

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; requiring persons who act as community managers to hold certificates; requiring persons who conduct studies of the reserves of associations to hold permits; providing for the regulation of such persons by the Commission for Common-Interest Communities; revising provisions governing the management of associations; requiring the Commission to adopt certain regulations relating to associations; making certain technical changes to the organization of the provisions governing common-interest communities; making various other changes related to common-interest communities; providing penalties; 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.** Title 10 of NRS is hereby amended by adding
2 thereto a new chapter to consist of the provisions set forth as
3 sections 2 to 35, inclusive, of this act.

4 **Sec. 2.** *As used in this chapter, unless the context otherwise*
5 *requires, the words and terms defined in sections 3 to 14,*
6 *inclusive, of this act have the meanings ascribed to them in those*
7 *sections.*

8 **Sec. 3.** *“Administrator” means the Real Estate*
9 *Administrator.*



1 Sec. 4. *"Association" has the meaning ascribed to it in*
2 *NRS 116.011.*

3 Sec. 5. *"Certificate" means a certificate for the management*
4 *of a common-interest community issued by the Division pursuant*
5 *to this chapter.*

6 Sec. 6. *"Commission" means the Commission for Common-*
7 *Interest Communities created by NRS 116.600.*

8 Sec. 7. *"Common-interest community" has the meaning*
9 *ascribed to it in NRS 116.021.*

10 Sec. 8. *"Community manager" means a person who provides*
11 *for or otherwise engages in the management of a common-interest*
12 *community.*

13 Sec. 9. *"Division" means the Real Estate Division of the*
14 *Department of Business and Industry.*

15 Sec. 10. *"Executive board" has the meaning ascribed to it in*
16 *NRS 116.045.*

17 Sec. 11. *"Hearing panel" means a hearing panel appointed*
18 *by the Commission pursuant to section 32 of this act.*

19 Sec. 12. *"Management of a common-interest community"*
20 *means the physical, administrative or financial maintenance and*
21 *management of a common-interest community, or the supervision*
22 *of those activities, for a fee, commission or other valuable*
23 *consideration.*

24 Sec. 13. *"Permit" means a permit to conduct a study of the*
25 *reserves of an association pursuant to NRS 116.31152 issued by*
26 *the Division pursuant to this chapter.*

27 Sec. 14. *"Reserve study specialist" means a person who*
28 *conducts a study of the reserves of an association pursuant to*
29 *NRS 116.31152.*

30 Sec. 15. 1. *The provisions of this chapter must be*
31 *administered by the Division, subject to the administrative*
32 *supervision of the Director of the Department of Business and*
33 *Industry.*

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

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

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



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

7 6. All regulations adopted by the Commission, or adopted by
8 the Administrator with the approval of the Commission, must be
9 published by the Division, posted on its website and offered for
10 sale at a reasonable fee.

11 7. The Division may publish or supply a reference manual or
12 study guide for community managers and for reserve study
13 specialists and may offer such documents for sale at a reasonable
14 fee.

15 **Sec. 16.** 1. Except as otherwise provided in this section and
16 within the limits of legislative appropriations, the Division may
17 employ experts, attorneys, investigators, consultants and other
18 personnel as are necessary to carry out the provisions of this
19 chapter.

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

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

28 **Sec. 17.** The Division shall maintain in each district office a
29 public docket or other record in which it shall record, from time to
30 time as made:

31 1. The rulings or decisions upon all complaints filed with that
32 district office.

33 2. All investigations instituted by that district office in the
34 first instance, upon or in connection with which any hearing has
35 been held, or in which the person charged has made no defense.

36 3. Denials of applications made to that district office for
37 examination or issuance of a certificate or permit.

38 **Sec. 18.** 1. Except as otherwise provided in this section, a
39 complaint filed with the Division alleging a violation of this
40 chapter or chapter 116 of NRS, all documents and other
41 information filed with the complaint and all documents and other
42 information compiled as a result of an investigation conducted to
43 determine whether to initiate disciplinary action are confidential.

44 2. The complaint or other charging documents filed with the
45 Commission to initiate disciplinary action and all documents and



1 *other information considered by the Commission or a hearing*
2 *panel when determining whether to impose discipline are public*
3 *records.*

4 **Sec. 19.** *The Commission and its members, each hearing*
5 *panel and its members, the Administrator, the Division, and the*
6 *experts, attorneys, investigators, consultants and other personnel*
7 *of the Commission and the Division are immune from any civil*
8 *liability for any decision or action taken in good faith and without*
9 *malicious intent in carrying out the provisions of this chapter.*

10 **Sec. 20.** *Any notice or other information that is required to*
11 *be served upon the Commission pursuant to the provisions of this*
12 *chapter may be delivered to the principal office of the Division.*

13 **Sec. 21.** 1. *The Administrator may adopt regulations which*
14 *establish procedures for the Division to conduct business*
15 *electronically pursuant to title 59 of NRS with persons who are*
16 *regulated pursuant to this chapter and with any other persons with*
17 *whom the Division conducts business. The regulations may*
18 *include, without limitation, the establishment of fees to pay the*
19 *costs of conducting business electronically with the Division.*

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

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

29 **Sec. 22.** 1. *Except as otherwise provided in subsection 2, all*
30 *money received by the Commission, a hearing panel or the*
31 *Division pursuant to this chapter must be deposited into the*
32 *Account for Common-Interest Communities created pursuant to*
33 *NRS 116.630.*

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

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



1 **Sec. 23. 1.** *Except as otherwise provided in this section, a*
2 *person shall not act as a community manager unless the person*
3 *holds a certificate.*

4 2. *The Commission shall by regulation provide for the*
5 *standards of practice for community managers who hold*
6 *certificates.*

7 3. *The Division may investigate any community manager who*
8 *holds a certificate to ensure that the community manager is*
9 *complying with the provisions of this chapter and chapter 116 of*
10 *NRS and the standards of practice adopted by the Commission.*

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

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

20 (a) *Refuse to issue a certificate to a person who has failed to*
21 *pay money which the person owes to the Commission or the*
22 *Division.*

23 (b) *Suspend, revoke or refuse to renew the certificate of a*
24 *person who has failed to pay money which the person owes to the*
25 *Commission or the Division.*

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

27 (a) *A financial institution that is engaging in an activity*
28 *permitted by law.*

29 (b) *An attorney who is licensed to practice in this State and*
30 *who is acting in that capacity.*

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

32 (d) *A receiver with respect to property subject to the*
33 *receivership.*

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

37 **Sec. 24. 1.** *The Commission shall by regulation provide for*
38 *the issuance by the Division of certificates. The regulations:*

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

42 (b) *May require applicants to pass an examination in order to*
43 *obtain a certificate. If the regulations require such an*
44 *examination, the Commission shall by regulation establish fees to*



1 *pay the costs of the examination, including any costs which are*
2 *necessary for the administration of the examination.*

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

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

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

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

17 *Sec. 25. 1. Except as otherwise provided in this section, a*
18 *person shall not act as a reserve study specialist unless the person*
19 *holds a permit.*

20 *2. The Commission shall by regulation provide for the*
21 *standards of practice for reserve study specialists who hold*
22 *permits.*

23 *3. The Division may investigate any reserve study specialist*
24 *who holds a permit to ensure that the reserve study specialist is*
25 *complying with the provisions of this chapter and chapter 116 of*
26 *NRS and the standards of practice adopted by the Commission.*

27 *4. In addition to any other remedy or penalty, if the*
28 *Commission or a hearing panel, after notice and hearing, finds*
29 *that a reserve study specialist who holds a permit has violated any*
30 *provision of this chapter or chapter 116 of NRS or any of the*
31 *standards of practice adopted by the Commission, the Commission*
32 *or the hearing panel may take appropriate disciplinary action*
33 *against the reserve study specialist.*

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

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

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

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



1 **Sec. 26. 1. The Commission shall by regulation provide for**
2 **the issuance by the Division of permits to reserve study specialists.**
3 **The regulations:**

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

7 **(b) May require applicants to pass an examination in order to**
8 **obtain a permit. If the regulations require such an examination,**
9 **the Commission shall by regulation establish fees to pay the costs**
10 **of the examination, including any costs which are necessary for**
11 **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 permit has been issued, including,**
18 **without limitation, the grounds for placing conditions, limitations**
19 **or restrictions on a permit and for the suspension or revocation of**
20 **a permit.**

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 permit**
24 **in an amount not to exceed the administrative costs of issuing the**
25 **permit.**

26 **Sec. 27. 1. An applicant for a certificate or permit shall**
27 **submit to the Division:**

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

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

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

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

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

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

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

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



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

10 Sec. 28. 1. If the Division receives a copy of a court order
11 issued pursuant to NRS 425.540 that provides for the suspension
12 of all professional, occupational and recreational licenses,
13 certificates and permits issued to the holder of a certificate or
14 permit, the Division shall deem the certificate or permit to be
15 suspended at the end of the 30th day after the date the court order
16 was issued unless the Division receives a letter issued to the holder
17 of the certificate or permit by the district attorney or other public
18 agency pursuant to NRS 425.550 stating that the holder of the
19 certificate or permit has complied with a subpoena or warrant or
20 has satisfied the arrearage pursuant to NRS 425.560.

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

27 Sec. 29. The expiration or revocation of a certificate or
28 permit by operation of law or by order or decision of any agency
29 or court of competent jurisdiction, or the voluntary surrender of
30 such a certificate or permit by the holder of the certificate or
31 permit does not:

32 1. Prohibit the Commission or the Division from initiating or
33 continuing an investigation of, or action or disciplinary
34 proceeding against, the holder of the certificate or permit as
35 authorized pursuant to the provisions of this chapter or chapter
36 116 of NRS or the regulations adopted pursuant thereto; or

37 2. Prevent the imposition or collection of any fine or penalty
38 authorized pursuant to the provisions of this chapter or chapter
39 116 of NRS or the regulations adopted pursuant thereto against
40 the holder of the certificate or permit.

41 Sec. 30. 1. To carry out the purposes of this chapter, the
42 Commission, or any member thereof acting on behalf of the
43 Commission or acting on behalf of a hearing panel, may issue
44 subpoenas to compel the attendance of witnesses and the
45 production of books, records and other papers.



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

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

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

Sec. 31. 1. Each witness who is subpoenaed and appears at a hearing is entitled to receive for his attendance the same fees and mileage allowed by law to a witness in a civil case.

2. The fees and mileage for the witness:

(a) Must be paid by the party at whose request the witness is subpoenaed; or

(b) If the appearance of the witness is not requested by any party but the witness is subpoenaed at the request of the Commission or a hearing panel, must be paid by the Division.

Sec. 32. 1. The Commission may appoint one or more hearing panels. Each hearing panel must consist of one or more independent hearing officers.

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

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

4. A final order of a hearing panel:

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

(b) Must be reviewed and approved by the Commission if, not later than 40 days after the date that the final order is issued by



1 *the hearing panel, the Division, upon the direction of the*
2 *Chairman of the Commission, provides written notice to all parties*
3 *of the intention of the Commission to review the final order.*

4 **Sec. 33.** *The Commission or a hearing panel may conduct a*
5 *hearing by means of an audio or video teleconference to one or*
6 *more locations if the audio or video technology used at the*
7 *hearing provides the persons present at each location with the*
8 *ability to hear and communicate with the persons present at each*
9 *other location.*

10 **Sec. 34. 1.** *In addition to any other remedy or penalty, the*
11 *Commission may impose an administrative fine against any*
12 *person who knowingly:*

13 *(a) Engages or offers to engage in any activity for which a*
14 *certificate or permit is required pursuant to this chapter or chapter*
15 *116 of NRS, or any regulation adopted pursuant thereto, if the*
16 *person does not hold the required certificate or permit or has not*
17 *been given the required authorization; or*

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

20 **2.** *If the Commission imposes an administrative fine against a*
21 *person pursuant to this section, the amount of the administrative*
22 *fine may not exceed the amount of any gain or economic benefit*
23 *that the person derived from the violation or \$5,000, whichever*
24 *amount is greater.*

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

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

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

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

32 *(d) Any other facts or circumstances that the Commission*
33 *deems to be relevant.*

34 **4.** *Before the Commission may impose the administrative*
35 *fine, the Commission must provide the person with notice and an*
36 *opportunity to be heard.*

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

39 **6.** *The provisions of this section do not apply to a person who*
40 *engages or offers to engage in activities within the purview of this*
41 *chapter or chapter 116 of NRS if:*

42 *(a) A specific statute exempts the person from complying with*
43 *the provisions of this chapter or chapter 116 of NRS with regard to*
44 *those activities; and*



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

3 Sec. 35. 1. If the Commission or the Division has
4 reasonable cause to believe, based on evidence satisfactory to it,
5 that any person has violated or is about to violate any provision of
6 this chapter, any regulation adopted pursuant thereto or any
7 order, decision, demand or requirement of the Commission or the
8 Division or a hearing panel, the Commission or the Division may
9 bring an action in the district court for the county in which the
10 person resides or, if the person does not reside in this State, in any
11 court of competent jurisdiction within or outside this State, to
12 restrain or enjoin that person from engaging in or continuing to
13 commit the violations or from doing any act in furtherance of the
14 violations.

15 2. The action must be brought in the name of the State of
16 Nevada. If the action is brought in a court of this State, an order
17 or judgment may be entered, when proper, issuing a temporary
18 restraining order, preliminary injunction or final injunction. A
19 temporary restraining order or preliminary injunction must not be
20 issued without at least 5 days' notice to the opposite party.

21 3. The court may issue the temporary restraining order,
22 preliminary injunction or final injunction without:

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

24 (b) The filing of any bond.

25 Sec. 36. Chapter 116 of NRS is hereby amended by adding
26 thereto the provisions set forth as sections 37 to 47.6, inclusive, of
27 this act.

28 Sec. 37. "Major component of the common elements" means
29 any component of the common elements, including, without
30 limitation, any amenity, improvement, furnishing, fixture, finish,
31 system or equipment, that may, within 30 years after its original
32 installation, require repair, replacement or restoration in excess of
33 routine annual maintenance which is included in the annual
34 operating budget of an association.

35 Sec. 38. (Deleted by amendment.)

36 Sec. 39. 1. At the time of each close of escrow of a unit in a
37 converted building, the declarant shall deliver to the association
38 the amount of the converted building reserve deficit allocated to
39 that unit.

40 2. The allocation to a unit of the amount of any converted
41 building reserve deficit must be made in the same manner as
42 assessments are allocated to that unit.

