

ASSEMBLY BILL NO. 396—ASSEMBLYWOMAN ALLEN

MARCH 16, 2007

Referred to Committee on Judiciary

SUMMARY—Makes various changes to the provisions governing common-interest communities. (BDR 10-1284)

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

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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 a member of an executive board who stands to profit personally from a matter before the board to disclose and abstain from voting on the matter; prohibiting an association in a common-interest community from imposing an assessment against the owners of certain tax-exempt property; providing that official publications related to issues of official interest must provide equal space for opposing views and opinions; revising the provisions governing the regulation of certain streets in certain common-interest communities; making various other changes to the provisions governing common-interest communities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a covenant, restriction or condition in a deed, contract or other legal instrument cannot unreasonably restrict the use of a system for obtaining solar or wind energy. (NRS 111.239, 278.0208) **Sections 1 and 41** of this bill specify how to determine if a restriction significantly decreases the efficiency or performance of such a system and places the burden on the property owner to show such a decrease.

Section 3 of this bill provides additional ethical requirements for members of an executive board by requiring a member who stands to gain any personal profit or compensation from a matter before the executive board to disclose the matter to the executive board and to abstain from voting on the matter. (NRS 116.31185, 116.31187)

Section 3.5 of this bill: (1) states that the provisions of chapter 116 of NRS do not modify the tariffs, rules and standards of a public utility; and (2) provides that



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the governing documents of an association must be consistent and not conflict with the tariffs, rules and standards of a public utility.

Existing law provides that certain common-interest communities are prohibited from regulating motor vehicles on thoroughfares accepted by the State or local governments for public use. (NRS 116.350) **Section 4** of this bill prohibits a common-interest community from restricting the operation of motorcycles. **Section 5** of this bill prohibits a common-interest community from using information from radar guns as the basis for a fine or penalty.

Section 10 of this bill prohibits an association from imposing an assessment against the owner of any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125. **Section 48** of this bill provides that this prohibition applies to such owners who are not obligated to pay assessments as of January 1, 2007.

Section 11 of this bill adds community managers of common-interest communities as persons whose health, safety and welfare may be threatened by violations of a unit-owners' association's governing documents, authorizing the imposition of fines. (NRS 116.31031) This section also provides that a unit's owner must receive notice of a violation and possible fine, that a member of the executive board cannot participate in hearings on fines if he has not paid his assessments and that the association must provide written confirmation when a fine is paid.

Section 12 of this bill establishes priorities for the application of a unit owner's payments against assessments and fines, unless the unit's owner has stated in writing that no portion of the payment is to be applied against fines or costs related thereto. (NRS 116.310315)

Section 13 of this bill amends existing law to increase the maximum term of office for a member of an executive board from 2 years to 3 years. (NRS 116.31034) **Section 13** authorizes candidates for the executive board to be elected without balloting when the number of candidates is less than or equal to the number of members to be elected. (NRS 116.31034) **Section 13** also adds items which candidates must disclose to units' owners in advance of the election, whether or not an election is to be held with balloting. (NRS 116.31034)

Section 14 of this bill requires that a declarant deliver to an association an ancillary audit of the association's money and audited financial statements from the date of the last audit until the date the declarant's control ends. (NRS 116.31038)

Section 14 also requires the declarant to pay for the costs of the ancillary audit. (NRS 116.31038)

Sections 14, 23, 33-35 and 37-42 of this bill eliminate the issuance of permits to reserve study specialists and instead provide for their registration. (NRS 116.31038, 116.750, 116A.120, 116A.260 and 116A.420-116A.900)

Section 16 of this bill lengthens the period between which meetings of the executive board must be held from every 90 days to every quarter, but not less than every 100 days. (NRS 116.31083) **Section 16** also provides that if the sole purpose of a meeting is for the executive board to meet in executive session under certain circumstances, notice need not be provided. (NRS 116.31083)

