
SENATE BILL NO. 325—SENATOR SCHNEIDER

MARCH 24, 2005

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes concerning common-interest communities. (BDR 10-20)

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; defining the term “major components of the common elements”; providing that executive boards and governing documents of common-interest communities may not prohibit a unit’s owner from installing or maintaining xeriscaping; providing that executive boards and governing documents of certain common-interest communities may not provide for the maintenance of or regulation of traffic upon certain roads, streets, alleys or other thoroughfares; requiring an executive board to ensure that a certain percentage of the landscape of the common elements must consist of xeriscaping by a certain date and thereafter; providing that executive boards and governing documents may not prohibit a unit’s owner from entering into a rental agreement and may not require a unit’s owner or the prospective tenant to pay any fees or obtain any approval of the rental agreement or the prospective tenant; requiring the Commission for Common-Interest Communities to adopt regulations prescribing the requirements for financial statements; requiring associations to audit financial statements annually; revising the provisions governing exemptions from certain statutes governing common-interest communities; clarifying that an association may be organized as a limited-liability company; requiring candidates for membership on an executive board to make certain



disclosures; revising the provisions governing the removal of members of an executive board; revising certain provisions governing special meetings of the units' owners; allowing a person who is alleged to have violated the governing documents to attend all portions of the hearing related to the alleged violation upon request; revising certain provisions related to the study of reserves of an association; providing that a master association must pay certain fees for each subassociation that the master association has established; eliminating the limitation on the amount of an administrative penalty that may be imposed for failure to pay timely certain required fees; defining when a violation of the governing documents threatens the health, safety or welfare of the residents of a common-interest community for the purpose of foreclosing a lien by sale of a unit; making various changes to the provisions governing public offering statements and disclosures; providing that the Real Estate Division of the Department of Business and Industry is subject to the administrative supervision of the Director of the Department in administering the provisions governing common-interest communities; requiring persons who conduct studies of the reserves of associations to hold permits and providing for the regulation of such persons by the Division and the Commission; making certain technical changes to the organization of the provisions governing common-interest communities; making various other changes related to common-interest communities; 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 7, inclusive, of this
3 act.

4 **Sec. 2.** *“Major component of the common elements” means*
5 *any component of the common elements, including, without*
6 *limitation, any amenity, improvement, furnishing, fixture, finish,*
7 *system or equipment, that may, within 30 years after its original*
8 *installation, require repair, replacement or restoration in excess of*
9 *routine annual maintenance which is included in the annual*
10 *operating budget of an association.*



1 **Sec. 3. 1. The Legislature hereby finds and declares that:**

2 **(a) The State of Nevada has limited supplies of water and is**
3 **subject to cycles of drought.**

4 **(b) As the population of the State continues to grow, there is**
5 **an increasing demand upon the State's limited supplies of water.**

6 **(c) It is the policy of the State to encourage efficient and**
7 **nonwasteful use of the State's limited supplies of water.**

8 **(d) Traditional landscaping may result in an unreasonable and**
9 **unnecessary burden on the State's limited supplies of water.**

10 **(e) The use of xeriscaping conserves the State's limited**
11 **supplies of water and protects the environment of the State by**
12 **reducing waste from clippings and reducing the use of fertilizers**
13 **and pesticides that adversely affect the air and water.**

14 **(f) Residents of the State should be encouraged to conserve the**
15 **State's limited supplies of water and to protect the environment of**
16 **the State.**

17 **(g) Governing documents which prohibit or unreasonably limit**
18 **the use of xeriscaping or which require traditional landscaping or**
19 **cultivated vegetation such as turf grass discourage conservation of**
20 **the State's limited supplies of water and protection of the**
21 **environment of the State and therefore are contrary to the public**
22 **good of the State.**

23 **2. The executive board shall not and the governing**
24 **documents must not prohibit a unit's owner from installing or**
25 **maintaining xeriscaping within such physical portion of the**
26 **common-interest community as that unit's owner has a right to**
27 **occupy and use exclusively.**

28 **3. Not later than October 1, 2008, and thereafter, the**
29 **executive board shall ensure that at least 70 percent of the square**
30 **footage of the landscape of the common elements of the common-**
31 **interest community consists of xeriscaping.**

32 **4. As used in this section, "xeriscaping" means landscaping**
33 **which conserves water, protects the environment, is adaptable to**
34 **local conditions, is drought tolerant and which incorporates, to the**
35 **extent possible, the following principles:**

36 **(a) Planning and design;**

37 **(b) Appropriate choice of plants;**

38 **(c) Soil analysis;**

39 **(d) Efficient irrigation;**

40 **(e) Practical use of turf grass and artificial turf grass;**

41 **(f) Appropriate use of mulches; and**

42 **(g) Proper maintenance.**



1 **Sec. 4. 1.** *Except as otherwise provided in NRS 116.31123,*
2 *the executive board shall not and the governing documents must*
3 *not:*

4 (a) *Prohibit a unit's owner from entering into a rental*
5 *agreement for the rental of his unit;*

6 (b) *Require a unit's owner or his prospective tenant to pay any*
7 *fee for entering into a rental agreement for the rental of the unit;*
8 *or*

9 (c) *Require a unit's owner or his prospective tenant to obtain*
10 *any approval of the rental agreement or any approval of the*
11 *prospective tenant by the executive board or by the association as*
12 *a condition for entering into a rental agreement for the rental of*
13 *the unit.*

14 **2.** *As used in this section:*

15 (a) *"Rental agreement" means an agreement to lease or*
16 *sublease a unit for residential use for a term less than life which*
17 *provides for the periodic payment of rent.*

18 (b) *"Tenant" means a person who has the right to occupy and*
19 *possess a unit pursuant to a rental agreement.*

20 **Sec. 5. 1.** *The Commission shall adopt regulations*
21 *prescribing the requirements for the preparation and presentation*
22 *of a financial statement pursuant to this chapter.*

23 **2.** *The regulations adopted by the Commission must include,*
24 *without limitation:*

25 (a) *The qualifications necessary for a person to prepare and*
26 *present a financial statement; and*

27 (b) *The standards and format to be followed in preparing and*
28 *presenting a financial statement.*

29 **Sec. 6. 1.** *The executive board shall cause an audit of its*
30 *financial statement to be performed on an annual basis in*
31 *accordance with the regulations adopted by the Commission*
32 *pursuant to this section.*

33 **2.** *The Commission shall adopt regulations prescribing the*
34 *requirements for the auditing of financial statements by an*
35 *association pursuant to subsection 1. Such regulations must*
36 *include, without limitation:*

37 (a) *The qualifications necessary for a person to audit a*
38 *financial statement; and*

39 (b) *The standards and format to be followed in auditing a*
40 *financial statement.*

41 **Sec. 7.** *In a common-interest community which is not gated*
42 *or enclosed and the access to which is not restricted or controlled*
43 *by a person or device, the executive board shall not and the*
44 *governing documents must not provide for the continued*
45 *maintenance of or regulation of traffic upon any road, street, alley*



or other thoroughfare the right-of-way of which is accepted by the State or a local government for dedication as a road, street, alley or other thoroughfare for public use.

Sec. 8. NRS 116.003 is hereby amended to read as follows:

116.003 As used in this chapter and in the declaration and bylaws of an association, unless the context otherwise requires, the words and terms defined in NRS 116.005 to 116.095, inclusive, *and section 2 of this act* have the meanings ascribed to them in those sections.