43 3. As used in this section, "converted building reserve deficit"
44 means the amount necessary to replace the major components of



1 *the common elements needing replacement within 5 years after*
2 *the date of the first sale of a unit.*

3 **Sec. 40. 1. Except as otherwise limited by subsection 4 of**
4 **NRS 116.2117, if:**

5 *(a) To approve an amendment to the declaration pursuant to*
6 *NRS 116.2117, the declaration requires:*

7 *(1) In a single-class voting structure, more than a majority*
8 *of the total number of votes allocated to the single class to be cast*
9 *in favor of the amendment; or*

10 *(2) In a multiclass voting structure, more than a majority of*
11 *the total number of votes allocated to one or more of the multiple*
12 *classes to be cast in favor of the amendment; and*

13 *(b) An amendment fails to receive the number of votes*
14 *required by the declaration to be approved but:*

15 *(1) In a single-class voting structure, receives a majority of*
16 *the total number of votes allocated to the single class; or*

17 *(2) In a multiclass voting structure, receives in each of the*
18 *multiple classes a majority of the total number of votes allocated to*
19 *that class,*

20 *↳ the association or any unit's owner may file a petition with the*
21 *district court in any county in which any portion of the common-*
22 *interest community is located asking for an order waiving the*
23 *supermajority requirements of the declaration and confirming the*
24 *amendment as validly approved.*

25 **2. If the association or any unit's owner files a petition**
26 **pursuant to subsection 1, the petition:**

27 **(a) Must contain sufficient information specifying:**

28 *(1) The actions that have been taken to obtain the number*
29 *of votes required to approve the amendment under the declaration*
30 *and whether those actions have conformed with the procedures set*
31 *forth in the declaration;*

32 *(2) The amount of time that has been allowed for the units'*
33 *owners to vote upon the amendment;*

34 *(3) The number and percentage of affirmative votes*
35 *required in each voting class to approve the amendment under the*
36 *declaration;*

37 *(4) The number and percentage of affirmative and negative*
38 *votes actually received in each voting class with regard to the*
39 *amendment; and*

40 *(5) Any other matters the petitioner considers relevant to*
41 *the court's determination; and*

42 **(b) Must include, as exhibits to the petition, copies of:**

43 **(1) The governing documents;**



1 (2) *The complete text of the amendment and a statement*
2 *explaining the need for the amendment and its purposes and*
3 *objectives;*

4 (3) *All notices and materials used in the effort to persuade*
5 *the units' owners to approve the amendment; and*

6 (4) *Any other documents the petitioner considers relevant*
7 *to the court's determination.*

8 3. *Upon receiving the petition, the court shall:*

9 (a) *Set the matter for hearing; and*

10 (b) *Issue an ex parte order setting forth the manner in which*
11 *the petitioner must give written notice of the hearing to all the*
12 *units' owners in the association.*

13 4. *The court may grant the petition if it finds that the*
14 *petitioner has presented evidence establishing that:*

15 (a) *The petitioner has given at least 15 days' written notice of*
16 *the hearing to:*

17 (1) *All the units' owners in the association;*

18 (2) *Each city, if any, and each county in which any portion*
19 *of the common-interest community is located; and*

20 (3) *All other persons or entities that are entitled to notice*
21 *under the declaration;*

22 (b) *The voting process regarding the amendment was*
23 *conducted in accordance with all applicable provisions of the*
24 *governing documents and state law;*

25 (c) *A reasonably diligent effort was made to allow all eligible*
26 *units' owners and, if required by the governing documents, all*
27 *lenders to vote on the amendment;*

28 (d) *The amendment:*

29 (1) *In a single-class voting structure, received a majority of*
30 *the total number of votes allocated to the single class; or*

31 (2) *In a multiclass voting structure, received in each of the*
32 *multiple classes a majority of the total number of votes allocated to*
33 *that class; and*

34 (e) *The amendment is reasonable.*

35 5. *If the court grants the petition, the court shall enter an*
36 *order waiving the supermajority requirements of the declaration*
37 *and confirming the amendment as validly approved.*

38 6. *An amendment confirmed by a final court order pursuant*
39 *to this section is not effective until a certified copy of the*
40 *amendment and the final court order have been recorded in each*
41 *county in which any portion of the common-interest community is*
42 *located. The amendment must be prepared, executed, recorded*
43 *and certified on behalf of the association by any officer of the*
44 *association designated for that purpose or, in the absence of*



1 designation, by the president of the association, and the final court
2 order must be recorded along with the amendment.

3 7. After the amendment and the final court order have been
4 recorded pursuant to this section, the declaration, as amended, has
5 the same force and effect as if the amendment had been approved
6 in compliance with every requirement imposed by the governing
7 documents.

8 8. Not later than 30 days after the date on which the
9 amendment and the final court order are recorded pursuant to this
10 section, the association shall mail to all the units' owners in the
11 association:

12 (a) A copy of the amendment and the final court order; and

13 (b) A statement explaining that the amendment and the final
14 court order have been recorded and that the declaration has been
15 amended pursuant to this section.

16 **Sec. 41.** 1. The executive board shall not and the governing
17 documents must not prohibit a unit's owner from installing or
18 maintaining drought tolerant landscaping within such physical
19 portion of the common-interest community as that owner has a
20 right to occupy and use exclusively, except that:

21 (a) Before installing drought tolerant landscaping, the unit's
22 owner must submit a detailed description or plans for the drought
23 tolerant landscaping for architectural review and approval in
24 accordance with the procedures, if any, set forth in the governing
25 documents of the association; and

26 (b) The drought tolerant landscaping must be selected or
27 designed to the maximum extent practicable to be compatible with
28 the style of the common-interest community.

29 2. Installation of drought tolerant landscaping within any
30 common element or conversion of traditional landscaping or
31 cultivated vegetation, such as turf grass, to drought tolerant
32 landscaping within any common element shall not be deemed to be
33 a change of use of the common element unless:

34 (a) The common element has been designated as a park, open
35 play space or golf course on a recorded plat map; or

36 (b) The traditional landscaping or cultivated vegetation is
37 required by a governing body under the terms of any applicable
38 zoning ordinance, permit or approval or as a condition of approval
39 of any final subdivision map.

40 3. As used in this section, "drought tolerant landscaping"
41 means landscaping which conserves water, protects the
42 environment and is adaptable to local conditions.

43 **Sec. 42.** 1. Except as otherwise provided in the declaration,
44 an association may not require a unit's owner to secure or obtain



1 any approval from the association in order to rent or lease his
2 unit.

3 2. The provisions of this section do not prohibit an
4 association from enforcing any provisions which govern the
5 renting or leasing of units and which are contained in this chapter
6 or in any other applicable federal, state or local laws or
7 regulations.

8 **Sec. 43.** 1. The Commission shall adopt regulations
9 prescribing the requirements for the preparation and presentation
10 of financial statements of an association pursuant to this chapter.

11 2. The regulations adopted by the Commission must include,
12 without limitation:

13 (a) The qualifications necessary for a person to prepare and
14 present financial statements of an association; and

15 (b) The standards and format to be followed in preparing and
16 presenting financial statements of an association.

17 **Sec. 44.** 1. Except as otherwise provided in subsection 2,
18 the executive board shall:

19 (a) If the annual budget of the association is less than \$75,000,
20 cause the financial statement of the association to be audited by
21 an independent certified public accountant at least once every 4
22 fiscal years.

23 (b) If the annual budget of the association is \$75,000 or more
24 but less than \$150,000, cause the financial statement of the
25 association to be:

26 (1) Audited by an independent certified public accountant
27 at least once every 4 fiscal years; and

28 (2) Reviewed by an independent certified public accountant
29 every fiscal year for which an audit is not conducted.

30 (c) If the annual budget of the association is \$150,000 or
31 more, cause the financial statement of the association to be
32 audited by an independent certified public accountant every fiscal
33 year.

34 2. For any fiscal year for which an audit of the financial
35 statement of the association will not be conducted pursuant to
36 subsection 1, the executive board shall cause the financial
37 statement for that fiscal year to be audited by an independent
38 certified public accountant if, within 180 days before the end of
39 the fiscal year, 15 percent of the total number of voting members
40 of the association submit a written request for such an audit.

41 3. The Commission shall adopt regulations prescribing the
42 requirements for the auditing or reviewing of financial statements
43 of an association pursuant to this section. Such regulations must
44 include, without limitation:



1 (a) The qualifications necessary for a person to audit or review
2 financial statements of an association; and

3 (b) The standards and format to be followed in auditing or
4 reviewing financial statements of an association.

5 Sec. 45. 1. In a common-interest community which is not
6 gated or enclosed and the access to which is not restricted or
7 controlled by a person or device, the executive board shall not and
8 the governing documents must not provide for the regulation of
9 any road, street, alley or other thoroughfare the right-of-way of
10 which is accepted by the State or a local government for
11 dedication as a road, street, alley or other thoroughfare for public
12 use.

13 2. The provisions of subsection 1 do not preclude an
14 association from adopting, and do not preclude the governing
15 documents of an association from setting forth, rules that
16 reasonably restrict the parking or storage of recreational vehicles,
17 watercraft, trailers or commercial vehicles in the common-interest
18 community to the extent authorized by law.

19 Sec. 46. 1. The executive board shall not and the governing
20 documents must not prohibit a unit's owner or an occupant of a
21 unit from exhibiting a political sign within such physical portion
22 of the common-interest community as that owner or occupant has
23 a right to occupy and use exclusively if the political sign is not
24 larger than 24 inches by 36 inches.

25 2. The provisions of this section establish the minimum rights
26 of a unit's owner or an occupant of a unit to exhibit a political
27 sign. The provisions of this section do not preempt any provisions
28 of the governing documents that provide greater rights and do not
29 require the governing documents or the executive board to impose
30 any restrictions on the exhibition of political signs other than
31 those established by other provisions of law.

32 3. As used in this section, "political sign" means a sign that
33 expresses support for or opposition to a candidate, political party
34 or ballot question.

35 Sec. 47. 1. The association shall provide written notice to
36 each unit's owner of a meeting at which the commencement of a
37 civil action is to be considered at least 21 calendar days before the
38 date of the meeting. Except as otherwise provided in this
39 subsection, the association may commence a civil action only upon
40 a vote or written agreement of the owners of units to which at least
41 a majority of the votes of the members of the association are
42 allocated. The provisions of this subsection do not apply to a civil
43 action that is commenced:

44 (a) To enforce the payment of an assessment;



1 (b) To enforce the declaration, bylaws or rules of the
2 association;

3 (c) To enforce a contract with a vendor;

4 (d) To proceed with a counterclaim; or

5 (e) To protect the health, safety and welfare of the members of
6 the association. If a civil action is commenced pursuant to this
7 paragraph without the required vote or agreement, the action must
8 be ratified within 90 days after the commencement of the action by
9 a vote or written agreement of the owners of the units to which at
10 least a majority of votes of the members of the association are
11 allocated. If the association, after making a good faith effort,
12 cannot obtain the required vote or agreement to commence or
13 ratify such a civil action, the association may thereafter seek to
14 dismiss the action without prejudice for that reason only if a vote
15 or written agreement of the owners of the units to which at least a
16 majority of votes or the members of the association are allocated
17 was obtained at the time the approval to commence or ratify the
18 action was sought.

19 2. At least 10 days before an association commences or seeks
20 to ratify the commencement of a civil action, the association shall
21 provide a written statement to all the units' owners that includes:

22 (a) A reasonable estimate of the costs of the civil action,
23 including reasonable attorney's fees;

24 (b) An explanation of the potential benefits of the civil action
25 and the potential adverse consequences if the association does not
26 commence the action or if the outcome of the action is not
27 favorable to the association; and

28 (c) All disclosures that are required to be made upon the sale
29 of the property.

30 3. No person other than a unit's owner may request the
31 dismissal of a civil action commenced by the association on the
32 ground that the association failed to comply with any provision of
33 this section.

34 4. If any civil action in which the association is a party is
35 settled, the executive board shall disclose the terms and conditions
36 of the settlement at the next regularly scheduled meeting of the
37 executive board after the settlement has been reached. The
38 executive board may not approve a settlement which contains any
39 terms and conditions that would prevent the executive board from
40 complying with the provisions of this subsection.

41 Sec. 47.3. 1. Each witness who is subpoenaed and appears
42 at a hearing is entitled to receive for his attendance the same fees
43 and mileage allowed by law to a witness in a civil case.

44 2. The fees and mileage for the witness:



1 (a) Must be paid by the party at whose request the witness is
2 subpoenaed; or

3 (b) If the appearance of the witness is not requested by any
4 party but the witness is subpoenaed at the request of the
5 Commission or a hearing panel, must be paid by the Division.

6 **Sec. 47.6.** 1. Except as otherwise provided in this section, a
7 written affidavit filed with the Division pursuant to NRS 116.760,
8 all documents and other information filed with the written
9 affidavit and all documents and other information compiled as a
10 result of an investigation conducted to determine whether to file a
11 formal complaint with the Commission are confidential.

12 2. A formal complaint filed with the Commission and all
13 documents and other information considered by the Commission
14 or a hearing panel when determining whether to impose discipline
15 or take other administrative action pursuant to NRS 116.745 to
16 116.795, inclusive, are public records.

17 **Sec. 48.** NRS 116.003 is hereby amended to read as follows:

18 116.003 As used in this chapter and in the declaration and
19 bylaws of an association, unless the context otherwise requires, the
20 words and terms defined in NRS 116.005 to 116.095, inclusive, *and*
21 *section 37 of this act* have the meanings ascribed to them in those
22 sections.

23 **Sec. 49.** NRS 116.013 is hereby amended to read as follows:

24 116.013 "Certificate" means a certificate for the management
25 of a common-interest community issued by the Division ~~and~~
26 *pursuant to sections 2 to 35, inclusive, of this act.*

27 **Sec. 50.** NRS 116.047 is hereby amended to read as follows:

28 116.047 "Financial statement" means a ~~balance sheet showing~~
29 ~~profit and loss of an association and the funds held in reserve by the~~
30 ~~association.~~ *financial statement of an association that is prepared*
31 *and presented in accordance with the requirements established by*
32 *the Commission pursuant to section 43 of this act.*

33 **Sec. 51.** NRS 116.049 is hereby amended to read as follows:

34 116.049 "Governing documents" means ~~the declaration,~~

35 1. *The declaration for the common-interest community;*

36 2. *The articles of incorporation, articles of association, articles*
37 *of organization, certificate of registration, certificate of limited*
38 *partnership, certificate of trust or other documents that are used to*
39 *organize the association for the common-interest community;*

40 3. *The bylaws and rules of ~~any~~ the association ; and ~~any~~*

41 4. *Any* other documents that govern the operation of ~~the~~ *the*
42 common-interest community or *the* association.