Section 21 of this bill revises existing provisions relating to financial statements by allowing the Commission on Common-Interest Communities to waive the qualification requirements of auditors for certain associations. (NRS 116.31144)

Section 22 of this bill permits the executive board to impose certain assessments for the purpose of funding a reserve without a vote of the units' owners under certain circumstances. (NRS 116.3115)

Section 23 of this bill establishes the criteria for evaluating the adequacy of the reserves of an association. (NRS 116.31152)

Section 28 of this bill excludes the books, records and other papers of the association which are in the process of being developed and have not yet been



placed on an agenda for final approval by the executive board from the material which the board must make available upon the written request of a unit's owner. (NRS 116.31175) **Section 28** also provides that if an official publication contains the views or opinions of the association concerning an issue of official interest, the official publication must, upon request, provide equal space and equivalent exposure to opposing views and opinions. In addition, **section 28** provides that if an official publication contains any mention of a candidate or ballot question, the official publication must provide equal space in the same issue to the candidate or a representative of an organization which advocates the passage or defeat of the ballot question.

Section 29 of this bill revises existing law by including financing as a prohibited activity for members of the executive board and officers. (NRS 116.31187)

Section 30 of this bill provides additional rights to units' owners by mandating notice before an association may interrupt utility service to a unit's owner. (NRS 116.345)

Existing law provides that certain common-interest communities are prohibited from regulating motor vehicles on thoroughfares accepted by the State or local governments for public use. (NRS 116.350) **Section 31** of this bill permits an association to restrict parking on such thoroughfares if the parking prohibition was a condition for approval of the subdivision's final map or included in the terms of a zoning ordinance, permit or approval. (NRS 116.350) **Section 31** also adds inoperable vehicles to the types of vehicles for which an association may restrict parking or storage in a common-interest community. (NRS 116.350) Finally, **section 31** prohibits a common-interest community from restricting the parking of certain utility service vehicles, law enforcement vehicles and emergency services vehicles.

Section 32 of this bill deems deposits made in connection with the purchase or reservation of units from a person required to deliver a public offering statement placed in out-of-state escrow companies as being deposited in this State if the escrow holder has a legal right to conduct business in the State, has a resident agent in this State and has consented to the jurisdiction of the courts of this State. (NRS 116.411)

Section 36 of this bill provides for the issuance of temporary certificates for community managers for a period of 1 year under certain circumstances. (NRS 116A.410)

Section 44 of this bill excludes certain unit owners' associations from the definition of "business" for the purposes of requiring business licenses. (NRS 360.765)

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

Section 1. NRS 111.239 is hereby amended to read as follows:
111.239 1. Any covenant, restriction or condition contained in a deed, contract or other legal instrument which affects the transfer, sale or any other interest in real property that prohibits or unreasonably restricts the owner of the property from using a system for obtaining solar or wind energy on his property is void and unenforceable.



2. *The owner of the property has the burden of showing that a restriction or requirement on the use of such a system significantly decreases the efficiency or performance of the system.*

3. For the purposes of this section ~~[, “unreasonably”]~~:

(a) *“Significantly decreases the efficiency or performance of the system” means a decrease of 20 percent or more in the efficiency or performance of the system.*

(b) *“Unreasonably restricts the use of a system for obtaining solar or wind energy” means placing a restriction or requirement on the use of such a system which significantly decreases the efficiency or performance of the system and does not allow for the use of an alternative system at a comparable cost and with comparable efficiency and performance.*

Sec. 2. Chapter 116 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 5, inclusive, of this act.