Sec. 9. NRS 116.013 is hereby amended to read as follows:

116.013 "Certificate" means a certificate for the management of a common-interest community issued by the Division ~~+~~ *pursuant to sections 35 to 69, inclusive, of this act.*

Sec. 10. NRS 116.047 is hereby amended to read as follows:

NRS 116.047 "Financial statement" means a ~~balance sheet showing profit and loss of an association and the funds held in reserve by the association.~~ *financial statement that is prepared and presented in accordance with the requirements established by the Commission pursuant to section 5 of this act.*

Sec. 11. NRS 116.1201 is hereby amended to read as follows:

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

2. This chapter does not apply to:

(a) ~~[Associations created for the limited purpose of maintaining: (1) The landscape of the common elements of a common-interest community; (2) Facilities for flood control; or (3) Except as otherwise provided in NRS 116.31075, a rural agricultural residential common interest community.]~~ *A limited-purpose association, except that a limited-purpose association shall:*

(1) Pay the fees required pursuant to NRS 116.31155;

(2) Register with the Ombudsman pursuant to NRS 116.31158;

(3) Comply with the provisions set forth in chapter 241 of NRS concerning open meetings which are generally applicable to public bodies; and

(4) Comply with the provisions of NRS 116.4101 to 116.412, inclusive, as required by the regulations adopted by the Commission pursuant to paragraph (b) of subsection 5.

(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter does apply to that planned community. This chapter applies to a planned community containing both units that are



1 restricted exclusively to nonresidential use and other units that are
2 not so restricted only if the declaration so provides or if the real
3 estate comprising the units that may be used for residential purposes
4 would be a planned community in the absence of the units that may
5 not be used for residential purposes.

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

11 (d) A common-interest community that was created before
12 January 1, 1992, is located in a county whose population is less than
13 50,000, and has less than 50 percent of the units within the
14 community put to residential use, unless a majority of the units'
15 owners otherwise elect in writing.

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

18 3. The provisions of this chapter do not:

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

22 (b) Require a common-interest community created before
23 January 1, 1992, to comply with the provisions of NRS 116.2101 to
24 116.2122, inclusive;

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

28 (d) Prohibit a common-interest community created before
29 January 1, 1992, or a common-interest community described in NRS
30 116.31105 from providing for a representative form of government.

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

33 5. The Commission shall establish, by regulation ~~[the]~~ :

34 (a) *The* criteria for determining whether an association , *a*
35 *limited-purpose association* or a common-interest community
36 satisfies the requirements for an exemption *or limited exemption*
37 from any provision of this chapter ~~[]~~ ; *and*

38 (b) *The extent to which a limited-purpose association must*
39 *comply with the provisions of NRS 116.4101 to 116.412, inclusive.*

40 6. *As used in this section, "limited-purpose association"*
41 *means an association that:*

42 (a) *Is created for the limited purpose of maintaining:*

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

45 (2) *Facilities for flood control; or*



1 (3) *A rural agricultural residential common-interest*
2 *community; and*

3 **(b) *Has not established and does not enforce any restrictions***
4 ***concerning the use of units by units' owners.***

5 **Sec. 12.** NRS 116.3101 is hereby amended to read as follows:

6 116.3101 1. A unit-owners' association must be organized no
7 later than the date the first unit in the common-interest community is
8 conveyed.

9 2. The membership of the association at all times consists
10 exclusively of all units' owners or, following termination of the
11 common-interest community, of all owners of former units entitled
12 to distributions of proceeds under NRS 116.2118, 116.21183 and
13 116.21185, or their heirs, successors or assigns.

14 3. The association must:

15 (a) Be organized as a profit or nonprofit corporation, *limited-*
16 *liability company*, trust or partnership;

17 (b) Include in its articles of incorporation, *articles of*
18 *organization*, certificate of registration or certificates of limited
19 partnership, or any certificate of amendment thereof, that the
20 purpose of the corporation , *limited-liability company, trust or*
21 *partnership* is to operate as an association pursuant to this chapter;

22 (c) Contain in its name the words "homeowners' association" or
23 "unit-owners' association"; and

24 (d) Comply with the provisions of chapters 78, 82, *86*, 87 and 88
25 of NRS when filing articles of incorporation, *articles of*
26 *organization*, certificates of registration or certificates of limited
27 partnership, or any certificate of amendment thereof, with the
28 Secretary of State.

29 **Sec. 13.** NRS 116.3103 is hereby amended to read as follows:

30 116.3103 1. Except as otherwise provided in the declaration,
31 the bylaws, this section or other provisions of this chapter, the
32 executive board may act in all instances on behalf of the association.
33 In the performance of their duties, the officers and members of the
34 executive board are fiduciaries. The members of the executive board
35 are required to exercise the ordinary and reasonable care of directors
36 of a corporation, subject to the business-judgment rule.

37 2. The executive board may not act on behalf of the association
38 to amend the declaration, to terminate the common-interest
39 community, or to elect members of the executive board or determine
40 their qualifications, powers and duties or terms of office, but the
41 executive board may fill vacancies in its membership for the
42 unexpired portion of any term.

43 ~~[3.—Within 30 days after adoption of any proposed budget for~~
44 ~~the common-interest community, the executive board shall provide a~~
45 ~~summary of the budget to all the units' owners, and shall set a date~~



~~for a meeting of the units' owners to consider ratification of the budget not less than 14 nor more than 30 days after mailing of the summary. Unless at that meeting a majority of all units' owners or any larger vote specified in the declaration reject the budget, the budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the units' owners must be continued until such time as the units' owners ratify a subsequent budget proposed by the executive board.]~~

Sec. 14. NRS 116.31034 is hereby amended to read as follows:

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

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

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

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

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

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

5. Each person whose name is placed on the ballot as a candidate for a member of the executive board must **[make]**:

(a) **Make** a good faith effort to disclose any financial, business, professional or personal relationship or interest that would result or would appear to a reasonable person to result in a potential conflict



1 of interest for the candidate if the candidate were to be elected to
2 serve as a member of the executive board ~~[]~~; and

3 *(b) Disclose whether the candidate is a member in good*
4 *standing. For the purposes of this paragraph, a candidate shall be*
5 *deemed to be in "good standing" if the candidate does not have*
6 *any outstanding violations of the governing documents and is*
7 *current in paying all assessments that are required to be paid to*
8 *the association.*

9 ➔ The candidate must make ~~[the disclosure]~~ all disclosures
10 *required pursuant to this subsection*, in writing, to each member of
11 the association in the manner established in the bylaws of the
12 association.

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

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

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

22 (1) That master association; or

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

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

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

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

39 8. The election of any member of the executive board must be
40 conducted by secret written ballot unless the declaration of the
41 association provides that voting rights may be exercised by
42 delegates or representatives as set forth in NRS 116.31105. If the
43 election of any member of the executive board is conducted by
44 secret written ballot:



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

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

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

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

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

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

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

Sec. 15. NRS 116.31036 is hereby amended to read as follows:

116.31036 1. Notwithstanding any provision of the declaration or bylaws to the contrary, the units' owners, by a two-thirds vote of ~~all persons entitled to vote at any meeting of the units' owners at which a quorum is present,~~ *not less than 20 percent of the total number of voting members of the association,* may remove any member of the executive board with or without cause, other than a member appointed by the declarant.

2. The removal of any member of the executive board must be conducted by secret written ballot unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS 116.31105. If the



1 removal of a member of the executive board is conducted by secret
2 written ballot:

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

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

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

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

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

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

35 4. The provisions of this section do not prohibit the
36 Commission from taking any disciplinary action against a member
37 of an executive board pursuant to NRS 116.745 to 116.795,
38 inclusive.

39 **Sec. 16.** NRS 116.31038 is hereby amended to read as
40 follows:

41 116.31038 Within 30 days after units' owners other than the
42 declarant may elect a majority of the members of the executive
43 board, the declarant shall deliver to the association all property of
44 the units' owners and of the association held by or controlled by
45 him, including:



1 1. The original or a certified copy of the recorded declaration
2 as amended, the association's articles of incorporation if the
3 association is incorporated, bylaws, minute books and other books
4 and records of the association and any rules or regulations which
5 may have been adopted.

