

27 7. QUESTIONS?

28 Although they may be voluminous, you should take the time to read
29 and understand the documents that will control your ownership of a
30 property in a common-interest community. You may wish to ask
31 your real estate professional, lawyer or other person with experience
32 to explain anything you do not understand. You may also request
33 assistance from the Ombudsman for Owners in Common-Interest
34 Communities, Nevada Real Estate Division, at (telephone number).
35

36 Buyer or prospective buyer's initials: _____

37 Date: _____

38 **Sec. 51.** NRS 38.300 is hereby amended to read as follows:

39 38.300 As used in NRS 38.300 to 38.360, inclusive, unless the
40 context otherwise requires:

41 1. "Assessments" means:

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



1 (b) Any fines, fees and other charges which may be imposed by
2 an association pursuant to paragraphs (j) ~~[-(k)- and -(l)]~~ to (m),
3 *inclusive*, of subsection 1 of NRS 116.3102.

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

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

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

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

17 **Sec. 52.** NRS 38.330 is hereby amended to read as follows:

18 38.330 1. If all parties named in a written claim filed
19 pursuant to NRS 38.320 agree to have the claim submitted for
20 mediation, the parties shall reduce the agreement to writing and
21 shall select a mediator from the list of mediators maintained by the
22 Division pursuant to NRS 38.340. Any mediator selected must be
23 available within the geographic area. If the parties fail to agree upon
24 a mediator, the Division shall appoint a mediator from the list of
25 mediators maintained by the Division. Any mediator appointed must
26 be available within the geographic area. Unless otherwise provided
27 by an agreement of the parties, mediation must be completed within
28 60 days after the parties agree to mediation. Any agreement
29 obtained through mediation conducted pursuant to this section must,
30 within 20 days after the conclusion of mediation, be reduced to
31 writing by the mediator and a copy thereof provided to each party.
32 The agreement may be enforced as any other written agreement.
33 Except as otherwise provided in this section, the parties are
34 responsible for all costs of mediation conducted pursuant to this
35 section.

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



1 3. The Division may provide for the payment of the fees for a
2 mediator or an arbitrator selected or appointed pursuant to this
3 section from the Account for ~~[the Ombudsman for Owners in]~~
4 Common-Interest Communities created pursuant to NRS 116.1117,
5 to the extent that money is available in the Account for this purpose.

6 4. Except as otherwise provided in this section and except
7 where inconsistent with the provisions of NRS 38.300 to 38.360,
8 inclusive, the arbitration of a claim pursuant to this section must be
9 conducted in accordance with the provisions of NRS 38.231,
10 38.232, 38.233, 38.236 to 38.239, inclusive, 38.242 and 38.243. At
11 any time during the arbitration of a claim relating to the
12 interpretation, application or enforcement of any covenants,
13 conditions or restrictions applicable to residential property or any
14 bylaws, rules or regulations adopted by an association, the arbitrator
15 may issue an order prohibiting the action upon which the claim is
16 based. An award must be made within 30 days after the conclusion
17 of arbitration, unless a shorter period is agreed upon by the parties to
18 the arbitration.

19 5. If all the parties have agreed to nonbinding arbitration, any
20 party to the arbitration may, within 30 days after a decision and
21 award have been served upon the parties, commence a civil action in
22 the proper court concerning the claim which was submitted for
23 arbitration. Any complaint filed in such an action must contain a
24 sworn statement indicating that the issues addressed in the
25 complaint have been arbitrated pursuant to the provisions of NRS
26 38.300 to 38.360, inclusive. If such an action is not commenced
27 within that period, any party to the arbitration may, within 1 year
28 after the service of the award, apply to the proper court for a
29 confirmation of the award pursuant to NRS 38.239.

30 6. If all the parties agree in writing to binding arbitration, the
31 arbitration must be conducted in accordance with the provisions of
32 chapter 38 of NRS. An award procured pursuant to such arbitration
33 may be vacated and a rehearing granted upon application of a party
34 pursuant to the provisions of NRS 38.241.

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

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

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



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

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

8 **Sec. 53.** 1. The provisions of this act apply to any violation
9 or continuing violation of the governing documents of an
10 association or master association that occurs on or after October 1,
11 2003.

12 2. Notwithstanding any other law to the contrary, if the
13 provisions of the governing documents of an association or master
14 association do not conform to the amendatory provisions of this act:

15 (a) The nonconforming provisions of the governing documents
16 shall be deemed to have been conformed to the amendatory
17 provisions of this act by operation of law on October 1, 2003; and

18 (b) If the association or master association is associated with a
19 common-interest community that was created on or after January 1,
20 1992, the executive board of the association or master association
21 shall, before October 1, 2004, change the nonconforming provisions
22 of the governing documents to conform to the amendatory
23 provisions of this act. The executive board of the association or
24 master association may make such changes without complying with
25 any procedural requirements that would otherwise apply if the
26 executive board were to amend the governing documents of the
27 association or master association in accordance with law.

28 3. As used in this section:

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

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

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

35 (d) "Governing documents" has the meaning ascribed to it in
36 NRS 116.110347.

37 (e) "Master association" has the meaning ascribed to it in
38 NRS 116.110358.

39 **Sec. 54.** Notwithstanding the provisions of section 41 of this
40 act, a person who acts as a community manager is not required to be
41 certified pursuant to the provisions of this act before January 1,
42 2004.

43 **Sec. 55.** 1. By January 1, 2005, an executive board of an
44 association or master association of a common-interest community
45 shall have conducted elections of members of the executive board so



1 that the terms of the members of the executive board are staggered
2 as required by the amendatory provisions of section 32 of this act.

3 2. As used in this section:

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

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

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

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

12 **Sec. 56.** The State Treasurer shall transfer any balance
13 remaining unexpended on October 1, 2003, in the Account for the
14 Ombudsman for Owners in Common-Interest Communities in the
15 State General Fund to the Account for Common-Interest
16 Communities which is created by NRS 116.1117, as amended by
17 this act.

18 **Sec. 57.** 1. This act becomes effective on October 1, 2003.

19 2. Sections 8, 9 and 10 of this act expire by limitation on the
20 date on which the provisions of 42 U.S.C. § 666 requiring each state
21 to establish procedures under which the state has authority to
22 withhold or suspend, or to restrict the use of professional,
23 occupational and recreational licenses of persons who:

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

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

29 are repealed by the Congress of the United States.