Sec. 3. 1. *A member of an executive board who stands to gain any personal profit or compensation of any kind from a matter before the executive board shall:*

(a) *Disclose the matter to the executive board; and*

(b) *Abstain from voting on any such matter.*

2. *For the purposes of this section, an employee of a declarant or an affiliate of a declarant who is a member of the executive board shall not, solely by reason of such employment or affiliation, be deemed to gain any personal profit or compensation.*

Sec. 3.5. 1. *The provisions of this chapter do not invalidate or modify the tariffs, rules and standards of a public utility.*

2. *The governing documents of an association must be consistent and not conflict with the tariffs, rules and standards of a public utility. Any provision of the governing documents which conflicts with the tariffs, rules and standards of a public utility is void and may not be enforced against a purchaser.*

3. *As used in this section, “public utility” has the meaning ascribed to it in NRS 704.020.*

Sec. 4. 1. *The executive board of a common-interest community shall not, and the governing documents of a common-interest community must not, restrict, prohibit or otherwise impede the operation of a motorcycle if the motorcycle is operated on any road, street, alley or other surface intended for use by a motor vehicle.*

2. *The provisions of this section do not preclude the governing documents of a common-interest community from reasonably restricting the parking or storage of a motorcycle to the extent authorized by law.*



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1 3. As used in this section, "motorcycle" means every motor
2 vehicle designed to travel on not more than three wheels in contact
3 with the ground which is required to be registered pursuant to
4 chapter 482 of NRS.

5 **Sec. 5.** 1. A member of the executive board of a common-
6 interest community, a community manager for the common-
7 interest community and any other representative of the association
8 shall not use a radar gun or other device designed to gauge the
9 speed of a vehicle for the purpose of imposing any fine or other
10 penalty upon or taking any other action against a unit's owner or
11 other person.

12 2. The executive board of a common-interest community
13 shall not impose any fine or other penalty upon or take any other
14 action against a unit's owner or other person based on the results
15 of any test conducted using a radar gun or other device designed
16 to gauge the speed of a vehicle.

17 3. The governing documents of a common-interest
18 community must not authorize the executive board or any other
19 person to impose any fine or other penalty upon or take any other
20 action against a unit's owner or other person based on the results
21 of any test conducted using a radar gun or other device designed
22 to gauge the speed of a vehicle.

23 **Sec. 6.** NRS 116.021 is hereby amended to read as follows:

24 116.021 1. "Common-interest community" means real estate
25 with respect to which a person, by virtue of his ownership of a unit,
26 is obligated to pay for real estate other than that unit. **["Ownership"]**

27 2. As used in this section, "ownership" of a unit" does not
28 include holding a leasehold interest of less than 20 years in a unit,
29 including options to renew.

30 3. For the purposes of determining whether real estate is a
31 "common-interest community" pursuant to this section, the fact
32 that the real estate is subject to covenants, conditions or
33 restrictions is not relevant or determinative.

34 **Sec. 7.** (Deleted by amendment.)

35 **Sec. 8.** (Deleted by amendment.)

36 **Sec. 9.** (Deleted by amendment.)

37 **Sec. 10.** NRS 116.3102 is hereby amended to read as follows:

38 116.3102 1. Except as otherwise provided in **[subsection 2,]**
39 **this section,** and subject to the provisions of the declaration, the
40 association may do any or all of the following:

41 (a) Adopt and amend bylaws, rules and regulations.

42 (b) Adopt and amend budgets for revenues, expenditures and
43 reserves and collect assessments for common expenses from the
44 units' owners.



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

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

(e) Make contracts and incur liabilities.

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

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

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

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

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

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

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

(k) Impose charges for late payment of assessments.

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

(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 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.



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(s) Direct the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, 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.

3. Notwithstanding any provision of this chapter or the governing documents to the contrary, an association may not impose any assessment pursuant to this chapter or the governing documents on the owner of any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125.