6 2. An accounting for money of the association and *audited*
7 financial statements *for each fiscal year and any ancillary period*
8 from the date *of inception of* the association ~~[received money]~~ to the
9 date the period of the declarant's control ends. The financial
10 statements must fairly and accurately report the association's
11 financial ~~[condition prepared in accordance with generally accepted~~
12 ~~accounting principles.] position.~~

13 3. A complete study of the reserves of the association,
14 conducted by a person ~~[qualified by training and experience]~~ *who*
15 *holds a permit* to conduct such a study ~~[.]~~ *issued pursuant to*
16 *sections 35 to 69, inclusive, of this act.* At the time the control of
17 the declarant ends, he shall:

18 (a) Except as otherwise provided in this paragraph, deliver to
19 the association a reserve *replacement* account that contains the
20 declarant's share of the amounts then due, and control of the
21 account. If the declaration was recorded before October 1, 1999,
22 and, at the time the control of the declarant ends, he has failed to
23 pay his share of the amounts due, the executive board shall
24 authorize the declarant to pay the deficiency in installments for a
25 period of 3 years, unless the declarant and the executive board agree
26 to a shorter period.

27 (b) Disclose, in writing, the amount by which he has subsidized
28 the association's dues on a per unit or per lot basis.

29 4. The association's money or control thereof.

30 5. All of the declarant's tangible personal property that has
31 been represented by the declarant as property of the association or,
32 unless the declarant has disclosed in the public offering statement
33 that all such personal property used in the common-interest
34 community will remain the declarant's property, all of the
35 declarant's tangible personal property that is necessary for, and has
36 been used exclusively in, the operation and enjoyment of the
37 common elements, and inventories of these properties.

38 6. A copy of any plans and specifications used in the
39 construction of the improvements in the common-interest
40 community which were completed within 2 years before the
41 declaration was recorded.

42 7. All insurance policies then in force, in which the units'
43 owners, the association, or its directors and officers are named as
44 insured persons.



8. Copies of any certificates of occupancy that may have been issued with respect to any improvements comprising the common-interest community other than units in a planned community.

9. Any renewable permits and approvals issued by governmental bodies applicable to the common-interest community which are in force and any other permits and approvals so issued and applicable which are required by law to be kept on the premises of the community.

10. Written warranties of the contractor, subcontractors, suppliers and manufacturers that are still effective.

11. A roster of owners and mortgagees of units and their addresses and telephone numbers, if known, as shown on the declarant's records.

12. Contracts of employment in which the association is a contracting party.

13. Any contract for service in which the association is a contracting party or in which the association or the units' owners have any obligation to pay a fee to the persons performing the services.

Sec. 17. NRS 116.3108 is hereby amended to read as follows:

116.3108 1. A meeting of the units' owners ~~[of an association]~~ must be held at least once each year. If the governing documents of a common-interest community do not designate an annual meeting date of the units' owners, a meeting of the units' owners must be held 1 year after the date of the last meeting of the units' owners. If the units' owners have not held a meeting for 1 year, a meeting of the units' owners must be held on the following March 1. Special meetings of the units' owners ~~[of an association]~~ may be called by the president, a majority of the executive board or by units' owners having 10 percent, or any lower percentage specified in the bylaws, of the votes in the association. *If a special meeting is called, the special meeting must be held not less than 10 days or more than 60 days after the date on which the special meeting was called.*

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



1 include a copy of the agenda for the meeting. The notice must
2 include notification of the right of a unit's owner to:

3 (a) Have a copy of the minutes or a summary of the minutes of
4 the meeting provided to the unit's owner upon request and, if
5 required by the executive board, upon payment to the association of
6 the cost of providing the copy to the unit's owner.

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

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

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

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

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

26 4. If the association adopts a policy imposing fines for any
27 violations of the governing documents of the association, the
28 secretary or other officer specified in the bylaws shall prepare and
29 cause to be hand-delivered or sent prepaid by United States mail to
30 the mailing address of each unit or to any other mailing address
31 designated in writing by the unit's owner, a schedule of the fines
32 that may be imposed for those violations.

33 5. The secretary or other officer specified in the bylaws shall
34 cause minutes to be recorded or otherwise taken at each meeting of
35 the units' owners. Not more than 30 days after each such meeting,
36 the secretary or other officer specified in the bylaws shall cause the
37 minutes or a summary of the minutes of the meeting to be made
38 available to the units' owners. A copy of the minutes or a summary
39 of the minutes must be provided to any unit's owner upon request
40 and, if required by the executive board, upon payment to the
41 association of the cost of providing the copy to the unit's owner.

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

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



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

(c) The substance of remarks made by any unit's owner at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.

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

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

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

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

(a) Could not have been reasonably foreseen;

(b) Affects the health, welfare and safety of the units' owners ;
~~[of the association;]~~

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

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

Sec. 18. NRS 116.31083 is hereby amended to read as follows:

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

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

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

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

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



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

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

(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

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

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

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

(a) A current ~~reconciliation of the operating account~~ *year-to-date financial statement* of the association;

(b) *A current year-to-date schedule of revenues and expenses for the operating account and the reserve replacement account, compared to the budget for those accounts;*

(c) *A current reconciliation of the operating account of the association;*

(d) A current reconciliation of the reserve *replacement* account of the association;

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

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



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

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

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

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

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

(b) Those members of the executive board who were present and those members who were absent at the meeting;

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

(d) A record of each member's vote on any matter decided by vote at the meeting; and

(e) The substance of remarks made by any unit's owner who addresses the executive board at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.

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

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

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

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

(a) Could not have been reasonably foreseen;

(b) Affects the health, welfare and safety of the units' owners ;
~~[of the association;]~~



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

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

Sec. 19. NRS 116.31085 is hereby amended to read as follows:

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

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

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

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

(b) Discuss the character, alleged misconduct, professional competence, or physical or mental health of a community manager or an employee of the association.

(c) Except as otherwise provided in subsection 4, discuss a violation of the governing documents, including, without limitation, the failure to pay an assessment.

(d) Discuss the alleged failure of a unit's owner to adhere to a schedule required pursuant to NRS 116.310305 if the alleged failure may subject the units' owner to a construction penalty.

4. An executive board shall meet in executive session to hold a hearing on an alleged violation of the governing documents unless the person who may be sanctioned for the alleged violation requests in writing that ~~the~~ *an open* hearing be conducted by the executive board. ~~[at an open meeting. The]~~ *If the* person who may be sanctioned for the alleged violation *requests in writing that an open hearing be conducted, the person* is entitled to attend ~~the hearing and testify concerning the alleged violation, but the person may be excluded by the executive board from any other portion~~ *all portions* of the hearing ~~[.]~~ *related to the alleged violation,* including, without limitation, *the presentation of evidence, the testimony of witnesses and* the deliberations of the executive board.

5. Except as otherwise provided in this subsection, any matter discussed by the executive board when it meets in executive session



1 must be generally noted in the minutes of the meeting of the
2 executive board. The executive board shall maintain minutes of any
3 decision made pursuant to subsection 4 concerning an alleged
4 violation and, upon request, provide a copy of the decision to the
5 person who was subject to being sanctioned at the hearing or to his
6 designated representative.

7 6. Except as otherwise provided in subsection 4, a unit's owner
8 is not entitled to attend or speak at a meeting of the executive board
9 held in executive session.