43 **Sec. 52.** NRS 116.1106 is hereby amended to read as follows:

44 116.1106 1. A building code may not impose any
45 requirement upon any structure in a common-interest community



1 which it would not impose upon a physically identical development
2 under a different form of ownership.

3 2. In condominiums and cooperatives, no zoning, subdivision
4 or other law, ordinance or regulation governing the use of real estate
5 may prohibit the condominium or cooperative as a form of
6 ownership or impose any requirement upon a condominium or
7 cooperative which it would not impose upon a physically identical
8 development under a different form of ownership.

9 3. Except as otherwise provided in subsections 1 and 2, the
10 provisions of this chapter do not invalidate or modify any provision
11 of any building code or zoning, subdivision or other law, ordinance,
12 rule or regulation governing the use of real estate.

13 *4. The provisions of this section do not prohibit a local*
14 *government from imposing different requirements and standards*
15 *regarding design and construction on different types of structures*
16 *in common-interest communities. For the purposes of this*
17 *subsection, a townhouse in a planned community is a different*
18 *type of structure from other structures in common-interest*
19 *communities, including, without limitation, other structures that*
20 *are or will be owned as condominiums or cooperatives.*

21 **Sec. 53.** NRS 116.11085 is hereby amended to read as
22 follows:

23 116.11085 If a matter governed by this chapter is also
24 governed by chapter 78 ~~for~~, *81, 82, 86, 87, 88 or 88A* of NRS ~~for~~
25 ~~NRS 81.010 to 81.160, inclusive,~~ and there is a conflict between
26 the provisions of this chapter and the provisions of ~~chapter 78 or 82~~
27 ~~of NRS or NRS 81.010 to 81.160, inclusive,~~ *those other chapters,*
28 the provisions of this chapter prevail.

29 **Sec. 54.** NRS 116.1201 is hereby amended to read as follows:

30 116.1201 1. Except as otherwise provided in this section and
31 NRS 116.1203, this chapter applies to all common-interest
32 communities created within this State.

33 2. This chapter does not apply to:

34 (a) ~~Associations created for the limited purpose of maintaining:~~
35 ~~— (1) The landscape of the common elements of a common-~~
36 ~~interest community;~~
37 ~~— (2) Facilities for flood control; or~~
38 ~~— (3) Except as otherwise provided in NRS 116.31075,] A~~
39 *limited-purpose association, except that a limited-purpose*
40 *association:*

41 *(1) Shall pay the fees required pursuant to NRS 116.31155;*

42 *(2) Shall register with the Ombudsman pursuant to*
43 *NRS 116.31158;*

44 *(3) Shall comply with the provisions set forth in NRS*
45 *116.31038, 116.31083 and 116.31152;*



1 (4) *Shall comply with the provisions of NRS 116.4101 to*
2 *116.412, inclusive, as required by the regulations adopted by the*
3 *Commission pursuant to paragraph (b) of subsection 5; and*

4 (5) *Shall not enforce any restrictions concerning the use of*
5 *units by the units' owners, unless the limited-purpose association*
6 *is created for* a rural agricultural residential common-interest
7 community.

8 (b) A planned community in which all units are restricted
9 exclusively to nonresidential use unless the declaration provides that
10 this chapter does apply to that planned community. This chapter
11 applies to a planned community containing both units that are
12 restricted exclusively to nonresidential use and other units that are
13 not so restricted only if the declaration so provides or if the real
14 estate comprising the units that may be used for residential purposes
15 would be a planned community in the absence of the units that may
16 not be used for residential purposes.

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

22 (d) A common-interest community that was created before
23 January 1, 1992, is located in a county whose population is less than
24 50,000, and has less than 50 percent of the units within the
25 community put to residential use, unless a majority of the units'
26 owners otherwise elect in writing.

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

29 3. The provisions of this chapter do not:

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

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

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

39 (d) Prohibit a common-interest community created before
40 January 1, 1992, or a common-interest community described in NRS
41 116.31105 from providing for a representative form of government.

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

44 5. The Commission shall establish, by regulation ~~the~~ :



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

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

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

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

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

(2) *Facilities for flood control; or*

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

(b) *Is not authorized by its governing documents to enforce any restrictions concerning the use of units by units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.*

Sec. 54.5. NRS 116.1203 is hereby amended to read as follows:

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

2. Except for NRS 116.3104, 116.31043, 116.31046 and 116.31138, the provisions of NRS 116.3101 to 116.3119, inclusive, *and sections 41 to 47, inclusive, of this act*, and the definitions set forth in NRS 116.005 to 116.095, inclusive, to the extent that such definitions are necessary in construing any of those provisions, apply to a residential planned community containing more than six units.

Sec. 55. NRS 116.2117 is hereby amended to read as follows:

116.2117 1. Except *as otherwise provided in section 40 of this act, and except* in cases of amendments that may be executed by a declarant under subsection 6 of NRS 116.2109 or NRS 116.211, or by the association under NRS 116.1107, subsection 4 of NRS 116.2106, subsection 3 of NRS 116.2108, subsection 1 of NRS 116.2112 or NRS 116.2113, or by certain units' owners under subsection 2 of NRS 116.2108, subsection 1 of NRS 116.2112, subsection 2 of NRS 116.2113 or subsection 2 of NRS 116.2118, and except as *otherwise* limited by subsection 4, the declaration, including any plats and plans, may be amended only by vote or agreement of units' owners of units to which at least a majority of the votes in the association are allocated, or any larger majority the



1 declaration specifies. The declaration may specify a smaller number
2 only if all of the units are restricted exclusively to nonresidential
3 use.

4 2. No action to challenge the validity of an amendment adopted
5 by the association pursuant to this section may be brought more than
6 one year after the amendment is recorded.

7 3. Every amendment to the declaration must be recorded in
8 every county in which any portion of the common-interest
9 community is located and is effective only upon recordation. An
10 amendment, except an amendment pursuant to NRS 116.2112, must
11 be indexed in the grantee's index in the name of the common-
12 interest community and the association and in the grantor's index in
13 the name of the parties executing the amendment.

14 4. Except to the extent expressly permitted or required by other
15 provisions of this chapter, no amendment may change the
16 boundaries of any unit, the allocated interests of a unit or the uses to
17 which any unit is restricted, in the absence of unanimous consent of
18 the units' owners affected and the consent of a majority of the
19 owners of the remaining units.

20 5. Amendments to the declaration required by this chapter to
21 be recorded by the association must be prepared, executed, recorded
22 and certified on behalf of the association by any officer of the
23 association designated for that purpose or, in the absence of
24 designation, by the president of the association.

25 **Sec. 56.** NRS 116.3101 is hereby amended to read as follows:

26 116.3101 1. A unit-owners' association must be organized no
27 later than the date the first unit in the common-interest community is
28 conveyed.

29 2. The membership of the association at all times consists
30 exclusively of all units' owners or, following termination of the
31 common-interest community, of all owners of former units entitled
32 to distributions of proceeds under NRS 116.2118, 116.21183 and
33 116.21185, or their heirs, successors or assigns.

34 3. The association must:

35 (a) Be organized as a profit or nonprofit corporation,
36 **association, limited-liability company**, trust or partnership;

37 (b) Include in its articles of incorporation, **articles of**
38 **association, articles of organization**, certificate of registration ~~for~~
39 ~~certificates~~, **certificate** of limited partnership, **certificate of trust or**
40 **other documents of organization**, or any ~~certificate of~~ amendment
41 thereof, that the purpose of the corporation, **association, limited-**
42 **liability company, trust or partnership** is to operate as an
43 association pursuant to this chapter;



(c) Contain in its name the words “*common-interest community*,” “*community association*,” “*master association*,” “homeowners’ association” or “unit-owners’ association”; and

(d) Comply with the provisions of chapters 78, *81*, 82, *86*, 87, ~~and 88~~ *and 88A* of NRS when filing *with the Secretary of State its* articles of incorporation, ~~certificates~~ *articles of association, articles of organization, certificate* of registration ~~for certificates~~, *certificate* of limited partnership, *certificate of trust or other documents of organization*, or any ~~certificate of~~ amendment thereof. ~~with the Secretary of State.~~

Sec. 57. NRS 116.3102 is hereby amended to read as follows:

116.3102 1. Except as otherwise provided in subsection 2, and subject to the provisions of the declaration, the association may ~~do~~ *do any or all of the following*:

(a) Adopt and amend bylaws, rules and regulations. ~~do~~

(b) Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from *the* units’ owners. ~~do~~

(c) Hire and discharge managing agents and other employees, agents and independent contractors. ~~do~~

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

(e) Make contracts and incur liabilities. ~~do~~

(f) Regulate the use, maintenance, repair, replacement and modification of common elements. ~~do~~

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

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

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

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

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

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

(k) Impose charges for late payment of assessments. ~~do~~

(l) Impose construction penalties when authorized pursuant to NRS 116.310305. ~~do~~



(m) Impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031. ~~{ }~~

(n) Impose reasonable charges for the preparation and recordation of *any* amendments to the declaration ~~{ , the information required by NRS 116.4109 }~~ or *any* statements of unpaid assessments ~~{ }~~ , *and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.*

(o) Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance. ~~{ }~~

(p) Assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides. ~~{ }~~

(q) Exercise any other powers conferred by the declaration or bylaws. ~~{ }~~

(r) Exercise all other powers that may be exercised in this State by legal entities of the same type as the association. ~~{ }~~

(s) Direct the removal of vehicles improperly parked on property owned or leased by the association, *as authorized pursuant to NRS 487.038 ~~{ ; and }~~ , or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:*

(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or

(2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community.

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

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

Sec. 58. NRS 116.3103 is hereby amended to read as follows:

116.3103 1. Except as otherwise provided in the declaration, the bylaws, this section or other provisions of this chapter, the executive board may act in all instances on behalf of the association.



1 In the performance of their duties, the officers and members of the
2 executive board are fiduciaries. The members of the executive board
3 are required to exercise the ordinary and reasonable care of directors
4 of a corporation, subject to the business-judgment rule.

5 2. The executive board may not act on behalf of the association
6 to amend the declaration, to terminate the common-interest
7 community, or to elect members of the executive board or determine
8 their qualifications, powers and duties or terms of office, but the
9 executive board may fill vacancies in its membership for the
10 unexpired portion of any term.

11 ~~[3. Within 30 days after adoption of any proposed budget for~~
12 ~~the common-interest community, the executive board shall provide a~~
13 ~~summary of the budget to all the units' owners, and shall set a date~~
14 ~~for a meeting of the units' owners to consider ratification of the~~
15 ~~budget not less than 14 nor more than 30 days after mailing of the~~
16 ~~summary. Unless at that meeting a majority of all units' owners or~~
17 ~~any larger vote specified in the declaration reject the budget,~~
18 ~~the budget is ratified, whether or not a quorum is present. If the~~
19 ~~proposed budget is rejected, the periodic budget last ratified by the~~
20 ~~units' owners must be continued until such time as the units' owners~~
21 ~~ratify a subsequent budget proposed by the executive board.]~~

22 **Sec. 59.** NRS 116.31031 is hereby amended to read as
23 follows:

24 116.31031 1. Except as otherwise provided in this section, if
25 a unit's owner or a tenant or guest of a unit's owner violates any
26 provision of the governing documents of an association, the
27 executive board ~~[of the association]~~ may, if the governing
28 documents so provide:

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

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

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

37 (b) Impose a fine against the unit's owner or the tenant or guest
38 of the unit's owner for each violation, except that a fine may not be
39 imposed for a violation that is the subject of a construction penalty
40 pursuant to NRS 116.310305. ~~[The]~~ *If the violation poses an*
41 *imminent threat of causing a substantial adverse effect on the*
42 *health, safety or welfare of the units' owners or residents of the*
43 *common-interest community, the amount of the fine must be*
44 *commensurate with the severity of the violation and must be*
45 *determined by the executive board in accordance with the*



governing documents. If the violation does not pose an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community, the amount of the fine must be commensurate with the severity of the violation ~~and~~ and must be determined by the executive board in accordance with the governing documents, but the amount of the fine must not exceed \$100 for each violation or a total amount of ~~\$500~~ \$1,000, whichever is less. The limitations on the amount of the fine do not apply to any interest, charges or costs that may be collected by the association pursuant to this section if the fine becomes past due.

2. The executive board may not impose a fine pursuant to subsection 1 unless:

(a) Not less than 30 days before the violation, the person against whom the fine will be imposed had been provided with written notice of the applicable provisions of the governing documents that form the basis of the violation; and

(b) Within a reasonable time after the discovery of the violation, the person against whom the fine will be imposed has been provided with:

(1) Written notice specifying the details of the violation, the amount of the fine, and the date, time and location for a hearing on the violation; and

(2) A reasonable opportunity to contest the violation at the hearing.

3. The executive board must schedule the date, time and location for the hearing on the violation so that the person against whom the fine will be imposed is provided with a reasonable opportunity to prepare for the hearing and to be present at the hearing.

4. The executive board must hold a hearing before it may impose the fine, unless the person against whom the fine will be imposed:

(a) Pays the fine;

(b) Executes a written waiver of the right to the hearing; or

(c) Fails to appear at the hearing after being provided with proper notice of the hearing.

5. If a fine is imposed pursuant to subsection 1 and the violation is not cured within 14 days, or within any longer period that may be established by the executive board, the violation shall be deemed a continuing violation. Thereafter, the executive board may impose an additional fine for the violation for each 7-day period or portion thereof that the violation is not cured. Any additional fine may be imposed without notice and an opportunity to be heard.



6. If the governing documents so provide, the executive board may appoint a committee, with not less than three members, to conduct hearings on violations and to impose fines pursuant to this section. While acting on behalf of the executive board for those limited purposes, the committee and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the executive board and its members.

7. The provisions of this section establish the minimum procedural requirements that the executive board must follow before it may impose a fine. The provisions of this section do not preempt any provisions of the governing documents that provide greater procedural protections.