Sec. 11. NRS 116.31031 is hereby amended to read as follows:

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

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

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

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

(b) Impose a fine against the unit's owner or the tenant or guest of the unit's owner for each violation, except that a fine may not be imposed for a violation that is the subject of a construction penalty pursuant to NRS 116.310305. If the violation poses an imminent



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1 threat of causing a substantial adverse effect on the health, safety or
2 welfare of the units' owners , ~~[or]~~ residents *or community manager*
3 of the common-interest community, the amount of the fine must be
4 commensurate with the severity of the violation and must be
5 determined by the executive board in accordance with the governing
6 documents. If the violation does not pose an imminent threat of
7 causing a substantial adverse effect on the health, safety or welfare
8 of the units' owners , ~~[or]~~ residents *or community manager* of the
9 common-interest community, the amount of the fine must be
10 commensurate with the severity of the violation and must be
11 determined by the executive board in accordance with the governing
12 documents, but the amount of the fine must not exceed \$100 for
13 each violation or a total amount of \$1,000, whichever is less. The
14 limitations on the amount of the fine do not apply to any interest,
15 charges or costs that may be collected by the association pursuant to
16 this section if the fine becomes past due.

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

19 (a) Not less than 30 days before the violation, the *unit's owner*
20 *and, if different, the* person against whom the fine will be imposed
21 had been provided with written notice of the applicable provisions
22 of the governing documents that form the basis of the violation; and

23 (b) Within a reasonable time after the discovery of the violation,
24 the *unit's owner and, if different, the* person against whom the fine
25 will be imposed has been provided with:

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

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

31 *↳ For the purposes of this subsection, a unit's owner shall not be*
32 *deemed to have received written notice unless written notice is*
33 *delivered to the address of the unit and, if different, to a mailing*
34 *address specified by the unit's owner.*

35 3. The executive board must schedule the date, time and
36 location for the hearing on the violation so that the *unit's owner*
37 *and, if different, the* person against whom the fine will be imposed
38 is provided with a reasonable opportunity to prepare for the hearing
39 and to be present at the hearing.

40 4. The executive board must hold a hearing before it may
41 impose the fine, unless *the fine is paid before the hearing or unless*
42 the *unit's owner and, if different, the* person against whom the fine
43 will be imposed:

44 (a) ~~[Pays the fine;~~

45 ~~—(b)]~~ Executes a written waiver of the right to the hearing; or



~~(c)~~ (b) 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. *A member of the executive board shall not participate in any hearing or cast any vote relating to a fine imposed pursuant to subsection 1 if the member has not paid all assessments which are due to the association by the member. If a member of the executive board:*

(a) Participates in a hearing in violation of this subsection, any action taken at the hearing is void.

(b) Casts a vote in violation of this subsection, the vote is void.

8. 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-)~~ 9. 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 *units' owners, residents or community manager* 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-]~~ **10.** *Not later than 30 days after receiving payment in full of a fine, including any lawful interest and costs of collection, an association shall provide written confirmation to the person upon whom the fine was imposed that the fine and all related charges have been paid in full and that the fine is discharged.*

11. As used in this section:

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

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

Sec. 12. NRS 116.310315 is hereby amended to read as follows:

116.310315 If an association has imposed a fine against a unit's owner or a tenant or guest of a unit's owner pursuant to NRS 116.31031 for violations of the governing documents of the association, the association ~~[:]~~ **shall:**

1. ~~[Shall, in]~~ **In** the books and records of the association, account for the fine separately from any assessment, fee or other charge; and

2. ~~[Shall not apply, in whole or in part, any payment made by the unit's owner for any assessment, fee or other charge toward the payment of the outstanding balance of the fine or any costs of collecting the fine, unless the unit's owner provides written authorization which directs the association to apply the payment made by the unit's owner in such a manner.]~~ **Apply any payment received from a unit's owner without written instructions as to the application of the payment:**

(a) **First to current or past due assessments; and**

(b) **Then the remainder of any payment to past due fines, including the costs of collecting any such fine, unless the unit's owner has stated in writing that no amount of the payment is to be applied toward the fines or toward the costs of collecting the fines.**