10 **Sec. 20.** NRS 116.31151 is hereby amended to read as
11 follows:

12 116.31151 1. Except as otherwise provided in subsection 2
13 and unless the declaration of a common-interest community imposes
14 more stringent standards, the executive board ~~[of an association]~~
15 shall, not less than 30 days or more than 60 days before the
16 beginning of the fiscal year of the association, prepare and distribute
17 to each unit's owner a copy of:

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

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

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

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

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

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

43 2. In lieu of distributing copies of the budgets of the
44 association required by subsection 1, the executive board may



1 distribute to each unit's owner a summary of those budgets,
2 accompanied by a written notice that:

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

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

8 **3. *Within 30 days after adoption of any proposed budget for***
9 ***the common-interest community, the executive board shall provide***
10 ***a summary of the proposed budget to each unit owner and shall***
11 ***set a date for a meeting of the units' owners to consider***
12 ***ratification of the proposed budget not less than 14 days or more***
13 ***than 30 days after the mailing of the summaries. Unless at that***
14 ***meeting a majority of all units' owners, or any larger vote***
15 ***specified in the declaration, reject the proposed budget, the***
16 ***proposed budget is ratified, whether or not a quorum is present. If***
17 ***the proposed budget is rejected, the periodic budget last ratified by***
18 ***the units' owners must be continued until such time as the units'***
19 ***owners ratify a subsequent budget proposed by the executive***
20 ***board.***

21 **Sec. 21.** NRS 116.31152 is hereby amended to read as
22 follows:

23 116.31152 1. The executive board ~~[of an association]~~ shall:

24 (a) Cause to be conducted, at least once every ~~[S]~~ 3 years, a
25 study of the reserves required to repair, replace and restore the
26 major components of the common elements;

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

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

31 2. The study of the reserves required by subsection 1 must be
32 conducted by a person who ~~[is qualified by training and experience~~
33 ~~to conduct such a study, including, without limitation, a member of~~
34 ~~the executive board, a unit's owner or a community manager who is~~
35 ~~so qualified.] holds a permit issued pursuant to sections 35 to 69,~~
36 ***inclusive, of this act.***

37 **3.** The study of the reserves must include, without limitation:

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

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



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

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

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

~~[3-]~~ 4. The results of the study of the reserves required by subsection 1 must be submitted to the Commission not later than 45 days after the date that the executive board ~~[of the association]~~ adopts the results of the study.

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

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

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

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

Sec. 22. NRS 116.31155 is hereby amended to read as follows:

116.31155 1. An association shall:

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

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

2. *A master association shall pay the fee required pursuant to this section for each subassociation that the master association has established.*

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



(a) Paid at such times as are established by the Division.

(b) Deposited with the State Treasurer for credit to the Account for Common-Interest Communities created by NRS 116.630.

(c) Established on the basis of the actual costs of administering the Office of the Ombudsman and the Commission and not on a basis which includes any subsidy beyond those actual costs. In no event may the fees required to be paid pursuant to this section exceed \$3 per unit.

~~[3.] 4. The Administrator may by regulation establish an administrative penalty to be imposed against an association that violates the provisions of this section by failing to pay the fees owed by the association within the times established by the Division. [The administrative penalty that is imposed for each violation may not exceed 10 percent of the amount of the fees owed by the association or \$500, whichever amount is less.~~

~~—4.] 5. A unit's owner may not be required to pay any portion of the fees or any administrative penalties required to be paid pursuant to this section to a master association and to an association organized pursuant to NRS 116.3101.~~

~~[5.] 6. Upon the payment of the fees and any administrative penalties required by this section, the Administrator shall provide to the association evidence that it paid the fees and the administrative penalties in compliance with this section.~~

Sec. 23. NRS 116.31162 is hereby amended to read as follows:

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

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

(b) Not less than 30 days after mailing the notice of delinquent assessment pursuant to paragraph (a), the association or other person conducting the sale has executed and caused to be recorded, with the county recorder of the county in which the common-interest community or any part of it is situated, a notice of default and



1 election to sell the unit to satisfy the lien, which contains the same
2 information as the notice of delinquent assessment, but must also
3 describe the deficiency in payment and the name and address of the
4 person authorized by the association to enforce the lien by sale; and

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

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

13 3. The period of 90 days begins on the first day following the
14 later of:

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

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

20 4. The association may not foreclose a lien by sale based on a
21 fine or penalty for a violation of the governing documents of the
22 association unless:

23 (a) The violation ~~[threatens]~~ *poses an imminent threat of*
24 *causing a substantial adverse effect on* the health, safety or welfare
25 of the residents of the common-interest community; or

26 (b) The penalty is imposed for failure to adhere to a schedule
27 required pursuant to NRS 116.310305.

28 **Sec. 24.** NRS 116.4103 is hereby amended to read as follows:

29 116.4103 1. Except as otherwise provided in NRS
30 116.41035, a public offering statement must set forth or fully and
31 accurately disclose each of the following:

32 (a) The name and principal address of the declarant and of the
33 common-interest community, and a statement that the
34 common-interest community is either a condominium, cooperative
35 or planned community.

36 (b) A general description of the common-interest community,
37 including to the extent possible, the types, number and declarant's
38 schedule of commencement and completion of construction of
39 buildings, and amenities that the declarant anticipates including in
40 the common-interest community.

41 (c) The estimated number of units in the common-interest
42 community.

43 (d) Copies of the declaration, bylaws, and any rules or
44 regulations of the association, but a plat or plan is not required.



(e) A current *year-to-date* financial statement , *including the most recent audited financial statement*, and *the* projected budget for the association, either within or as an exhibit to the public offering statement, for 1 year after the date of the first conveyance to a purchaser, and thereafter the current budget of the association. The budget must include, without limitation:

(1) A statement of the amount included in the budget as a reserve for repairs, replacement and restoration ~~§~~ *pursuant to NRS 116.3115*; and

(2) The projected monthly assessment for common expenses for each type of unit, including the amount established as a reserve pursuant to NRS 116.3115.

(f) A description of any services or subsidies being provided by the declarant or an affiliate of the declarant, not reflected in the budget.

(g) Any initial or special fee due from the purchaser at closing, together with a description of the purpose and method of calculating the fee.

(h) The terms and significant limitations of any warranties provided by the declarant, including statutory warranties and limitations on the enforcement thereof or on damages.

(i) A statement that unless the purchaser or his agent has personally inspected the unit, the purchaser may cancel, by written notice, his contract for purchase until midnight of the fifth calendar day following the date of execution of the contract, and the contract must contain a provision to that effect.

(j) A statement of any unsatisfied judgments or pending suits against the association, and the status of any pending suits material to the common-interest community of which a declarant has actual knowledge.

(k) Any current or expected fees or charges to be paid by *the* units' owners for the use of the common elements and other facilities related to the common-interest community.

(l) The information statement set forth in NRS 116.41095.

2. A declarant is not required to revise a public offering statement more than once each calendar quarter, if the following warning is given prominence in the statement: "THIS PUBLIC OFFERING STATEMENT IS CURRENT AS OF (insert a specified date). RECENT DEVELOPMENTS REGARDING (here refer to particular provisions of NRS 116.4103 and 116.4105) MAY NOT BE REFLECTED IN THIS STATEMENT."

Sec. 25. NRS 116.4106 is hereby amended to read as follows:

116.4106 1. The public offering statement of a common-interest community containing any converted building



1 must contain, in addition to the information required by NRS
2 116.4103 and 116.41035:

3 (a) A statement by the declarant, based on a report prepared by
4 ~~{an independent registered architect or licensed professional~~
5 ~~engineer,}~~ *a certified inspector of structures*, describing the present
6 condition of all structural components and mechanical and electrical
7 installations material to the use and enjoyment of the building;

8 (b) A statement by the declarant of the expected useful life of
9 each item reported in paragraph (a) or a statement that no
10 representations are made in that regard; and

11 (c) A list of any outstanding notices of uncured violations of
12 building codes or other municipal regulations, together with the
13 estimated cost of curing those violations.

14 2. This section applies only to a common-interest community
15 comprised of a converted building or buildings containing more than
16 12 units that may be occupied for residential use.