8. Any past due fine:

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

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

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

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

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

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

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

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

9. As used in this section:

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

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



1 **Sec. 60.** NRS 116.31034 is hereby amended to read as
2 follows:

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

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

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

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

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

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

35 5. Each person whose name is placed on the ballot as a
36 candidate for a member of the executive board must ~~make~~:

37 (a) *Make* a good faith effort to disclose any financial, business,
38 professional or personal relationship or interest that would result or
39 would appear to a reasonable person to result in a potential conflict
40 of interest for the candidate if the candidate were to be elected to
41 serve as a member of the executive board ~~H~~; and

42 (b) *Disclose whether the candidate is a member in good*
43 *standing. For the purposes of this paragraph, a candidate shall*
44 *not be deemed to be in "good standing" if the candidate has any*



1 *unpaid and past due assessments or construction penalties that are*
2 *required to be paid to the association.*

3 ➡ The candidate must make ~~{the disclosure,}~~ *all disclosures*
4 *required pursuant to this subsection* in writing *to the association*
5 *with his candidacy information. The association shall distribute*
6 *the disclosures* to each member of the association *with the ballot* in
7 the manner established in the bylaws of the association.

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

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

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

17 (1) That master association; or

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

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

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

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

34 8. The election of any member of the executive board must be
35 conducted by secret written ballot unless the declaration of the
36 association provides that voting rights may be exercised by
37 delegates or representatives as set forth in NRS 116.31105. If the
38 election of any member of the executive board is conducted by
39 secret written ballot:

40 (a) The secretary or other officer specified in the bylaws of the
41 association shall cause a secret ballot and a return envelope to be
42 sent, prepaid by United States mail, to the mailing address of each
43 unit within the common-interest community or to any other mailing
44 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. 61. 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, may remove}~~ any member of the executive board, ~~{with or without cause,}~~ other than a member appointed by the declarant ~~{}~~, *may be removed from the executive board, with or without cause, if at a removal election held pursuant to this section the number of votes cast in favor of removal constitutes:*

(a) At least 35 percent of the total number of voting members of the association; and

(b) At least a majority of all votes cast in that removal election.

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. 62.** NRS 116.31038 is hereby amended to read as
40 follows:

41 116.31038 ~~[Within]~~ *In addition to any applicable requirement*
42 *set forth in section 39 of this act, within* 30 days after units' owners
43 other than the declarant may elect a majority of the members of the
44 executive board, the declarant shall deliver to the association all



property of the units' owners and of the association held by or controlled by him, including:

1. The original or a certified copy of the recorded declaration as amended, the ~~{association's}~~ articles of incorporation ~~{if the association is incorporated,}~~ , *articles of association, articles of organization, certificate of registration, certificate of limited partnership, certificate of trust or other documents of organization for the association, the* bylaws, minute books and other books and records of the association and any rules or regulations which may have been adopted.

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

3. A complete study of the reserves of the association, conducted by a person ~~{qualified by training and experience}~~ *who holds a permit* to conduct such a study ~~{}~~ *issued pursuant to sections 2 to 35, inclusive, of this act.* At the time the control of the declarant ends, he shall:

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

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

4. The association's money or control thereof.

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

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



7. All insurance policies then in force, in which the units' owners, the association, or its directors and officers are named as 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. 63. 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.

2. 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}~~ *constituting at least* 10 percent, or any lower percentage specified in the bylaws, of the ~~{votes in}~~ *total number of voting members of* the association.

~~{2-}~~ *The same number of units' owners may also call a removal election pursuant to NRS 116.31036. To call a special meeting or a removal election, the units' owners must submit a written petition which is signed by the required percentage of the total number of voting members of the association pursuant to this section and which is mailed, return receipt requested, or served by a process server to the executive board or the community manager for the association. If the petition calls for a special meeting, the executive board shall set the date for the special meeting so that*



1 *the special meeting is held not less than 15 days or more than 60*
2 *days after the date on which the petition is received. If the petition*
3 *calls for a removal election and:*

4 *(a) The voting rights of the units' owners will be exercised by*
5 *delegates or representatives as set forth in NRS 116.31105, the*
6 *executive board shall set the date for the removal election so that*
7 *the removal election is held not less than 15 days or more than 60*
8 *days after the date on which the petition is received; or*

9 *(b) The voting rights of the units' owners will be exercised*
10 *through the use of secret written ballots pursuant to NRS*
11 *116.31036, the secret written ballots for the removal election must*
12 *be sent in the manner required by NRS 116.31036 not less than 15*
13 *days or more than 60 days after the date on which the petition is*
14 *received, and the executive board shall set the date for the meeting*
15 *to open and count the secret written ballots so that the meeting is*
16 *held not more than 15 days after the deadline for returning the*
17 *secret written ballots.*

18 **3.** Not less than ~~{10 nor}~~ **15 days or** more than 60 days in
19 advance of any meeting of the units' owners , ~~{of an association,}~~
20 the secretary or other officer specified in the bylaws shall cause
21 notice of the meeting to be hand-delivered, sent prepaid by United
22 States mail to the mailing address of each unit or to any other
23 mailing address designated in writing by the unit's owner or, if the
24 association offers to send notice by electronic mail, sent by
25 electronic mail at the request of the unit's owner to an electronic
26 mail address designated in writing by the unit's owner. The notice
27 of the meeting must state the time and place of the meeting and
28 include a copy of the agenda for the meeting. The notice must
29 include notification of the right of a unit's owner to:

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

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

36 ~~{3-}~~ **4.** The agenda for a meeting of the units' owners must
37 consist of:

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

44 (b) A list describing the items on which action may be taken and
45 clearly denoting that action may be taken on those items. In an



1 emergency, the units' owners may take action on an item which is
2 not listed on the agenda as an item on which action may be taken.

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

8 ~~{4-}~~ 5. If the association adopts a policy imposing fines for any
9 violations of the governing documents of the association, the
10 secretary or other officer specified in the bylaws shall prepare and
11 cause to be hand-delivered or sent prepaid by United States mail to
12 the mailing address of each unit or to any other mailing address
13 designated in writing by the unit's owner, a schedule of the fines
14 that may be imposed for those violations.

15 ~~{5-}~~ 6. The secretary or other officer specified in the bylaws
16 shall cause minutes to be recorded or otherwise taken at each
17 meeting of the units' owners. Not more than 30 days after each such
18 meeting, the secretary or other officer specified in the bylaws shall
19 cause the minutes or a summary of the minutes of the meeting to be
20 made available to the units' owners. A copy of the minutes or a
21 summary of the minutes must be provided to any unit's owner upon
22 request and, if required by the executive board, upon payment to the
23 association of the cost of providing the copy to the unit's owner.

24 ~~{6-}~~ 7. Except as otherwise provided in subsection ~~{7-}~~ 8, the
25 minutes of each meeting of the units' owners must include:

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

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

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

33 ~~{7-}~~ 8. The executive board may establish reasonable
34 limitations on materials, remarks or other information to be included
35 in the minutes of a meeting of the units' owners.

36 ~~{8-}~~ 9. The association shall maintain the minutes of each
37 meeting of the units' owners until the common-interest community
38 is terminated.

39 ~~{9-}~~ 10. A unit's owner may record on audiotape or any other
40 means of sound reproduction a meeting of the units' owners if the
41 unit's owner, before recording the meeting, provides notice of his
42 intent to record the meeting to the other units' owners who are in
43 attendance at the meeting.

44 ~~{10-}~~ 11. *The units' owners may approve, at the annual*
45 *meeting of the units' owners, the minutes of the prior annual*



meeting of the units' owners and the minutes of any prior special meetings of the units' owners. A quorum is not required to be present when the units' owners approve the minutes.

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 *or residents* of the ~~[association;]~~ *common-interest community;*

(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;]~~ *3 or 4.*

Sec. 64. 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 ~~for an association~~ must comply with the provisions of subsection ~~3~~ 4 of NRS 116.3108. The period required to be devoted to comments by the 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 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 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 **or residents** of the ~~association;~~ **common-interest community;**
- (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. 65. 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



1 regarding a contract, unless it is a contract between the association
2 and an attorney.

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

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

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

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

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

19 4. An executive board shall meet in executive session to hold a
20 hearing on an alleged violation of the governing documents unless
21 the person who may be sanctioned for the alleged violation requests
22 in writing that ~~the~~ **an open** hearing be conducted by the executive
23 board . ~~{at an open meeting. The}~~ **If the** person who may be
24 sanctioned for the alleged violation ~~is~~ **requests in writing that an**
25 **open hearing be conducted, the person:**

26 (a) **Is** entitled to attend ~~{the hearing and testify concerning the~~
27 ~~alleged violation, but the person may be excluded by the executive~~
28 ~~board from any other portion}~~ **all portions** of the hearing ~~{,}~~ **related**
29 **to the alleged violation,** including, without limitation, **the**
30 **presentation of evidence and the testimony of witnesses; and**

31 (b) **Is not entitled to attend** the deliberations of the executive
32 board.

33 5. Except as otherwise provided in this subsection, any matter
34 discussed by the executive board when it meets in executive session
35 must be generally noted in the minutes of the meeting of the
36 executive board. The executive board shall maintain minutes of any
37 decision made pursuant to subsection 4 concerning an alleged
38 violation and, upon request, provide a copy of the decision to the
39 person who was subject to being sanctioned at the hearing or to his
40 designated representative.

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



1 **Sec. 66.** NRS 116.3115 is hereby amended to read as follows:

2 116.3115 1. Until the association makes an assessment for
3 common expenses, the declarant shall pay all common expenses.
4 After an assessment has been made by the association, assessments
5 must be made at least annually, based on a budget adopted at least
6 annually by the association in accordance with the requirements set
7 forth in NRS 116.31151. Unless the declaration imposes more
8 stringent standards, the budget must include a budget for the daily
9 operation of the association and ~~{the money}~~ **a budget** for the
10 ~~{reserve}~~ **reserves** required by paragraph (b) of subsection 2.

11 2. Except for assessments under subsections 4 to 7, inclusive:

12 (a) All common expenses, including ~~{a reserve,}~~ **the reserves,**
13 must be assessed against all the units in accordance with the
14 allocations set forth in the declaration pursuant to subsections 1 and
15 2 of NRS 116.2107.

16 (b) The association shall establish ~~{an adequate reserve,}~~
17 **adequate reserves,** funded on a reasonable basis, for the repair,
18 replacement and restoration of the major components of the
19 common elements. The ~~{reserve}~~ **reserves** may be used only for
20 those purposes, including, without limitation, repairing, replacing
21 and restoring roofs, roads and sidewalks, and must not be used for
22 daily maintenance. ***The association may comply with the provisions***
23 ***of this paragraph through a funding plan that is designed to***
24 ***allocate the costs for the repair, replacement and restoration of the***
25 ***major components of the common elements over a period of years***
26 ***if the funding plan is designed in an actuarially sound manner***
27 ***which will ensure that sufficient money is available when the***
28 ***repair, replacement and restoration of the major components of***
29 ***the common elements are necessary.***

30 3. Any past due assessment for common expenses or
31 installment thereof bears interest at the rate established by the
32 association not exceeding 18 percent per year.

33 4. To the extent required by the declaration:

34 (a) Any common expense associated with the maintenance,
35 repair, restoration or replacement of a limited common element
36 must be assessed against the units to which that limited common
37 element is assigned, equally, or in any other proportion the
38 declaration provides;

39 (b) Any common expense or portion thereof benefiting fewer
40 than all of the units must be assessed exclusively against the units
41 benefited; and

42 (c) The costs of insurance must be assessed in proportion to risk
43 and the costs of utilities must be assessed in proportion to usage.

44 5. Assessments to pay a judgment against the association may
45 be made only against the units in the common-interest community at



1 the time the judgment was entered, in proportion to their liabilities
2 for common expenses.

3 6. If any common expense is caused by the misconduct of any
4 unit's owner, the association may assess that expense exclusively
5 against his unit.

6 7. The association of a common-interest community created
7 before January 1, 1992, is not required to make an assessment
8 against a vacant lot located within the community that is owned by
9 the declarant.

10 8. If liabilities for common expenses are reallocated,
11 assessments for common expenses and any installment thereof not
12 yet due must be recalculated in accordance with the reallocated
13 liabilities.

14 9. The association shall provide written notice to ~~the owner of~~
15 ~~each unit~~ **each unit's owner** of a meeting at which an assessment
16 for a capital improvement ~~for the commencement of a civil action~~
17 is to be considered or action is to be taken on such an assessment at
18 least 21 calendar days before **the date of** the meeting. ~~Except as~~
19 ~~otherwise provided in this subsection, the association may~~
20 ~~commence a civil action only upon a vote or written agreement of~~
21 ~~the owners of units to which at least a majority of the votes of the~~
22 ~~members of the association are allocated. The provisions of this~~
23 ~~subsection do not apply to a civil action that is commenced:~~

24 —(a) To enforce the payment of an assessment;

25 —(b) To enforce the declaration, bylaws or rules of the
26 association;

27 —(c) To proceed with a counterclaim; or

28 —(d) To protect the health, safety and welfare of the members of
29 the association. If a civil action is commenced pursuant to this
30 paragraph without the required vote or agreement, the action must
31 be ratified within 90 days after the commencement of the action by
32 a vote or written agreement of the owners of the units to which at
33 least a majority of votes of the members of the association are
34 allocated. If the association, after making a good faith effort, cannot
35 obtain the required vote or agreement to commence or ratify such a
36 civil action, the association may thereafter seek to dismiss the action
37 without prejudice for that reason only if a vote or written agreement
38 of the owners of the units to which at least a majority of votes of the
39 members of the association are allocated was obtained at the time
40 the approval to commence or ratify the action was sought.

41 —10. At least 10 days before an association commences or seeks
42 to ratify the commencement of a civil action, the association shall
43 provide a written statement to all units' owners that includes:

44 —(a) A reasonable estimate of the costs of the civil action,
45 including reasonable attorney's fees;



~~—(b) An explanation of the potential benefits of the civil action and the potential adverse consequences if the association does not commence the action or if the outcome of the action is not favorable to the association; and~~

~~—(c) All disclosures that are required to be made upon the sale of the property.~~

~~11. No person other than a unit's owner may request the dismissal of a civil action commenced by the association on the ground that the association failed to comply with any provision of this section.]~~

Sec. 67. NRS 116.31151 is hereby amended to read as follows:

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

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

(b) The budget to ~~[maintain the reserve]~~ **provide adequate funding for the reserves** required by paragraph (b) of subsection 2 of NRS 116.3115. The budget must include, without limitation:

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

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

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

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

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



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 60 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 units' 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. 68.** 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}~~ **At least once every 5 years, cause** to be conducted ~~[-~~
25 ~~at least once every 5 years,]~~ a study of the reserves required to
26 repair, replace and restore the major components of the common
27 elements;

28 (b) ~~{Review}~~ **At least annually, review** the results of that study
29 ~~{at least annually}~~ to determine ~~{if}~~ **whether** those reserves are
30 sufficient; and

31 (c) ~~{Make}~~ **At least annually, make** any adjustments ~~{it}~~ **to the**
32 **association's funding plan which the executive board** deems
33 necessary to ~~{maintain}~~ **provide adequate funding for** the required
34 reserves.