1 **Sec. 13.** 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~~ 3 years, except for members who are appointed by
14 the declarant. Unless the governing documents provide otherwise,
15 there is no limitation on the number of terms that a person may
16 serve as a 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 board
20 are elected at each election. The provisions of this subsection do not
21 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. *Before the secretary or other officer*
35 *specified in the bylaws of the association causes notice to be given*
36 *to each unit's owner of his eligibility to serve as a member of the*
37 *executive board pursuant to this subsection, the executive board*
38 *may determine that if, at the closing of the prescribed period for*
39 *nominations for membership on the executive board, the number*
40 *of candidates nominated for membership on the executive board is*
41 *equal to or less than the number of members to be elected to the*
42 *executive board at the election, then:*

43 (a) *The association will not prepare or mail any ballots to*
44 *units' owners pursuant to this section;*



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1 ***(b) The candidates so nominated shall be deemed to be duly***
2 ***elected to the executive board not later than 30 days after the date***
3 ***of closing of the prescribed period for nominations; and***

4 ***(c) Units' owners will receive notification that the candidates***
5 ***so nominated have been elected to the executive board.***

6 5. Each person ~~[whose name is placed on the ballot]~~ ***who is***
7 ***nominated*** as a candidate for a member of the executive board
8 ***pursuant to subsection 4*** must:

9 (a) Make a good faith effort to disclose any financial, business,
10 professional or personal relationship or interest that would result or
11 would appear to a reasonable person to result in a potential conflict
12 of interest for the candidate if the candidate were to be elected to
13 serve as a member of the executive board; and

14 (b) Disclose whether the candidate is a member in good
15 standing. For the purposes of this paragraph, a candidate shall not be
16 deemed to be in "good standing" if the candidate ~~[has]~~ ***:***

17 ***(1) Has*** any unpaid and past due assessments or construction
18 penalties that are required to be paid to the association ~~[H]~~ ***;***

19 ***(2) Has any unpaid fine imposed by the executive board***
20 ***that is 30 days or more past due; or***

21 ***(3) After being provided notice and the opportunity for a***
22 ***hearing in accordance with the provisions of NRS 116.31031, has***
23 ***been found to have committed a violation of the governing***
24 ***documents that has not been cured.***

25 ↪ The candidate must make all disclosures required pursuant to this
26 subsection in writing to the association with his candidacy
27 information. The association shall distribute the disclosures to each
28 member of the association with the ballot ***or, in the event ballots***
29 ***are not prepared and mailed pursuant to subsection 4,*** in the
30 manner established ***for distribution of ballots*** in the bylaws of the
31 association.

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

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

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

41 (1) That master association; or

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

44 7. An officer, employee, agent or director of a corporate owner
45 of a unit, a trustee or designated beneficiary of a trust that owns a



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1 unit, a partner of a partnership that owns a unit, a member or
2 manager of a limited-liability company that owns a unit, and a
3 fiduciary of an estate that owns a unit may be an officer of the
4 association or a member of the executive board. In all events where
5 the person serving or offering to serve as an officer of the
6 association or a member of the executive board is not the record
7 owner, he shall file proof in the records of the association that:

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

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

13 8. ~~[[The]]~~ *Except as otherwise provided in subsection 4, the*
14 election of any member of the executive board must be conducted
15 by secret written ballot unless the declaration of the association
16 provides that voting rights may be exercised by delegates or
17 representatives as set forth in NRS 116.31105. If the election of any
18 member of the executive board is conducted by secret written ballot:

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

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

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

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

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

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

42 9. Each member of the executive board shall, within 90 days
43 after his appointment or election, certify in writing to the
44 association, on a form prescribed by the Administrator, that he has
45 read and understands the governing documents of the association



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1 and the provisions of this chapter to the best of his ability. The
2 Administrator may require the association to submit a copy of the
3 certification of each member of the executive board of that
4 association at the time the association registers with the
5 Ombudsman pursuant to NRS 116.31158.