17 *3. As used in this section, "certified inspector of structures"*
18 *means a person to whom a certificate has been issued pursuant to*
19 *chapter 645D of NRS.*

20 **Sec. 26.** NRS 116.4109 is hereby amended to read as follows:

21 116.4109 1. Except in the case of a sale in which delivery of
22 a public offering statement is required, or unless exempt under
23 subsection 2 of NRS 116.4101, a unit's owner shall furnish to a
24 purchaser before an offer to purchase a unit becomes binding on the
25 purchaser:

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

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

32 (c) The current operating budget of the association and ~~{a}~~
33 *current year-to-date* financial statement for the association, which
34 must ~~{include a summary of}~~ *disclose* the financial components of
35 the study of the reserves of the association required by NRS
36 116.31152 ~~{;}~~ *and which must include, without limitation, the*
37 *information described in paragraphs (a) to (e), inclusive, of*
38 *subsection 3 of NRS 116.31152; and*

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

43 2. The association, within 10 days after a request by a unit's
44 owner, shall furnish a certificate containing the information
45 necessary to enable the unit's owner to comply with subsection 1. A



unit's owner providing a certificate pursuant to *this* subsection ~~H~~ is not liable to the purchaser for any erroneous information provided by the association and included in the certificate.

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

4. Upon the request of a unit's owner, a purchaser to whom the unit's owner has provided a certificate pursuant to subsection ~~H~~ 2 or an authorized agent of the unit's owner or the purchaser, the association shall make the entire study of the reserves of the association which is required by NRS 116.31152 reasonably available for the unit's owner, purchaser or authorized agent to inspect, examine, photocopy and audit. The study must be made available at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties.

Sec. 27. NRS 116.41095 is hereby amended to read as follows:

116.41095 *1. If an information statement is required by NRS 116.4103 or 116.4109, the requirement may not be waived by any person under any circumstances.*

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

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

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

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



1 You should review the C, C & R's and other governing documents
2 before purchasing to make sure that these limitations and controls
3 are acceptable to you.

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

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

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

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

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

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



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

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

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

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



1 amount of the monthly assessment for common expenses, including
2 the amount set aside as reserves for the repair, replacement and
3 restoration of common elements. You are also required to inform
4 prospective purchasers of any outstanding judgments or lawsuits
5 pending against the association of which you are aware. You are
6 also required to provide a copy of the minutes from the most recent
7 meeting of the homeowner's association or its executive board. For
8 more information regarding these requirements, see Nevada Revised
9 Statutes 116.4103 and 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. 28.** NRS 116.600 is hereby amended to read as follows:

39 116.600 1. The Commission for Common-Interest
40 Communities is hereby created.

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

43 (a) One member who is a unit's owner residing in this State and
44 who has served as a member of an executive board in this State;



1 (b) One member who is in the business of developing common-
2 interest communities in this State;

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

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

7 (e) One member who is an attorney licensed to practice in this
8 State.

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

12 4. Each member of the Commission must have resided in a
13 common-interest community or have been actively engaged in a
14 business or profession related to common-interest communities for
15 not less than 3 years immediately preceding the date of his
16 appointment.

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

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

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

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

28 **Sec. 29.** NRS 116.615 is hereby amended to read as follows:

29 116.615 1. The provisions of this chapter ~~shall~~ *must* be
30 administered by the Division, subject to the administrative
31 supervision of the ~~Commission.~~ *Director of the Department of*
32 *Business and Industry.*

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

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

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



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

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

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

Sec. 30. NRS 116.750 is hereby amended to read as follows:

116.750 1. In carrying out the provisions of NRS 116.745 to 116.795, inclusive, the Division and the Ombudsman have jurisdiction to investigate and the Commission and each hearing panel has jurisdiction to take appropriate action against any person who commits a violation, including, without limitation:

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

(b) Any member of an executive board.

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

(d) *Any person who holds a permit to conduct a study of the reserves of an association issued pursuant to sections 35 to 69, inclusive, of this act.*

(e) Any declarant or affiliate of a declarant.

~~(e)~~ (f) Any unit's owner.

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

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

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

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

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

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

Sec. 31. NRS 116.790 is hereby amended to read as follows:

116.790 If the Commission or a hearing panel, after notice and hearing, finds that the executive board ~~of an association~~ or any



1 person acting on behalf of the association has committed a violation,
2 the Commission or the hearing panel may take any or all of the
3 following actions:

- 4 1. Order an audit of the association.
- 5 2. Require the executive board to hire a community manager
6 who holds a ~~permit or~~ certificate.

7 **Sec. 32.** NRS 86.171 is hereby amended to read as follows:

8 86.171 1. The name of a limited-liability company formed
9 under the provisions of this chapter must contain the words
10 "Limited-Liability Company," "Limited Liability Company,"
11 "Limited Company," or "Limited" or the abbreviations "Ltd.,"
12 "L.L.C.," "L.C.," "LLC" or "LC." The word "Company" may be
13 abbreviated as "Co."

14 2. The name proposed for a limited-liability company must be
15 distinguishable on the records of the Secretary of State from the
16 names of all other artificial persons formed, organized, registered or
17 qualified pursuant to the provisions of this title that are on file in the
18 Office of the Secretary of State and all names that are reserved in
19 the Office of the Secretary of State pursuant to the provisions of this
20 title. If a proposed name is not so distinguishable, the Secretary of
21 State shall return the articles of organization to the organizer, unless
22 the written, acknowledged consent of the holder of the name on file
23 or reserved name to use the same name or the requested similar
24 name accompanies the articles of organization.

25 3. For the purposes of this section and NRS 86.176, a proposed
26 name is not distinguishable from a name on file or reserved name
27 solely because one or the other contains distinctive lettering, a
28 distinctive mark, a trademark or a trade name, or any combination
29 thereof.

30 4. The name of a limited-liability company whose charter has
31 been revoked, which has merged and is not the surviving entity or
32 whose existence has otherwise terminated is available for use by any
33 other artificial person.

34 5. The Secretary of State shall not accept for filing any articles
35 of organization for any limited-liability company if the name of the
36 limited-liability company contains the word "accountant,"
37 "accounting," "accountancy," "auditor" or "auditing" unless the
38 Nevada State Board of Accountancy certifies that the limited-
39 liability company:

40 (a) Is registered pursuant to the provisions of chapter 628 of
41 NRS; or

42 (b) Has filed with the Nevada State Board of Accountancy under
43 penalty of perjury a written statement that the limited-liability
44 company is not engaged in the practice of accounting and is not
45 offering to practice accounting in this State.



6. The Secretary of State shall not accept for filing any articles of organization or certificate of amendment of articles of organization of any limited-liability company formed or existing pursuant to the laws of this State which provides that the name of the limited-liability company contains the word "bank" or "trust" unless:

(a) It appears from the articles of organization or the certificate of amendment that the limited-liability company proposes to carry on business as a banking or trust company, exclusively or in connection with its business as a bank, savings and loan association or thrift company; and

(b) The articles of organization or certificate of amendment is first approved by the Commissioner of Financial Institutions.

7. The Secretary of State shall not accept for filing any articles of organization or certificate of amendment of articles of organization of any limited-liability company formed or existing pursuant to the provisions of this chapter if it appears from the articles or the certificate of amendment that the business to be carried on by the limited-liability company is subject to supervision by the Commissioner of Insurance or by the Commissioner of Financial Institutions unless the articles or certificate of amendment is approved by the Commissioner who will supervise the business of the foreign limited-liability company.

8. Except as otherwise provided in subsection 7, the Secretary of State shall not accept for filing any articles of organization or certificate of amendment of articles of organization of any limited-liability company formed or existing pursuant to the laws of this State which provides that the name of the limited-liability company contains the words "engineer," "engineered," "engineering," "professional engineer," "registered engineer" or "licensed engineer" unless:

(a) The State Board of Professional Engineers and Land Surveyors certifies that the principals of the limited-liability company are licensed to practice engineering pursuant to the laws of this State; or

(b) The State Board of Professional Engineers and Land Surveyors certifies that the limited-liability company is exempt from the prohibitions of NRS 625.520.