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

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

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



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

(c) An estimate of the remaining useful life of each major component *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~~ *necessary* 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. The results~~, *and an estimate of the funding plan that may be necessary to provide adequate funding for the required reserves.*

4. A *summary* of the study of the reserves required by subsection 1 must be submitted to the ~~Commission~~ *Division* 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. 69. NRS 116.31155 is hereby amended to read as follows:

116.31155 1. ~~{An}~~ *Except as otherwise provided in subsection 2, an* association shall:

(a) If the association is required to pay the fee imposed by NRS 78.150, 82.193 , ~~for~~ 86.263, *87.531 or 88.591*, 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, *or as any other authorized business entity*, pay to the Administrator a fee established by regulation of the Administrator for each unit in the association.

2. *If an association is subject to the governing documents of a master association, the master association shall pay the fees required pursuant to this section for each unit in the association that is subject to the governing documents of the master association, unless the governing documents of the master association provide otherwise. The provisions of this subsection do not relieve any association that is subject to the governing documents of a master association from its ultimate responsibility to pay the fees required pursuant to this section to the Administrator if they are not paid by the master association.*

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. The Administrator may by regulation establish}~~

4. *The Division shall impose* an administrative penalty ~~{to be imposed}~~ against an association *or master association* that violates the provisions of this section by failing to pay the fees owed by the association *or master association* within the times established by the Division. The administrative penalty that is imposed for each violation ~~{may not exceed}~~ *must equal* 10 percent of the amount of the fees owed by the association *or master association* or \$500, whichever amount is less.

~~{4.}~~ *The amount of the unpaid fees owed by the association or master association bears interest at the rate set forth in NRS 99.040 from the date the fees are due until the date the fees are paid in full.*

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

~~—5.}~~ 6. *An association that is subject to the governing documents of a master association may not be required to pay any portion of the fees or any administrative penalties or interest*



1 *required to be paid pursuant to this section to the extent they have*
2 *already been paid by the master association.*

3 7. *A master association may not be required to pay any*
4 *portion of the fees or any administrative penalties or interest*
5 *required to be paid pursuant to this section to the extent they have*
6 *already been paid by an association that is subject to the*
7 *governing documents of the master association.*

8 8. Upon the payment of the fees and any administrative
9 penalties *and interest* required by this section, the Administrator
10 shall provide to the association *or master association* evidence that
11 it paid the fees and the administrative penalties *and interest* in
12 compliance with this section.

13 **Sec. 70.** NRS 116.31162 is hereby amended to read as
14 follows:

15 116.31162 1. Except as otherwise provided in subsection 4,
16 in a condominium, in a planned community, in a cooperative where
17 the owner's interest in a unit is real estate under NRS 116.1105, or
18 in a cooperative where the owner's interest in a unit is personal
19 property under NRS 116.1105 and the declaration provides that a
20 lien may be foreclosed under NRS 116.31162 to 116.31168,
21 inclusive, the association may foreclose its lien by sale after ~~it~~ *all*
22 *of the following occur:*

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

31 (b) Not less than 30 days after mailing the notice of delinquent
32 assessment pursuant to paragraph (a), the association or other person
33 conducting the sale has executed and caused to be recorded, with the
34 county recorder of the county in which the common-interest
35 community or any part of it is situated, a notice of default and
36 election to sell the unit to satisfy the lien ~~[, which contains]~~ *which*
37 *must contain* the same information as the notice of delinquent
38 assessment ~~[, but]~~ *and which* must also ~~[describe]~~ *comply with the*
39 *following:*

- 40 (1) *Describe* the deficiency in payment. ~~[and]~~
41 (2) *State* the name and address of the person authorized by
42 the association to enforce the lien by sale. ~~[and:]~~
43 (3) *Contain, in 14-point bold type, the following warning:*



**WARNING! IF YOU FAIL TO PAY THE AMOUNT
SPECIFIED IN THIS NOTICE, YOU COULD LOSE
YOUR HOME, EVEN IF THE AMOUNT IS IN
DISPUTE!**

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

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

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

(a) The ~~{day}~~ **date** on which the notice of default is recorded; or

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

↪ whichever date occurs later.

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

(a) The violation ~~{threatens}~~ **poses an imminent threat of causing a substantial adverse effect on** the health, safety or welfare of the **units' owners or** residents of the common-interest community; or

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

Sec. 71. NRS 116.31163 is hereby amended to read as follows:

116.31163 The association or other person conducting the sale shall also mail, within 10 days after the notice of default and election to sell is recorded, a copy of the notice by first-class mail to:

1. Each person who has requested notice pursuant to NRS 107.090 or 116.31168;

2. Any holder of a recorded security interest encumbering the unit's owner's interest who has notified the association, 30 days before the recordation of the notice of default, of the existence of the security interest; and

3. A purchaser of the unit, if the unit's owner has notified the association, 30 days before the recordation of the notice, that the unit is the subject of a contract of sale and the association has been



requested to furnish the certificate required by ~~subsection 2 of~~
NRS 116.4109.

Sec. 72. NRS 116.311635 is hereby amended to read as follows:

116.311635 **1.** The association or other person conducting the sale shall also, after the expiration of the 90 days and before selling the unit:

~~(1)~~ **(a)** Give notice of the time and place of the sale in the manner and for a time not less than that required by law for the sale of real property upon execution, except that ~~(a)~~ **in lieu of following the procedure for service on a judgment debtor pursuant to NRS 21.130, service must be made on the unit's owner as follows:**

(1) A copy of the notice of sale must be mailed, on or before the date of first publication or posting, by certified or registered mail, return receipt requested, to the unit's owner or his successor in interest at his address, if known, and to the address of the unit ~~(1)~~ **—2.;** and

(2) A copy of the notice of sale must be served, on or before the date of first publication or posting, in the manner set forth in subsection 2; and

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

~~(a)~~ **(1)** Each person entitled to receive a copy of the notice of default and election to sell notice under NRS 116.31163;

~~(b)~~ **(2)** The holder of a recorded security interest or the purchaser of the unit, if either of them has notified the association, before the mailing of the notice of sale, of the existence of the security interest, lease or contract of sale, as applicable; and

~~(c)~~ **(3)** The Ombudsman.

2. In addition to the requirements set forth in subsection 1, a copy of the notice of sale must be served:

(a) By a person who is 18 years of age or older and who is not a party to or interested in the sale by personally delivering a copy of the notice of sale to an occupant of the unit who is of suitable age; or

(b) By posting a copy of the notice of sale in a conspicuous place on the unit.

3. Any copy of the notice of sale required to be served pursuant to this section must include:

(a) The amount necessary to satisfy the lien as of the date of the proposed sale; and

(b) The following warning in 14-point bold type:

**WARNING! A SALE OF YOUR PROPERTY IS
IMMINENT! UNLESS YOU PAY THE AMOUNT**



SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE THE SALE DATE. IF YOU HAVE ANY QUESTIONS, PLEASE CALL (name and telephone number of the contact person for the association). IF YOU NEED ASSISTANCE, PLEASE CALL THE FORECLOSURE SECTION OF THE OMBUDSMAN'S OFFICE, NEVADA REAL ESTATE DIVISION, AT (toll-free telephone number designated by the Division) IMMEDIATELY.

4. Proof of service of any copy of the notice of sale required to be served pursuant to this section must consist of:

(a) A certificate of mailing which evidences that the notice was mailed through the United State Postal Service; or

(b) An affidavit of service signed by the person who served the notice stating:

(1) The time of service, manner of service and location of service; and

(2) The name of the person served or, if the notice was not served on a person, a description of the location where the notice was posted on the unit.

Sec. 73. NRS 116.31164 is hereby amended to read as follows:

116.31164 1. The sale must be conducted in the county in which the common-interest community or part of it is situated, and may be conducted by the association, its agent or attorney, or a title insurance company or escrow agent licensed to do business in this State, except that the sale may be made at the office of the association if the notice of the sale so provided, whether the unit is located within the same county as the office of the association or not. The association or other person conducting the sale may from time to time postpone the sale by such advertisement and notice as it considers reasonable or, without further advertisement or notice, by proclamation made to the persons assembled at the time and place previously set and advertised for the sale.

2. On the day of sale originally advertised or to which the sale is postponed, at the time and place specified in the notice or postponement, the person conducting the sale may sell the unit at public auction to the highest cash bidder. Unless otherwise provided in the declaration or by agreement, the association may purchase the unit and hold, lease, mortgage or convey it. The association may purchase by a credit bid up to the amount of the unpaid assessments and any permitted costs, fees and expenses incident to the enforcement of its lien.



1 3. After the sale, the person conducting the sale shall ~~make,~~ :
2 *(a) Make*, execute and, after payment is made, deliver to the
3 purchaser, or his successor or assign, a deed without warranty which
4 conveys to the grantee all title of the unit's owner to the unit ~~and~~
5 ~~shall apply~~ ;

6 *(b) Deliver a copy of the deed to the Ombudsman within 30*
7 *days after the deed is delivered to the purchaser, or his successor*
8 *or assign; and*

9 *(c) Apply* the proceeds of the sale for the following purposes in
10 the following order:

11 ~~(a)~~ *(1)* The reasonable expenses of sale;

12 ~~(b)~~ *(2)* The reasonable expenses of securing possession before
13 sale, holding, maintaining, and preparing the unit for sale, including
14 payment of taxes and other governmental charges, premiums on
15 hazard and liability insurance, and, to the extent provided for by the
16 declaration, reasonable attorney's fees and other legal expenses
17 incurred by the association;

18 ~~(c)~~ *(3)* Satisfaction of the association's lien;

19 ~~(d)~~ *(4)* Satisfaction in the order of priority of any subordinate
20 claim of record; and

21 ~~(e)~~ *(5)* Remittance of any excess to the unit's owner.

22 **Sec. 74.** NRS 116.31168 is hereby amended to read as
23 follows:

24 116.31168 1. The provisions of NRS 107.090 apply to the
25 foreclosure of an association's lien as if a deed of trust were being
26 foreclosed. The request must identify the lien by stating the names
27 of the unit's owner and the common-interest community.

28 2. An association may, after recording a notice of default and
29 election to sell, waive the default and withdraw the notice or any
30 proceeding to foreclose. The association is thereupon restored to its
31 former position and has the same rights as though the notice had not
32 been recorded.

33 **Sec. 74.5.** NRS 116.31185 is hereby amended to read as
34 follows:

35 116.31185 ~~(A)~~

36 *1. Except as otherwise provided in subsection 2, a* member of
37 an executive board, an officer of an association or a community
38 manager shall not solicit or accept any form of compensation,
39 gratuity or other remuneration that:

40 ~~(1)~~ *(a)* Would improperly influence or would appear to a
41 reasonable person to improperly influence the decisions made by
42 those persons; or

43 ~~(2)~~ *(b)* Would result or would appear to a reasonable person to
44 result in a conflict of interest for those persons.



2. Notwithstanding the provisions of subsection 1, a member of an executive board, an officer of an association, a community manager or any person working for a community manager shall not accept, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value from:

(a) An attorney, law firm or vendor that provides or seeks to provide services to the applicable community or association, or any person working directly or indirectly for such an attorney, law firm or vendor, which total more than \$100 per year per such attorney, law firm or vendor; or

(b) A declarant, an affiliate of a declarant or any person responsible for the construction of the applicable community or association, which total more than \$100 per year per such declarant, affiliate or person.

3. An attorney, law firm or vendor that provides or seeks to provide services to a community or association, or any person working directly or indirectly for such an attorney, law firm or vendor, shall not provide, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value to a member of the executive board, an officer of the association, the community manager or any person working for the community manager, which total more than \$100 per year per such member, officer, community manager or person.

4. A declarant, an affiliate of a declarant or any person responsible for the construction of a community or association, shall not provide, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value to a member of the executive board, an officer of the association, the community manager or any person working for the community manager, which total more than \$100 per year per such member, officer, community manager or person.

Sec. 75. NRS 116.4103 is hereby amended to read as follows:

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

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

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



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

(d) Copies of the declaration, bylaws, and any rules or 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 or reviewed 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 ~~fa reserve~~ *reserves* for repairs, replacement and restoration ~~fa~~ *pursuant to NRS 116.3115*; and

(2) The projected monthly assessment for common expenses for each type of unit, including the amount established as ~~fa reserve~~ *reserves* 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 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."



1 **Sec. 75.5.** NRS 116.4106 is hereby amended to read as
2 follows:

3 116.4106 1. The public offering statement of a
4 common-interest community containing any converted building
5 must contain, in addition to the information required by NRS
6 116.4103 and 116.41035:

7 (a) A statement by the declarant, based on a report prepared by
8 an independent registered architect or licensed professional
9 engineer, describing the present condition of all structural
10 components and mechanical and electrical installations material to
11 the use and enjoyment of the building;

12 (b) ~~IA statement by the declarant of the expected useful life of~~
13 ~~each item reported in paragraph (a) or a statement that no~~
14 ~~representations are made in that regard; and~~

15 ~~—(c)—~~ A list of any outstanding notices of uncured violations of
16 building codes or other municipal regulations, together with the
17 estimated cost of curing those violations ~~IA~~; and

18 (c) *The budget to maintain the reserves required pursuant to*
19 *paragraph (b) of subsection 2 of NRS 116.3115 which must*
20 *include, without limitation:*

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

24 (2) *As of the end of the fiscal year for which the budget was*
25 *prepared, the current estimate of the amount of cash reserves that*
26 *are necessary to repair, replace and restore the major components*
27 *of the common elements and the current amount of accumulated*
28 *cash reserves that are set aside for such repairs, replacements and*
29 *restorations;*

30 (3) *A statement as to whether the declarant has determined*
31 *or anticipates that the levy of one or more special assessments will*
32 *be required within the next 10 years to repair, replace and restore*
33 *any major component of the common elements or to provide*
34 *adequate reserves for that purpose;*

35 (4) *A general statement describing the procedures used for*
36 *the estimation and accumulation of cash reserves described in*
37 *subparagraph (2), including, without limitation, the qualifications*
38 *of the person responsible for the preparation of the study of*
39 *reserves required pursuant to NRS 116.31152; and*

40 (5) *The funding plan that is designed to allocate the costs*
41 *for the repair, replacement and restoration of the major*
42 *components of the common elements over a period of years.*

43 2. This section applies only to a common-interest community
44 comprised of a converted building or buildings containing more than
45 12 units that may be occupied for residential use.



1 **Sec. 76.** NRS 116.4109 is hereby amended to read as follows:

2 116.4109 1. Except in the case of a sale in which delivery of
3 a public offering statement is required, or unless exempt under
4 subsection 2 of NRS 116.4101, a unit's owner *or his authorized*
5 *agent* shall furnish to a purchaser ~~{before an offer to purchase a unit~~
6 ~~becomes binding on the purchaser:}~~ *a resale package containing all*
7 *of the following:*

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

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

14 (c) ~~{The}~~ *A copy of the* current operating budget of the
15 association and ~~{a}~~ *current year-to-date* financial statement for the
16 association, which must include a summary of the ~~{financial~~
17 ~~components of the study of the}~~ reserves of the association required
18 by NRS 116.31152 ~~{;}~~ *and which must include, without limitation,*
19 *a summary of the information described in paragraphs (a) to (e),*
20 *inclusive, of subsection 3 of NRS 116.31152; and*

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

25 2. The ~~{association, within}~~ *purchaser may, by written notice,*
26 *cancel the contract of purchase until midnight of the fifth*
27 *calendar day following the date of receipt of the resale package*
28 *described in subsection 1, and the contract for purchase must*
29 *contain a provision to that effect. If the purchaser elects to cancel*
30 *a contract pursuant to this subsection, he must hand deliver the*
31 *notice of cancellation to the unit's owner or his authorized agent*
32 *or mail the notice of cancellation by prepaid United States mail to*
33 *the unit's owner or his authorized agent. Cancellation is without*
34 *penalty, and all payments made by the purchaser before*
35 *cancellation must be refunded promptly. If the purchaser has*
36 *accepted a conveyance of the unit, the purchaser is not entitled to:*

37 (a) *Cancel the contract pursuant to this subsection; or*

38 (b) *Damages, rescission or other relief based solely on the*
39 *ground that the unit's owner or his authorized agent failed to*
40 *furnish the resale package, or any portion thereof, as required by*
41 *this section.*

42 3. *Within 10 days after receipt of a written request by the*
43 *unit's owner or his authorized agent, the association shall furnish*
44 ~~{a certificate containing the}~~ *all of the following to the unit's owner*
45 *or his authorized agent for inclusion in the resale package:*



1 (a) Copies of the documents required pursuant to paragraphs
2 (a) and (c) of subsection 1; and

3 (b) A certificate containing the information necessary to enable
4 the unit's owner to comply with paragraphs (b) and (d) of
5 subsection 1. ~~{A unit's owner providing a}~~

6 4. If the association furnishes the documents and certificate
7 pursuant to subsection ~~{1 is not}~~ 3:

8 (a) The unit's owner or his authorized agent shall include the
9 documents and certificate in the resale package provided to the
10 purchaser, and neither the unit's owner nor his authorized agent
11 is liable to the purchaser for any erroneous information provided by
12 the association and included in the documents and certificate.

13 ~~{3-}~~ (b) The association may charge the unit's owner a
14 reasonable fee to cover the cost of preparing the certificate
15 furnished pursuant to subsection 3. Such a fee must be based on
16 the actual cost the association incurs to fulfill the requirements of
17 this section in preparing the certificate. The Commission shall
18 adopt regulations establishing the maximum amount of the fee
19 that an association may charge for preparing the certificate.

20 (c) The association may charge the unit's owner a reasonable
21 fee, not to exceed 25 cents per page, to cover the cost of copying
22 the other documents furnished pursuant to subsection 3.

23 (d) Except for the fees allowed pursuant to paragraphs (b) and
24 (c), the association may not charge the unit's owner any other fees
25 for preparing or furnishing the documents and certificate
26 pursuant to subsection 3.

27 5. Neither a purchaser nor the purchaser's interest in a unit is
28 liable for any unpaid assessment or fee greater than the amount set
29 forth in the documents and certificate prepared by the association. If
30 the association fails to furnish the documents and certificate within
31 the 10 days allowed by ~~{subsection 2,}~~ this section, the seller is not
32 liable for the delinquent assessment.

33 ~~{4-}~~ 6. Upon the request of a unit's owner ~~{1}~~ or his authorized
34 agent, or upon the request of a purchaser to whom the unit's owner
35 has provided a resale package pursuant to ~~{subsection 1}~~ this
36 section, or his authorized agent, ~~{of the unit's owner or the~~
37 ~~purchaser}~~ the association shall make the entire study of the reserves
38 of the association which is required by NRS 116.31152 reasonably
39 available for the unit's owner, purchaser or authorized agent to
40 inspect, examine, photocopy and audit. The study must be made
41 available at the business office of the association or some other
42 suitable location within the county where the common-interest
43 community is situated or, if it is situated in more than one county,
44 within one of those counties.



1 **Sec. 77.** NRS 116.41095 is hereby amended to read as
2 follows:

3 116.41095 The information statement required by NRS
4 116.4103 and 116.4109 must be in substantially the following form:

5
6 BEFORE YOU PURCHASE PROPERTY IN A
7 COMMON-INTEREST COMMUNITY
8 DID YOU KNOW . . .

9 1. **YOU GENERALLY HAVE 5 DAYS TO CANCEL THE**
10 **PURCHASE AGREEMENT?**

11 *When you enter into a purchase agreement to buy a home or unit*
12 *in a common-interest community, in most cases you should receive*
13 *either a public offering statement, if you are the original*
14 *purchaser of the home or unit, or a resale package, if you are not*
15 *the original purchaser. The law generally provides for a 5-day*
16 *period in which you have the right to cancel the purchase*
17 *agreement. The 5-day period begins on different starting dates,*
18 *depending on whether you receive a public offering statement or a*
19 *resale package. Upon receiving a public offering statement or a*
20 *resale package, you should make sure you are informed of the*
21 *deadline for exercising your right to cancel. In order to exercise*
22 *your right to cancel, the law generally requires that you hand*
23 *deliver the notice of cancellation to the seller within the 5-day*
24 *period, or mail the notice of cancellation to the seller by prepaid*
25 *United States mail within the 5-day period. For more information*
26 *regarding your right to cancel, see Nevada Revised Statutes*
27 *116.4108, if you received a public offering statement, or Nevada*
28 *Revised Statutes 116.4109, if you received a resale package.*

29 2. **YOU ARE AGREEING TO RESTRICTIONS ON HOW**
30 **YOU CAN USE YOUR PROPERTY?**

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



~~R's,~~ CC&Rs, and other governing documents before purchasing to make sure that these limitations and controls are acceptable to you.

~~{2-}~~ 3. YOU WILL HAVE TO PAY OWNERS' ASSESSMENTS FOR AS LONG AS YOU OWN YOUR PROPERTY?

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

~~{3-}~~ 4. IF YOU FAIL TO PAY OWNERS' ASSESSMENTS, YOU COULD LOSE YOUR HOME?

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

~~{4-}~~ 5. YOU MAY BECOME A MEMBER OF A ~~{HOMEOWNER'S}~~ HOMEOWNERS' ASSOCIATION THAT HAS THE POWER TO AFFECT HOW YOU USE AND ENJOY YOUR PROPERTY?

Many common-interest communities have a ~~{homeowner's}~~ homeowners' association. In a new development, the association will usually be controlled by the developer until a certain number of units have been sold. After the period of developer control, the association may be controlled by property owners like yourself who are elected by homeowners to sit on an executive board and other boards and committees formed by the association. The association, and its executive board, are responsible for assessing homeowners for the cost of operating the association and the common or shared



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

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

44 ~~—5.~~ **6. YOU ARE REQUIRED TO PROVIDE PROSPECTIVE**
45 ~~{BUYERS}~~ **PURCHASERS** OF YOUR PROPERTY WITH



1 INFORMATION ABOUT LIVING IN YOUR COMMON-
2 INTEREST COMMUNITY?

3 The law requires you to provide ~~{to}~~ a prospective purchaser of your
4 property ~~{, before you enter into a purchase agreement,}~~ **with** a copy
5 of the community's governing documents, including the ~~{C, C &
6 R's,}~~ **CC&Rs**, association bylaws, and rules and regulations, as well
7 as a copy of this document. You are also required to provide a copy
8 of the association's current **year-to-date** financial statement,
9 **including, without limitation, the most recent audited or reviewed**
10 **financial statement, a copy of the association's** operating budget
11 and information regarding the amount of the monthly assessment for
12 common expenses, including the amount set aside as reserves for the
13 repair, replacement and restoration of common elements. You are
14 also required to inform prospective purchasers of any outstanding
15 judgments or lawsuits pending against the association of which you
16 are aware. ~~{You are also required to provide a copy of the minutes~~
17 ~~from the most recent meeting of the homeowner's association or its~~
18 ~~executive—board.}~~ For more information regarding these
19 requirements, see Nevada Revised Statutes ~~{116.4103 and}~~
20 116.4109.

21 ~~{6.}~~ **7. YOU HAVE CERTAIN RIGHTS REGARDING**
22 **OWNERSHIP IN A COMMON-INTEREST COMMUNITY THAT**
23 **ARE GUARANTEED YOU BY THE STATE?**

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

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

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

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

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

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

38 ~~{7.}~~ **8. QUESTIONS?**

39 Although they may be voluminous, you should take the time to read
40 and understand the documents that will control your ownership of a
41 property in a common-interest community. You may wish to ask
42 your real estate professional, lawyer or other person with experience
43 to explain anything you do not understand. You may also request
44 assistance from **the Office of** the Ombudsman for Owners in



Common-Interest Communities, Nevada Real Estate Division, at (telephone number).

Buyer or prospective buyer's initials: _____

Date: _____

Sec. 78. NRS 116.600 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 79. NRS 116.615 is hereby amended to read as follows:

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



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

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

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

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

6. All regulations adopted by the Commission, or adopted by the Administrator with the approval of the Commission, must be published by the Division, *posted on its website* 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. 79.5. NRS 116.745 is hereby amended to read as follows:

116.745 As used in NRS 116.745 to 116.795, inclusive, *and section 47.6 of this act*, unless the context otherwise requires, “violation” means a violation of any provision of this chapter, any regulation adopted pursuant thereto or any order of the Commission or a hearing panel.

Sec. 80. 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, *and section 47.6 of this act*, the Division and the Ombudsman have jurisdiction to investigate and the Commission and each hearing panel has jurisdiction to take appropriate action against any person who commits a violation, including, without limitation:

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

(b) Any member of an executive board.

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



(d) *Any person who holds a permit to conduct a study of the reserves of an association issued pursuant to sections 2 to 35, 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. 81. NRS 116.760 is hereby amended to read as follows:

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

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

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

(b) ~~[Be mailed at least 15 days apart.]~~

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

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

(a) On a form prescribed by the Division.

(b) Be accompanied by evidence that:

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



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

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

Sec. 82. NRS 116.790 is hereby amended to read as follows:

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

~~[1-]~~ (a) Order an audit of the association.

~~[2-]~~ (b) Require the executive board to hire a community manager who holds a ~~[permit or]~~ certificate.

2. *The Commission or the Division, with the approval of the Commission, may apply to a court of competent jurisdiction for the appointment of a receiver for an association if, after notice and a hearing, the Commission or a hearing officer finds that any of the following violations occurred:*

(a) *The executive board, or any member thereof, has been guilty of fraud or collusion or gross mismanagement in the conduct or control of its affairs;*

(b) *The executive board, or any member thereof, has been guilty of misfeasance, malfeasance or nonfeasance; or*

(c) *The assets of the association are in danger of waste or loss through attachment, foreclosure, litigation or otherwise.*

3. *In any application for the appointment of a receiver pursuant to this section, notice of a temporary appointment of a receiver may be given to the association alone, by process as in the case of an application for a temporary restraining order or injunction. The hearing thereon may be had after 5 days' notice unless the court directs a longer or different notice and different parties.*

4. *The court may, if good cause exists, appoint one or more receivers pursuant to this section to carry out the business of the association. The members of the executive board who have not been guilty of negligence or active breach of duty must be preferred in making the appointment.*

5. *The powers of any receiver appointed pursuant to this section may be continued as long as the court deems necessary and proper. At any time, for sufficient cause, the court may order the receivership terminated.*

6. *Any receiver appointed pursuant to this section has, among the usual powers, all the functions, powers, tenure and duties to be exercised under the direction of the court as are conferred on*



1 *receivers and as provided in NRS 78.635, 78.640 and 78.645,*
2 *whether or not the association is insolvent. Such powers include,*
3 *without limitation, the powers to:*

4 (a) *Take charge of the estate and effects of the association;*

5 (b) *Appoint an agent or agents;*

6 (c) *Collect any debts and property due and belonging to the*
7 *association and prosecute and defend, in the name of the*
8 *association, or otherwise, any civil action as may be necessary or*
9 *proper for the purposes of collecting debts and property;*

10 (d) *Perform any other act in accordance with the governing*
11 *documents of the association and this chapter that may be*
12 *necessary for the association to carry out its obligations; and*

13 (e) *By injunction, restrain the association from exercising any*
14 *of its powers or doing business in any way except by and through*
15 *a receiver appointed by the court.*

16 **Sec. 82.3.** NRS 116.795 is hereby amended to read as follows:

17 116.795 1. If the Commission or the Division has reasonable
18 cause to believe, based on evidence satisfactory to it, that any person
19 ~~has committed a violation or will continue to commit violations,~~
20 *violated or is about to violate any provision of this chapter, any*
21 *regulation adopted pursuant thereto or any order, decision,*
22 *demand or requirement of the Commission or Division or a*
23 *hearing panel,* the Commission or the Division may bring an action
24 in the district court for the county in which the person resides or, if
25 the person does not reside in this State, in any court of competent
26 jurisdiction ~~in~~ *within or outside* this State, to *restrain or* enjoin
27 that person from *engaging in or* continuing to commit the violations
28 or from doing any act in furtherance of the violations.