9. The Secretary of State shall not accept for filing any articles of organization or certificate of amendment of articles of organization of any limited-liability company formed or existing pursuant to the laws of this State which provides that the name of the limited-liability company contains the words "unit-owners' association" or "homeowners' association" or if it appears in the articles of organization or certificate of amendment of articles of



1 *organization that the purpose of the limited-liability company is to*
2 *operate as a unit-owners' association pursuant to chapter 116 of*
3 *NRS unless the Administrator of the Real Estate Division of the*
4 *Department of Business and Industry certifies that the limited-*
5 *liability company has:*

6 *(a) Registered with the Ombudsman for Owners in Common-*
7 *Interest Communities pursuant to NRS 116.31158; and*

8 *(b) Paid to the Administrator of the Real Estate Division the*
9 *fees required pursuant to NRS 116.31155.*

10 **10.** The Secretary of State may adopt regulations that interpret
11 the requirements of this section.

12 **Sec. 33.** NRS 86.272 is hereby amended to read as follows:

13 86.272 1. Each limited-liability company which is required to
14 make a filing and pay the fee prescribed in NRS 86.263 and 86.264
15 and which refuses or neglects to do so within the time provided is in
16 default.

17 2. *Upon notification from the Administrator of the Real*
18 *Estate Division of the Department of Business and Industry that a*
19 *limited-liability company which is a unit-owners' association as*
20 *defined in NRS 116.011 has failed to register pursuant to NRS*
21 *116.31158 or failed to pay the fees pursuant to NRS 116.31155,*
22 *the Secretary of State shall deem the limited-liability company to*
23 *be in default. If, after the limited-liability company is deemed to be*
24 *in default, the Administrator notifies the Secretary of State that*
25 *the limited-liability company has registered pursuant to NRS*
26 *116.31158 and paid the fees pursuant to NRS 116.31155, the*
27 *Secretary of State shall reinstate the limited-liability company if*
28 *the limited-liability company complies with the requirements for*
29 *reinstatement as provided in this section and NRS 86.276.*

30 **3.** For default there must be added to the amount of the fee a
31 penalty of \$75. The fee and penalty must be collected as provided in
32 this chapter.

33 **Sec. 34.** Title 54 of NRS is hereby amended by adding thereto
34 a new chapter to consist of the provisions set forth as sections 35 to
35 69, inclusive, of this act.

36 **Sec. 35.** *As used in this chapter, unless the context otherwise*
37 *requires, the words and terms defined in sections 36 to 47,*
38 *inclusive, of this act have the meanings ascribed to them in those*
39 *sections.*

40 **Sec. 36.** *"Administrator" means the Administrator of the*
41 *Real Estate Division of the Department of Business and Industry.*

42 **Sec. 37.** *"Association" has the meaning ascribed to it in*
43 *NRS 116.011.*



1 **Sec. 38.** *“Certificate” means a certificate for the*
2 *management of a common-interest community issued by the*
3 *Division pursuant to this chapter.*

4 **Sec. 39.** *“Commission” means the Commission for Common-*
5 *Interest Communities created by NRS 116.600.*

6 **Sec. 40.** *“Common-interest community” has the meaning*
7 *ascribed to it in NRS 116.021.*

8 **Sec. 41.** *“Community manager” means a person who*
9 *provides for or otherwise engages in the management of a*
10 *common-interest community.*

11 **Sec. 42.** *“Division” means the Real Estate Division of the*
12 *Department of Business and Industry.*

13 **Sec. 43.** *“Executive board” has the meaning ascribed to it in*
14 *NRS 116.045.*

15 **Sec. 44.** *“Hearing panel” means a hearing panel appointed*
16 *by the Commission pursuant to section 66 of this act.*

17 **Sec. 45.** *“Management of a common-interest community”*
18 *means the physical, administrative or financial maintenance and*
19 *management of a common-interest community, or the supervision*
20 *of those activities, for a fee, commission or other valuable*
21 *consideration.*

22 **Sec. 46.** *“Permit” means a permit to conduct a study of the*
23 *reserves of an association pursuant to NRS 116.31152 issued by*
24 *the Division pursuant to this chapter.*

25 **Sec. 47.** *“Reserve study specialist” means a person who*
26 *conducts a study of the reserves of an association pursuant to*
27 *NRS 116.31152.*

28 **Sec. 48.** *1. The provisions of this chapter must be*
29 *administered by the Division, subject to the administrative*
30 *supervision of the Director of the Department of Business and*
31 *Industry.*

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

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

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

44 *5. When regulations are proposed by the Administrator, in*
45 *addition to other notices required by law, the Administrator shall*



1 *provide copies of the proposed regulations to the Commission not*
2 *later than 30 days before the next meeting of the Commission. The*
3 *Commission shall approve, amend or disapprove any proposed*
4 *regulations at that meeting.*

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

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

11 **Sec. 49.** *1. Except as otherwise provided in this section and*
12 *within the limits of legislative appropriations, the Division may*
13 *employ experts, attorneys, investigators, consultants and other*
14 *personnel as are necessary to carry out the provisions of this*
15 *chapter.*

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

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

24 **Sec. 50.** *The Division shall maintain in each district office a*
25 *public docket or other record in which it shall record, from time to*
26 *time as made:*

27 *1. The rulings or decisions upon all complaints filed with that*
28 *district office.*

29 *2. All investigations instituted by that district office in the*
30 *first instance, upon or in connection with which any hearing has*
31 *been held, or in which the licensee charged has made no defense.*

32 *3. Denials of applications made to that district office for*
33 *examination or licensing.*

34 **Sec. 51.** *1. Except as otherwise provided in this section, a*
35 *complaint filed with the Commission alleging a violation of this*
36 *chapter, all documents and other information filed with the*
37 *complaint and all documents and other information compiled as a*
38 *result of an investigation conducted to determine whether to*
39 *initiate disciplinary action are confidential.*

40 *2. The complaint or other document filed by the Commission*
41 *to initiate disciplinary action and all documents and information*
42 *considered by the Commission when determining whether to*
43 *impose discipline are public records.*

44 **Sec. 52.** *The Commission and its members, each hearing*
45 *panel and its members, the Administrator, the Division, and the*



1 *experts, attorneys, investigators, consultants and other personnel*
2 *of the Commission and the Division are immune from any civil*
3 *liability for any decision or action taken in good faith and without*
4 *malicious intent in carrying out the provisions of this chapter.*

5 **Sec. 53.** *Any notice or other information that is required to*
6 *be served upon the Commission pursuant to the provisions of this*
7 *chapter may be delivered to the principal office of the Division.*

8 **Sec. 54.** 1. *The Administrator may adopt regulations which*
9 *establish procedures for the Division to conduct business*
10 *electronically pursuant to title 59 of NRS with persons who are*
11 *regulated pursuant to this chapter and with any other persons with*
12 *whom the Division conducts business. The regulations may*
13 *include, without limitation, the establishment of fees to pay the*
14 *costs of conducting business electronically with the Division.*

15 2. *In addition to the process authorized by NRS 719.280, if*
16 *the Division is conducting business electronically with a person*
17 *and a law requires a signature or record to be notarized,*
18 *acknowledged, verified or made under oath, the Division may*
19 *allow the person to substitute a declaration that complies with the*
20 *provisions of NRS 53.045 to satisfy the legal requirement.*

21 3. *The Division may refuse to conduct business electronically*
22 *with a person who has failed to pay money which the person owes*
23 *to the Division or the Commission.*

24 **Sec. 55.** 1. *Except as otherwise provided in subsection 2, all*
25 *money received by the Commission, a hearing panel or the*
26 *Division pursuant to this chapter must be deposited into the*
27 *Account for Common-Interest Communities created pursuant to*
28 *NRS 116.630.*

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

37 3. *Money for the support of the Commission and Division in*
38 *carrying out the provisions of this chapter must be provided by*
39 *direct legislative appropriation and be paid out on claims as other*
40 *claims against the State are paid.*

41 **Sec. 56.** 1. *Except as otherwise provided in this section, a*
42 *person shall not act as a community manager unless the person*
43 *holds a certificate.*



1 2. The Commission shall by regulation provide for the
2 standards of practice for community managers who hold
3 certificates.

4 3. The Division may investigate any community manager who
5 holds a certificate to ensure that the community manager is
6 complying with the standards of practice adopted by the
7 Commission.