29 2. The action must be brought in the name of the State of
30 Nevada. *If the action is brought in a court of this State, an order*
31 *or judgment may be entered, when proper, issuing a temporary*
32 *restraining order, preliminary injunction or final injunction. A*
33 *temporary restraining order or preliminary injunction must not be*
34 *issued without at least 5 days' notice to the opposite party.*

35 3. The court may issue the *temporary restraining order,*
36 *preliminary injunction or final* injunction without:

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

38 (b) The filing of any bond.

39 **Sec. 82.6.** Chapter 119 of NRS is hereby amended by adding
40 thereto a new section to read as follows:

41 *It is unlawful for a developer to sell any lot, parcel, unit or*
42 *interest in a subdivision without complying with the provisions of*
43 *NRS 116.4106, if applicable.*



Sec. 83. NRS 78.045 is hereby amended to read as follows:

78.045 1. The Secretary of State shall not accept for filing any articles of incorporation or any certificate of amendment of articles of incorporation of any corporation formed pursuant to the laws of this State which provides that the name of the corporation contains the word "bank" or "trust," unless:

(a) It appears from the articles or the certificate of amendment that the corporation 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 or certificate of amendment is first approved by the Commissioner of Financial Institutions.

2. The Secretary of State shall not accept for filing any articles of incorporation or any certificate of amendment of articles of incorporation of any corporation formed 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 corporation 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 corporation.

3. Except as otherwise provided in subsection 6, the Secretary of State shall not accept for filing any articles of incorporation or any certificate of amendment of articles of incorporation of any corporation formed pursuant to the laws of this State if the name of the corporation 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 corporation 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 corporation is exempt from the prohibitions of NRS 625.520.

4. The Secretary of State shall not accept for filing any articles of incorporation or any certificate of amendment of articles of incorporation of any corporation formed pursuant to the laws of this State which provides that the name of the corporation contains the word "accountant," "accounting," "accountancy," "auditor" or "auditing" unless the Nevada State Board of Accountancy certifies that the corporation:

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

(b) Has filed with the Nevada State Board of Accountancy under penalty of perjury a written statement that the corporation is not



1 engaged in the practice of accounting and is not offering to practice
2 accounting in this State.

3 5. The Secretary of State shall not accept for filing any articles
4 of incorporation or any certificate of amendment of articles of
5 incorporation of any corporation formed or existing pursuant to the
6 laws of this State which provides that the name of the corporation
7 contains the words “*common-interest community,*” “*community*
8 *association,*” “*master association,*” “unit-owners’ association” or
9 “homeowners’ association” or if it appears in the articles of
10 incorporation or certificate of amendment that the purpose of the
11 corporation is to operate as a unit-owners’ association pursuant to
12 chapter 116 of NRS unless the Administrator of the Real Estate
13 Division of the Department of Business and Industry certifies that
14 the corporation has:

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

17 (b) Paid to the Administrator of the Real Estate Division the fees
18 required pursuant to NRS 116.31155.

19 6. The provisions of subsection 3 do not apply to any
20 corporation, whose securities are publicly traded and regulated by
21 the Securities Exchange Act of 1934, which does not engage in the
22 practice of professional engineering.

23 7. The Commissioner of Financial Institutions and the
24 Commissioner of Insurance may approve or disapprove the articles
25 or amendments referred to them pursuant to the provisions of this
26 section.

27 **Sec. 84.** Chapter 81 of NRS is hereby amended by adding
28 thereto the provisions set forth as sections 85, 86 and 87 of this act.

29 **Sec. 85. 1. *The Secretary of State shall not accept for filing***
30 ***any articles of incorporation or any certificate of amendment of***
31 ***articles of incorporation of any corporation formed under the***
32 ***provisions of this section and NRS 81.010 to 81.160, inclusive,***
33 ***which provides that the name of the corporation contains the***
34 ***words “common-interest community,” “community association,”***
35 ***“master association,” “unit-owners’ association” or***
36 ***“homeowners’ association” or if it appears in the articles of***
37 ***incorporation or certificate of amendment of articles of***
38 ***incorporation that the purpose of the corporation is to operate as a***
39 ***unit-owners’ association pursuant to chapter 116 of NRS unless***
40 ***the Administrator of the Real Estate Division of the Department of***
41 ***Business and Industry certifies that the corporation has:***

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

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



2. Upon notification from the Administrator of the Real Estate Division of the Department of Business and Industry that a corporation which is a unit-owners' association as defined in NRS 116.011 has failed to register pursuant to NRS 116.31158 or failed to pay the fees pursuant to NRS 116.31155, the Secretary of State shall deem the corporation to be in default. If, after the corporation is deemed to be in default, the Administrator notifies the Secretary of State that the corporation has registered pursuant to NRS 116.31158 and paid the fees pursuant to NRS 116.31155, the Secretary of State shall reinstate the corporation if the corporation complies with the requirements for reinstatement as provided in this section and NRS 78.180 and 78.185.

Sec. 86. 1. The Secretary of State shall not accept for filing any articles of association or any certificate of amendment of articles of association of any association formed under the provisions of NRS 81.170 to 81.270, inclusive, and this section which provides that the name of the association contains the words "common-interest community," "community association," "master association," "unit-owners' association" or "homeowners' association" or if it appears in the articles of association or certificate of amendment of articles of association that the purpose of the association is to operate as a unit-owners' association pursuant to chapter 116 of NRS unless the Administrator of the Real Estate Division of the Department of Business and Industry certifies that the association has:

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

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

2. Upon notification from the Administrator of the Real Estate Division of the Department of Business and Industry that an association which is a unit-owners' association as defined in NRS 116.011 has failed to register pursuant to NRS 116.31158 or failed to pay the fees pursuant to NRS 116.31155, the Secretary of State shall deem the association to be in default. If, after the association is deemed to be in default, the Administrator notifies the Secretary of State that the association has registered pursuant to NRS 116.31158 and paid the fees pursuant to NRS 116.31155, the Secretary of State shall reinstate the association if the association complies with the requirements for reinstatement as provided in this section and NRS 78.180 and 78.185 and pays the fees required pursuant to NRS 82.193.

Sec. 87. 1. The Secretary of State shall not accept for filing any articles of incorporation or any certificate of amendment of articles of incorporation of any corporation formed under the



1 *provisions of NRS 81.410 to 81.540, inclusive, and this section*
2 *which provides that the name of the corporation contains the*
3 *words "common-interest community," "community association,"*
4 *"master association," "unit-owners' association" or*
5 *"homeowners' association" or if it appears in the articles of*
6 *incorporation or certificate of amendment of articles of*
7 *incorporation that the purpose of the corporation is to operate as a*
8 *unit-owners' association pursuant to chapter 116 of NRS unless*
9 *the Administrator of the Real Estate Division of the Department of*
10 *Business and Industry certifies that the corporation has:*

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

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

15 *2. Upon notification from the Administrator of the Real*
16 *Estate Division of the Department of Business and Industry that a*
17 *corporation which is a unit-owners' association as defined in NRS*
18 *116.011 has failed to register pursuant to NRS 116.31158 or failed*
19 *to pay the fees pursuant to NRS 116.31155, the Secretary of State*
20 *shall deem the corporation to be in default. If, after the*
21 *corporation is deemed to be in default, the Administrator notifies*
22 *the Secretary of State that the corporation has registered pursuant*
23 *to NRS 116.31158 and paid the fees pursuant to NRS 116.31155,*
24 *the Secretary of State shall reinstate the corporation if the*
25 *corporation complies with the requirements for reinstatement as*
26 *provided in this section and NRS 78.180 and 78.185 and pays the*
27 *fees required pursuant to NRS 82.193.*

28 **Sec. 88.** NRS 81.010 is hereby amended to read as follows:

29 81.010 1. Nonprofit cooperative corporations may be formed
30 by the voluntary association of any three or more persons in the
31 manner prescribed in NRS 81.010 to 81.160, inclusive **H**, and
32 **section 85 of this act**. A majority of the persons must be residents of
33 this State, and such a corporation has and may exercise the powers
34 necessarily incident thereto. Except as otherwise provided in
35 subsection 2, the provisions of chapter 78 of NRS govern each
36 nonprofit cooperative corporation organized pursuant to NRS
37 81.010 to 81.160, inclusive **H**, and **section 85 of this act**. If such a
38 nonprofit cooperative corporation is organized without shares of
39 stock, the members shall be deemed to be "shareholders" or
40 "stockholders" as these terms are used in chapter 78 of NRS.

41 2. If the term for which a nonprofit cooperative corporation
42 was to exist has expired but the corporation has continued to
43 perform the activities authorized by its original articles of
44 incorporation or any amendment thereto, revival of its corporate
45 existence does not require the consent of its members or



1 stockholders. Each required action to accomplish a revival may be
2 taken by a majority of the surviving directors. The revival is
3 effective as of the date of expiration of the original term.

4 **Sec. 89.** NRS 81.170 is hereby amended to read as follows:

5 81.170 1. NRS 81.170 to 81.270, inclusive, *and section 86 of*
6 *this act* being passed to promote association for mutual welfare, the
7 words “lawful business” extend to every kind of lawful effort for
8 business, education, industrial, benevolent, social or political
9 purposes, whether conducted for profit or not.

10 2. NRS 81.170 to 81.270, inclusive, *and section 86 of this act*
11 must not be strictly construed, but their provisions must at all times
12 be liberally construed with a view to effect their object and to
13 promote their purposes.

14 **Sec. 90.** NRS 81.200 is hereby amended to read as follows:

15 81.200 1. Each association formed under NRS 81.170 to
16 81.270, inclusive, *and section 86 of this act* shall prepare articles of
17 association in writing, setting forth:

18 (a) The name of the association.

19 (b) The purpose for which it is formed.

20 (c) The name of the person designated as the resident agent, the
21 street address for service of process, and the mailing address if
22 different from the street address.

23 (d) The term for which it is to exist, which may be perpetual.

24 (e) The names and addresses, either residence or business, of the
25 directors selected for the first year.

26 (f) The amount which each member is to pay upon admission as
27 a fee for membership, and that each member signing the articles has
28 actually paid the fee.

29 (g) That the interest and right of each member therein is to be
30 equal.

31 (h) The name and address, either residence or business, of each
32 of the persons signing the articles of association.

33 2. The articles of association must be signed by the original
34 associates or members.

35 3. The articles so signed must be filed, together with a
36 certificate of acceptance of appointment signed by the resident agent
37 for the association, in the Office of the Secretary of State . ~~[- who~~
38 ~~shall furnish a certified copy thereof.]~~ From the time of the filing in
39 the Office of the Secretary of State, the association may exercise all
40 the powers for which it was formed.

41 **Sec. 91.** NRS 81.410 is hereby amended to read as follows:

42 81.410 1. Nonprofit cooperative corporations may be formed
43 by the voluntary association of any three or more persons in the
44 manner prescribed in NRS 81.410 to 81.540, inclusive ~~[-]~~ , *and*
45 *section 87 of this act.*



2. Except as otherwise provided in subsection 3, the provisions of chapter 82 of NRS govern a nonprofit cooperative corporation organized pursuant to NRS 81.410 to 81.540, inclusive, **and section 87 of this act**, except to the extent that the provisions of chapter 82 of NRS are inconsistent with NRS 81.410 to 81.540, inclusive **H**, **and section 87 of this act**.

3. NRS 82.081 and 82.136 do not apply to a nonprofit cooperative corporation organized pursuant to NRS 81.410 to 81.540, inclusive **H**, **and section 87 of this act**.

Sec. 92. NRS 82.106 is hereby amended to read as follows:

1. The Secretary of State shall not accept for filing pursuant to this chapter any articles of incorporation or any certificate of amendment of articles of incorporation of any corporation formed or existing pursuant to this chapter if the name of the corporation contains the words "trust," "engineer," "engineered," "engineering," "professional engineer" or "licensed engineer."

2. The Secretary of State shall not accept for filing any articles of incorporation or any certificate of amendment of articles of incorporation of any corporation formed or existing under this chapter when it appears from the articles or the certificate of amendment that the business to be carried on by the corporation is subject to supervision by the Commissioner of Insurance.

3. The Secretary of State shall not accept for filing pursuant to this chapter any articles of incorporation or any certificate of amendment of articles of incorporation of any corporation formed or existing pursuant to this chapter if the name of the corporation contains the word "accountant," "accounting," "accountancy," "auditor" or "auditing."

4. The Secretary of State shall not accept for filing any articles of incorporation or any certificate of amendment of articles of incorporation of any corporation formed or existing pursuant to the laws of this State which provides that the name of the corporation contains the words **"common-interest community," "community association," "master association,"** "unit-owners' association" or "homeowners' association" or if it appears in the articles of incorporation or certificate of amendment that the purpose of the corporation is to operate as a unit-owners' association pursuant to chapter 116 of NRS unless the Administrator of the Real Estate Division of the Department of Business and Industry certifies that the corporation has:

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

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



Sec. 93. NRS 86.171 is hereby amended to read as follows:

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

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

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

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

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

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

(b) Has filed with the Nevada State Board of Accountancy under penalty of perjury a written statement that the limited-liability company is not engaged in the practice of accounting and is not 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 “common-interest community,” “community association,” “master association,” “unit-owners’ association” or “homeowners’ association” or if it appears in the articles of organization or certificate of amendment of articles of organization that the purpose of the limited-liability company is to operate as a unit-owners’ association pursuant to chapter 116 of NRS unless the Administrator of the Real Estate Division of the Department of Business and Industry certifies that the limited-liability company has:*



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

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

5 10. The Secretary of State may adopt regulations that interpret
6 the requirements of this section.

7 **Sec. 94.** NRS 86.272 is hereby amended to read as follows:

8 86.272 1. Each limited-liability company which is required to
9 make a filing and pay the fee prescribed in NRS 86.263 and 86.264
10 and which refuses or neglects to do so within the time provided is in
11 default.

12 2. *Upon notification from the Administrator of the Real*
13 *Estate Division of the Department of Business and Industry that a*
14 *limited-liability company which is a unit-owners' association as*
15 *defined in NRS 116.011 has failed to register pursuant to NRS*
16 *116.31158 or failed to pay the fees pursuant to NRS 116.31155,*
17 *the Secretary of State shall deem the limited-liability company to*
18 *be in default. If, after the limited-liability company is deemed to be*
19 *in default, the Administrator notifies the Secretary of State that*
20 *the limited-liability company has registered pursuant to NRS*
21 *116.31158 and paid the fees pursuant to NRS 116.31155, the*
22 *Secretary of State shall reinstate the limited-liability company if*
23 *the limited-liability company complies with the requirements for*
24 *reinstatement as provided in this section and NRS 86.276.*

25 3. For default there must be added to the amount of the fee a
26 penalty of \$75. The fee and penalty must be collected as provided in
27 this chapter.