8 4. In addition to any other remedy or penalty, if the
9 Commission or a hearing panel, after notice and hearing, finds
10 that a community manager who holds a certificate has violated
11 any provision of this chapter or chapter 116 of NRS or any of the
12 standards of practice adopted by the Commission, the Commission
13 or the hearing panel may take appropriate disciplinary action
14 against the community manager.

15 5. In addition to any other remedy or penalty, the
16 Commission may:

17 (a) Refuse to issue a certificate to a person who has failed to
18 pay money which the person owes to the Commission or the
19 Division.

20 (b) Suspend, revoke or refuse to renew the certificate of a
21 person who has failed to pay money which the person owes to the
22 Commission or the Division.

23 6. The provisions of this section do not apply to:

24 (a) A financial institution that is engaging in an activity
25 permitted by law.

26 (b) An attorney who is licensed to practice in this State and
27 who is acting in that capacity.

28 (c) A trustee with respect to the property of the trust.

29 (d) A declarant, an affiliate of the declarant and any officers
30 or employees of the declarant or an affiliate of the declarant when
31 engaging in the management of a common-interest community
32 during the period in which the declarant controls that common-
33 interest community.

34 (e) A receiver with respect to property subject to the
35 receivership.

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

39 7. As used in this section:

40 (a) "Affiliate of a declarant" has the meaning ascribed to it in
41 NRS 116.007.

42 (b) "Declarant" has the meaning ascribed to it in
43 NRS 116.035.



1 **Sec. 57. 1. The Commission shall by regulation provide for**
2 *the issuance by the Division of certificates to community*
3 *managers. The regulations:*

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

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

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

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

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

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

26 **Sec. 58. 1. Except as otherwise provided in this section, a**
27 *person shall not act as a reserve study specialist unless the person*
28 *holds a permit.*

29 **2. The Commission shall by regulation provide for the**
30 *standards of practice for reserve study specialists who hold*
31 *permits.*

32 **3. The Division may investigate any reserve study specialist**
33 *who holds a permit to ensure that the reserve study specialist is*
34 *complying with the standards of practice adopted by the*
35 *Commission.*

36 **4. In addition to any other remedy or penalty, if the**
37 *Commission or a hearing panel, after notice and hearing, finds*
38 *that a reserve study specialist who holds a permit has violated any*
39 *provision of this chapter or any of the standards of practice*
40 *adopted by the Commission, the Commission or the hearing panel*
41 *may take appropriate disciplinary action against the reserve study*
42 *specialist.*

43 **5. In addition to any other remedy or penalty, the**
44 *Commission may:*



1 (a) *Refuse to issue a permit to a person who has failed to pay*
2 *money which the person owes to the Commission or the Division.*

3 (b) *Suspend, revoke or refuse to renew the permit of a person*
4 *who has failed to pay money which the person owes to the*
5 *Commission or the Division.*

6 6. *The provisions of this section do not apply to a member of*
7 *an executive board or an officer of an association who is acting*
8 *solely within the scope of his duties as a member of the executive*
9 *board or an officer of the association.*

10 **Sec. 59.** 1. *The Commission shall by regulation provide for*
11 *the issuance by the Division of permits to reserve study specialists.*
12 *The regulations:*

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

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

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

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

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

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

35 **Sec. 60.** 1. *Each application for a certificate or permit must*
36 *be accompanied by a surety bond payable to the State of Nevada in*
37 *the amount and form required by the regulations adopted by the*
38 *Commission pursuant to this section.*

39 2. *The bond must be issued by a bonding company authorized*
40 *to do business in this State and must secure the faithful*
41 *performance of the obligations of the holder of the certificate or*
42 *permit pursuant to this chapter and chapter 116 of NRS.*

43 3. *The holder of a certificate or permit shall, within 10 days*
44 *after the commencement of any action or notice of entry of any*
45 *judgment against him by any creditor or claimant arising out of*



1 *any matter regulated by this chapter or chapter 116 of NRS, give*
2 *notice thereof to the Division by certified mail with details*
3 *sufficient to identify the action or judgment. The surety shall,*
4 *within 10 days after it pays any claim or judgment to a creditor or*
5 *claimant, give notice thereof to the Division by certified mail with*
6 *details sufficient to identify the creditor or claimant and the claim*
7 *or judgment so paid.*

8 *4. Whenever the principal sum of the bond is reduced by*
9 *recoveries or payments thereon, the holder of the certificate or*
10 *permit shall furnish:*

11 *(a) A new or additional bond so that the total or aggregate*
12 *principal sum of the bonds equals the sum required pursuant to*
13 *subsection 1; or*

14 *(b) An endorsement, duly executed by the surety, reinstating*
15 *the bond to the required principal sum.*

16 *5. The liability of the surety on the bond to a creditor or*
17 *claimant is not affected by any misrepresentation, breach of*
18 *warranty, failure to pay a premium or other act or omission of the*
19 *holder of the certificate or permit, or by any insolvency or*
20 *bankruptcy of the holder of the certificate or permit.*

21 *6. The liability of the surety continues as to all transactions*
22 *entered into in good faith by the creditors and claimants with the*
23 *agents of the holder of the certificate or permit within 30 days*
24 *after:*

25 *(a) The death of the holder of the certificate or permit or the*
26 *dissolution or liquidation of his business; or*

27 *(b) The termination of the bond,*
28 *↪ whichever event occurs first.*

29 *7. The holder of the certificate or permit and the surety shall*
30 *not cancel or alter a bond except after notice to the Division by*
31 *certified mail. The cancellation or alteration is not effective until*
32 *10 days after receipt of the notice by the Division. A cancellation*
33 *or alteration does not affect any liability incurred or accrued on*
34 *the bond before the expiration of the 30-day period designated in*
35 *subsection 6.*

36 *8. The Commission shall adopt regulations establishing the*
37 *amount and form of surety bonds that the holder of a certificate or*
38 *permit must obtain and maintain pursuant to this section.*

39 **Sec. 61. 1. An applicant for a certificate or permit shall**
40 **submit to the Division:**

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

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



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

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

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

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

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

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

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

23 **Sec. 62.** 1. *If the Division receives a copy of a court order*
24 *issued pursuant to NRS 425.540 that provides for the suspension*
25 *of all professional, occupational and recreational licenses,*
26 *certificates and permits issued to the holder of a certificate or*
27 *permit, the Division shall deem the certificate or permit to be*
28 *suspended at the end of the 30th day after the date the court order*
29 *was issued unless the Division receives a letter issued to the holder*
30 *of the certificate or permit by the district attorney or other public*
31 *agency pursuant to NRS 425.550 stating that the holder of the*
32 *certificate or permit has complied with a subpoena or warrant or*
33 *has satisfied the arrearage pursuant to NRS 425.560.*

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

40 **Sec. 63.** *The expiration or revocation of a certificate or*
41 *permit by operation of law or by order or decision of any agency*
42 *or court of competent jurisdiction, or the voluntary surrender of*



1 *such a certificate or permit by the holder of the certificate or*
2 *permit does not:*

3 1. *Prohibit the Commission or the Division from initiating or*
4 *continuing an investigation of, or action or disciplinary*
5 *proceeding against, the holder of the certificate or permit as*
6 *authorized pursuant to the provisions of this chapter or the*
7 *regulations adopted pursuant thereto; or*

8 2. *Prevent the imposition or collection of any fine or penalty*
9 *authorized pursuant to the provisions of this chapter or the*
10 *regulations adopted pursuant thereto against the holder of the*
11 *certificate or permit.*

12 **Sec. 64.** 1. *To carry out the purposes of this chapter, the*
13 *Commission, or any member thereof acting on behalf of the*
14 *Commission or acting on behalf of a hearing panel, may issue*
15 *subpoenas to compel the attendance of witnesses and the*
16 *production of books, records and other papers.*