28 **Sec. 95.** NRS 87.450 is hereby amended to read as follows:

29 87.450 1. The name proposed for a registered limited-
30 liability partnership must contain the words "Limited-Liability
31 Partnership" or "Registered Limited-Liability Partnership" or the
32 abbreviation "L.L.P." or "LLP" as the last words or letters of the
33 name and must be distinguishable on the records of the Secretary of
34 State from the names of all other artificial persons formed,
35 organized, registered or qualified pursuant to the provisions of this
36 title that are on file in the Office of the Secretary of State and all
37 names that are reserved in the Office of the Secretary of State
38 pursuant to the provisions of this title. If the name of the registered
39 limited-liability partnership on a certificate of registration of
40 limited-liability partnership submitted to the Secretary of State is not
41 distinguishable from a name on file or reserved name, the Secretary
42 of State shall return the certificate to the person who signed it unless
43 the written, acknowledged consent of the holder of the name on file
44 or reserved name to use the name accompanies the certificate.



2. For the purposes of this section, a proposed name is not distinguishable from a name on file or reserved name solely because one or the other contains distinctive lettering, a distinctive mark, a trademark or a trade name, or any combination thereof.

3. The Secretary of State shall not accept for filing any certificate of registration or certificate of amendment of a certificate of registration of any registered limited-liability partnership formed or existing pursuant to the laws of this State which provides that the name of the registered limited-liability partnership contains the word "accountant," "accounting," "accountancy," "auditor" or "auditing" unless the Nevada State Board of Accountancy certifies that the registered limited-liability partnership:

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

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

4. The Secretary of State shall not accept for filing any certificate of registration or certificate of amendment of a certificate of registration of any registered limited-liability partnership formed or existing pursuant to the laws of this State which provides that the name of the registered limited-liability partnership contains the word "bank" or "trust" unless:

(a) It appears from the certificate of registration or the certificate of amendment that the registered limited-liability partnership 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 certificate of registration or certificate of amendment is first approved by the Commissioner of Financial Institutions.

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

6. Except as otherwise provided in subsection 5, the Secretary of State shall not accept for filing any certificate of registration or certificate of amendment of a certificate of registration of any



1 registered limited-liability partnership formed or existing pursuant
2 to the laws of this State which provides that the name of the
3 registered limited-liability partnership contains the words
4 "engineer," "engineered," "engineering," "professional engineer,"
5 "registered engineer" or "licensed engineer" unless:

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

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

13 7. The Secretary of State shall not accept for filing any
14 certificate of registration or certificate of amendment of a certificate
15 of registration of any registered limited-liability partnership formed
16 or existing pursuant to the laws of this State which provides that the
17 name of the registered limited-liability partnership contains the
18 words "**common-interest community,**" "**community association,**"
19 "**master association,**" "unit-owners' association" or "homeowners'
20 association" or if it appears in the certificate of registration or
21 certificate of amendment that the purpose of the registered limited-
22 liability partnership is to operate as a unit-owners' association
23 pursuant to chapter 116 of NRS unless the Administrator of the Real
24 Estate Division of the Department of Business and Industry certifies
25 that the registered limited-liability partnership has:

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

28 (b) Paid to the Administrator of the Real Estate Division the fees
29 required pursuant to NRS 116.31155.

30 8. The name of a registered limited-liability partnership whose
31 right to transact business has been forfeited, which has merged and
32 is not the surviving entity or whose existence has otherwise
33 terminated is available for use by any other artificial person.

34 9. The Secretary of State may adopt regulations that interpret
35 the requirements of this section.

36 **Sec. 96.** NRS 88.320 is hereby amended to read as follows:

37 88.320 1. Except as otherwise provided in NRS 88.6065, the
38 name proposed for a limited partnership as set forth in its certificate
39 of limited partnership:

40 (a) Must contain the words "Limited Partnership," or the
41 abbreviation "LP" or "L.P.";

42 (b) May not contain the name of a limited partner unless:

43 (1) It is also the name of a general partner or the corporate
44 name of a corporate general partner; or



(2) The business of the limited partnership had been carried on under that name before the admission of that limited partner; and

(c) Must be distinguishable on the records of the Secretary of State from the names of all other artificial persons formed, organized, registered or qualified pursuant to the provisions of this title that are on file in the Office of the Secretary of State and all names that are reserved in the Office of the Secretary of State pursuant to the provisions of this title. If the name on the certificate of limited partnership submitted to the Secretary of State is not distinguishable from any name on file or reserved name, the Secretary of State shall return the certificate to the filer, unless the written, acknowledged consent to the use of the same or the requested similar name of the holder of the name on file or reserved name accompanies the certificate of limited partnership.

2. For the purposes of this section, a proposed name is not distinguished from a name on file or reserved name solely because one or the other contains distinctive lettering, a distinctive mark, a trademark or a trade name, or any combination thereof.

3. The Secretary of State shall not accept for filing any certificate of limited partnership for any limited partnership formed or existing pursuant to the laws of this State which provides that the name of the limited partnership contains the word "accountant," "accounting," "accountancy," "auditor" or "auditing" unless the Nevada State Board of Accountancy certifies that the limited partnership:

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

(b) Has filed with the Nevada State Board of Accountancy under penalty of perjury a written statement that the limited partnership is not engaged in the practice of accounting and is not offering to practice accounting in this State.

4. The Secretary of State shall not accept for filing any certificate of limited partnership for any limited partnership formed or existing pursuant to the laws of this State which provides that the name of the limited partnership contains the word "bank" or "trust" unless:

(a) It appears from the certificate of limited partnership that the limited partnership 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 certificate of limited partnership is first approved by the Commissioner of Financial Institutions.

5. The Secretary of State shall not accept for filing any certificate of limited partnership for any limited partnership formed or existing pursuant to the provisions of this chapter if it appears



1 from the certificate of limited partnership that the business to be
2 carried on by the limited partnership is subject to supervision by the
3 Commissioner of Insurance or by the Commissioner of Financial
4 Institutions, unless the certificate of limited partnership is approved
5 by the Commissioner who will supervise the business of the limited
6 partnership.

7 6. Except as otherwise provided in subsection 5, the Secretary
8 of State shall not accept for filing any certificate of limited
9 partnership for any limited partnership formed or existing pursuant
10 to the laws of this State which provides that the name of the limited
11 partnership contains the words “engineer,” “engineered,”
12 “engineering,” “professional engineer,” “registered engineer” or
13 “licensed engineer” unless:

14 (a) The State Board of Professional Engineers and Land
15 Surveyors certifies that the principals of the limited partnership are
16 licensed to practice engineering pursuant to the laws of this State; or

17 (b) The State Board of Professional Engineers and Land
18 Surveyors certifies that the limited partnership is exempt from the
19 prohibitions of NRS 625.520.

20 7. The Secretary of State shall not accept for filing any
21 certificate of limited partnership for any limited partnership formed
22 or existing pursuant to the laws of this State which provides that the
23 name of the limited partnership contains the words “*common-*
24 *interest community,*” “*community association,*” “*master*
25 *association,*” “unit-owners’ association” or “homeowners’
26 association” or if it appears in the certificate of limited partnership
27 that the purpose of the limited partnership is to operate as a unit-
28 owners’ association pursuant to chapter 116 of NRS unless the
29 Administrator of the Real Estate Division of the Department of
30 Business and Industry certifies that the limited partnership has:

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

33 (b) Paid to the Administrator of the Real Estate Division the fees
34 required pursuant to NRS 116.31155.

35 8. The name of a limited partnership whose right to transact
36 business has been forfeited, which has merged and is not the
37 surviving entity or whose existence has otherwise terminated is
38 available for use by any other artificial person.

39 9. The Secretary of State may adopt regulations that interpret
40 the requirements of this section.

41 **Sec. 97.** NRS 88.6065 is hereby amended to read as follows:

42 88.6065 1. The name proposed for a registered limited-
43 liability limited partnership must contain the words “Limited-
44 Liability Limited Partnership” or “Registered Limited-Liability
45 Limited Partnership” or the abbreviation “L.L.L.P.” or “LLLP” as



1 the last words or letters of the name and must be distinguishable on
2 the records of the Secretary of State from the names of all other
3 artificial persons formed, organized, registered or qualified pursuant
4 to the provisions of this title that are on file in the Office of the
5 Secretary of State and all names that are reserved in the Office of
6 the Secretary of State pursuant to the provisions of this title. If the
7 name of the registered limited-liability limited partnership on a
8 certificate of registration of limited-liability limited partnership
9 submitted to the Secretary of State is not distinguishable from any
10 name on file or reserved name, the Secretary of State shall return the
11 certificate to the person who signed it, unless the written,
12 acknowledged consent to the same name of the holder of the name
13 on file or reserved name to use the name accompanies the
14 certificate.

15 2. The Secretary of State shall not accept for filing any
16 certificate of registration or any certificate of amendment of a
17 certificate of registration of any registered limited-liability limited
18 partnership formed or existing pursuant to the laws of this State
19 which provides that the name of the registered limited-liability
20 limited partnership contains the words “common-interest
21 community,” “community association,” “master association,”
22 “unit-owners’ association” or “homeowners’ association” or if it
23 appears in the certificate of registration or certificate of amendment
24 that the purpose of the registered limited-liability limited partnership
25 is to operate as a unit-owners’ association pursuant to chapter 116 of
26 NRS unless the Administrator of the Real Estate Division of the
27 Department of Business and Industry certifies that the registered
28 limited-liability limited partnership has:

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

31 (b) Paid to the Administrator of the Real Estate Division the fees
32 required pursuant to NRS 116.31155.

33 3. For the purposes of this section, a proposed name is not
34 distinguishable from a name on file or reserved name solely because
35 one or the other contains distinctive lettering, a distinctive mark, a
36 trademark or a trade name, or any combination thereof.

37 4. The name of a registered limited-liability limited partnership
38 whose right to transact business has been forfeited, which has
39 merged and is not the surviving entity or whose existence has
40 otherwise terminated is available for use by any other artificial
41 person.

42 5. The Secretary of State may adopt regulations that interpret
43 the requirements of this section.

44 **Sec. 98.** NRS 645D.100 is hereby amended to read as follows:

45 645D.100 The provisions of this chapter do not apply to:



1 1. A federal or state employee, or an employee of a local
2 government, who prepares or communicates an inspection report as
3 part of his official duties, unless a certificate is required as a
4 condition of his employment.

5 2. A person appointed to evaluate real estate pursuant to
6 chapter 152 of NRS or NRS 269.125, except as required by the
7 appointing judge.

8 3. A board of appraisers acting pursuant to NRS 269.135.

9 4. A person licensed, certified or registered pursuant to chapter
10 645, 645C or 684A of NRS while he is performing an act within the
11 scope of his license, certification or registration. For the purposes of
12 this subsection, a person licensed, certified or registered pursuant to
13 chapter 645C of NRS shall be deemed to be acting within the scope
14 of his license, certification or registration while he is performing an
15 appraisal prescribed by federal law that requires a statement of
16 visual condition and while he is preparing or communicating a
17 report of such an appraisal.

18 5. A person who makes an evaluation of an improvement as an
19 incidental part of his employment for which special compensation is
20 not provided, if that evaluation is only provided to his employer for
21 internal use within the place of his employment.

22 6. A person who provides an estimate of cost, repair or
23 replacement of any improvements upon real estate.

24 7. Any person who reviews plans, performs inspections,
25 prepares inspection reports or examines any component of a
26 structure or construction pursuant to NRS 278.570 or 278.575.

27 ***8. An independent registered architect or a licensed***
28 ***professional engineer while he is performing an inspection***
29 ***pursuant to NRS 116.4106.***

30 **Sec. 99.** NRS 116.071, 116.700, 116.705, 116.710, 116.715,
31 116.720 and 116.725 are hereby repealed.

32 **Sec. 100.** Notwithstanding the amendatory provisions of this
33 act:

34 1. Between the dates of October 1, 2005, and October 1, 2007,
35 a person who is licensed in this State as a real estate broker, broker-
36 salesman or salesman and who holds a permit to conduct property
37 management pursuant to chapter 645 of NRS on October 1, 2005,
38 and who wishes to take an examination on the principles of
39 management of a common-interest community to fulfill the
40 educational requirements for a certificate to engage in management
41 of a common-interest community as set forth in sections 2 to 35,
42 inclusive, of this act must do the following:

43 (a) Take and pass the examination through the examination
44 provider contracted with the Real Estate Division of the Department
45 of Business and Industry;



(b) Complete and submit the reciprocal application on a form prescribed by the Division along with the results of the examination and the appropriate fee for the issuance of a certificate as prescribed by regulation of the Commission for Common-Interest Communities; and

(c) Pay the examination fee as prescribed by regulation of the Commission.

➤ If the examination required by this subsection is not offered on or before September 30, 2007, a person is not required to meet the requirements set forth in this subsection until October 1, 2008.

2. A person who fails to meet the requirements set forth in subsection 1 and who wishes to obtain a certificate to engage in management of a common-interest community must meet the requirements set forth in sections 2 to 35, inclusive, of this act and any regulations adopted pursuant thereto.

3. An original certificate issued pursuant to subsection 1 must be renewed with the Real Estate Division upon the expiration of the real estate license period, pursuant to chapter 645 of NRS, which occurs after October 1, 2008. Thereafter, the certificate must be renewed with the Division before the expiration of each subsequent license period as prescribed by regulation of the Commission.

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

(a) May continue to conduct studies of the reserves of associations without obtaining a permit pursuant to sections 2 to 35, inclusive, of this act until July 1, 2007;

(b) On and after July 1, 2007, may not conduct a study of the reserves of an association unless he holds a permit issued pursuant to sections 2 to 35, inclusive, of this act; and

(c) Is subject to the provisions of chapter 116 of NRS, as amended, and sections 2 to 35, inclusive, of this act as if the person holds a permit issued pursuant to sections 2 to 35, inclusive, of this act.

Sec. 101. 1. This act becomes effective upon passage and approval, for the purpose of adopting regulations and on October 1, 2005, for all other purposes.

2. Sections 27 and 28 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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



- 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.

116.700 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.