17 2. *If any person fails to comply with a subpoena issued by the*
18 *Commission or any member thereof pursuant to this section*
19 *within 20 days after the date of service of the subpoena, the*
20 *Commission may petition the district court for an order of the*
21 *court compelling compliance with the subpoena.*

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

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

34 **Sec. 65.** 1. *Each witness who appears by order of the*
35 *Commission is entitled to receive for his attendance the same fees*
36 *and mileage allowed by law to a witness in a civil case, which must*
37 *be paid by the party at whose request the witness is subpoenaed.*

38 2. *When a witness not otherwise required to attend is*
39 *subpoenaed by the Commission, his fees and mileage must be paid*
40 *by the Division.*

41 **Sec. 66.** 1. *The Commission may appoint one or more*
42 *hearing panels. Each hearing panel must consist of one or more*
43 *independent hearing officers.*

44 2. *The Commission may by regulation delegate to one or*
45 *more hearing panels the power of the Commission to conduct*



1 *hearings and other proceedings, determine violations, impose*
2 *finest and penalties and take other disciplinary action authorized*
3 *by the provisions of this chapter.*

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

8 4. *A final order of a hearing panel:*

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

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

18 **Sec. 67.** *The Commission or a hearing panel may conduct a*
19 *hearing by means of an audio or video teleconference to one or*
20 *more locations if the audio or video technology used at the*
21 *hearing provides the persons present at each location with the*
22 *ability to hear and communicate with the persons present at each*
23 *other location.*

24 **Sec. 68.** 1. *In addition to any other remedy or penalty, the*
25 *Commission may impose an administrative fine against any*
26 *person who knowingly:*

27 (a) *Engages or offers to engage in any activity for which a*
28 *certificate or permit is required pursuant to this chapter, or any*
29 *regulation adopted pursuant thereto, if the person does not hold*
30 *the required certificate or permit or has not been given the*
31 *required authorization; or*

32 (b) *Assists or offers to assist another person to commit a*
33 *violation described in paragraph (a).*

34 2. *If the Commission imposes an administrative fine against a*
35 *person pursuant to this section, the amount of the administrative*
36 *fine may not exceed the amount of any gain or economic benefit*
37 *that the person derived from the violation or \$5,000, whichever*
38 *amount is greater.*

39 3. *In determining the appropriate amount of the*
40 *administrative fine, the Commission shall consider:*

41 (a) *The severity of the violation and the degree of any harm*
42 *that the violation caused to other persons;*

43 (b) *The nature and amount of any gain or economic benefit*
44 *that the person derived from the violation;*

45 (c) *The person's history or record of other violations; and*



1 (d) Any other facts or circumstances that the Commission
2 deems to be relevant.

3 4. Before the Commission may impose the administrative
4 fine, the Commission must provide the person with notice and an
5 opportunity to be heard.

6 5. The person is entitled to judicial review of the decision of
7 the Commission in the manner provided by chapter 233B of NRS.

8 6. The provisions of this section do not apply to a person who
9 engages or offers to engage in activities within the purview of this
10 chapter if:

11 (a) A specific statute exempts the person from complying with
12 the provisions of this chapter with regard to those activities; and

13 (b) The person is acting in accordance with the exemption
14 while engaging or offering to engage in those activities.

15 **Sec. 69.** 1. Whenever the Division believes from evidence
16 satisfactory to it that any person has violated or is about to violate
17 a provision of this chapter, or a provision of any regulation, order,
18 decision, demand or requirement of the Division or the
19 Commission, it may bring an action, in the name of the Division,
20 in the district court of the State of Nevada in and for the county
21 where the person resides or, if the person resides outside the State
22 of Nevada, in any court of competent jurisdiction within or outside
23 the State of Nevada, against the person to enjoin him from
24 engaging in or continuing the violation, or from doing any act or
25 acts in furtherance of the violation.

26 2. If the action is brought in a district court of the State of
27 Nevada, an order or judgment may be entered, when proper,
28 awarding a temporary restraining order, preliminary injunction or
29 final injunction. A preliminary injunction or temporary
30 restraining order must not be granted without at least 5 days'
31 notice to the opposite party.

32 **Sec. 70.** NRS 116.071, 116.31075, 116.700, 116.705, 116.710,
33 116.715, 116.720 and 116.725 are hereby repealed.

34 **Sec. 71.** Notwithstanding the amendatory provisions of this
35 act:

36 1. A person who holds a permit to engage in property
37 management issued pursuant to the provisions of chapter 645 of
38 NRS on October 1, 2005, and who is engaging in the management
39 of a common-interest community on October 1, 2005:

40 (a) May continue to engage in the management of a common-
41 interest community pursuant to that permit until October 1, 2006;
42 and

43 (b) On and after October 1, 2006, may not engage in the
44 management of a common-interest community unless he holds a



1 certificate for the management of a common-interest community
2 issued pursuant to sections 35 to 69, inclusive, of this act.

3 2. A person who holds a certificate for the management of a
4 common-interest community issued pursuant to chapter 116 of NRS
5 on October 1, 2005:

6 (a) May continue to engage in the management of a common-
7 interest community pursuant to that certificate until the date on
8 which that certificate expires;

9 (b) Shall be deemed to hold a certificate for the management of
10 a common-interest community issued pursuant to sections 35 to 69,
11 inclusive, of this act until the date on which the certificate issued
12 pursuant to chapter 116 of NRS expires; and

13 (c) Is subject to the provisions of chapter 116 of NRS, as
14 amended, and sections 35 to 69, inclusive, of this act as if the person
15 holds a certificate issued pursuant to sections 35 to 69, inclusive, of
16 this act.

17 3. A person who is engaged in conducting studies of the
18 reserves of associations on October 1, 2005:

19 (a) May continue to conduct studies of the reserves of
20 associations without obtaining a permit pursuant to sections 35 to
21 69, inclusive, of this act until July 1, 2006;

22 (b) On and after July 1, 2006, may not conduct a study of the
23 reserves of an association unless he holds a permit issued pursuant
24 to sections 35 to 69, inclusive, of this act; and

25 (c) Is subject to the provisions of chapter 116 of NRS, as
26 amended, and sections 35 to 69, inclusive, of this act as if the person
27 holds a permit issued pursuant to sections 35 to 69, inclusive, of this
28 act.

29 **Sec. 72.** 1. This section becomes effective on July 1, 2005.

30 2. Sections 5 and 35 to 69, inclusive, of this act become
31 effective on July 1, 2005, for the purpose of adopting regulations
32 and on October 1, 2005, for all other purposes.

33 3. Sections 1 to 4, inclusive, 8 to 34, inclusive, 70 and 71 of
34 this act become effective on October 1, 2005.

35 4. Section 6 of this act becomes effective on October 1, 2005,
36 for the purpose of adopting regulations and on July 1, 2006, for all
37 other purposes.

38 5. Sections 61 and 62 of this act expire by limitation on the
39 date on which the provisions of 42 U.S.C. § 666 requiring each state
40 to establish procedures under which the state has authority to
41 withhold or suspend, or to restrict the use of professional,
42 occupational and recreational licenses of persons who:

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



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

LEADLINES OF REPEALED SECTIONS

116.071 “Permit” defined.

116.31075 Meetings of rural agricultural residential common-interest communities: Compliance with Open Meeting Law.

116.700 Person prohibited from acting as community manager without permit or certificate; regulations governing standards of practice; investigations; disciplinary action; exceptions.

116.705 Regulations governing certificates issued to community managers; fees.

116.710 Payment of child support: Statement by applicant for certificate; grounds for denial of certificate; duty of Division.

116.715 Suspension of certificate for failure to pay child support or comply with certain subpoenas or warrants; reinstatement of certificate.

116.720 Expiration, revocation or surrender of permit or certificate does not prohibit disciplinary action against holder of permit or certificate.

116.725 Administrative fine for engaging in certain conduct without permit, certificate or authorization; procedure for imposition of fine; judicial review; exceptions.