6 **Sec. 14.** NRS 116.31038 is hereby amended to read as
7 follows:

8 116.31038 In addition to any applicable requirement set forth
9 in NRS 116.310395, within 30 days after units' owners other than
10 the declarant may elect a majority of the members of the executive
11 board, the declarant shall deliver to the association all property of
12 the units' owners and of the association held by or controlled by
13 him, including:

14 1. The original or a certified copy of the recorded declaration
15 as amended, the articles of incorporation, articles of association,
16 articles of organization, certificate of registration, certificate of
17 limited partnership, certificate of trust or other documents of
18 organization for the association, the bylaws, minute books and other
19 books and records of the association and any rules or regulations
20 which may have been adopted.

21 2. An accounting for money of the association and audited
22 financial statements for each fiscal year and any ancillary period
23 from the date of ~~[inception]~~ *the last audit* of the association to the
24 date the period of the declarant's control ends. The financial
25 statements must fairly and accurately report the association's
26 financial position. *The declarant shall pay the costs of the ancillary*
27 *audit. The ancillary audit must be delivered within 210 days after*
28 *the date the period of the declarant's control ends.*

29 3. A complete study of the reserves of the association,
30 conducted by a person who ~~[holds a permit to conduct such a study~~
31 ~~issued]~~ *is registered as a reserve study specialist* pursuant to chapter
32 116A of NRS. At the time the control of the declarant ends, he shall:

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

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

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

44 5. All of the declarant's tangible personal property that has
45 been represented by the declarant as property of the association or,



1 unless the declarant has disclosed in the public offering statement
2 that all such personal property used in the common-interest
3 community will remain the declarant's property, all of the
4 declarant's tangible personal property that is necessary for, and has
5 been used exclusively in, the operation and enjoyment of the
6 common elements, and inventories of these properties.

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

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

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

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

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

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

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

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

33 **Sec. 15.** NRS 116.310395 is hereby amended to read as
34 follows:

35 116.310395 1. At the time of each close of escrow of a unit
36 in a converted building, the declarant shall deliver to the association
37 the amount of the converted building reserve deficit allocated to that
38 unit.

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

42 3. As used in this section, "converted building reserve deficit"
43 means the amount necessary to replace the major components of the
44 common elements needing replacement within 10 years after the
45 date of the first ~~sale~~ *close of escrow* of a unit.



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1 **Sec. 16.** NRS 116.31083 is hereby amended to read as
2 follows:

3 116.31083 1. A meeting of the executive board must be held
4 at least once every ~~[90]~~ *quarter, and not less than once every 100*
5 days.

6 2. Except ~~[in an emergency]~~ *as otherwise provided in*
7 *subsection 3 or 4* or unless the bylaws of an association require a
8 longer period of notice, the secretary or other officer specified in the
9 bylaws of the association shall, not less than 10 days before the date
10 of a meeting of the executive board, cause notice of the meeting to
11 be given to the units' owners. Such notice must be:

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

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

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

20 3. ~~[In]~~ *Except as otherwise provided in subsection 4, in* an
21 emergency, the secretary or other officer specified in the bylaws of
22 the association shall, if practicable, cause notice of the meeting to be
23 sent prepaid by United States mail to the mailing address of each
24 unit within the common-interest community. If delivery of the
25 notice in this manner is impracticable, the notice must be hand-
26 delivered to each unit within the common-interest community or
27 posted in a prominent place or places within the common elements
28 of the association.

29 4. *If the sole purpose of a meeting of the executive board is to*
30 *meet in executive session pursuant to subsection 4 of NRS*
31 *116.31085, notice of the meeting pursuant to this section is not*
32 *required.*

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

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

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

44 ~~[5-]~~ 6. The agenda of the meeting of the executive board must
45 comply with the provisions of subsection 4 of NRS 116.3108. The



1 period required to be devoted to comments by the units' owners and
2 discussion of those comments must be scheduled for the beginning
3 of each meeting. In an emergency, the executive board may take
4 action on an item which is not listed on the agenda as an item on
5 which action may be taken.

6 ~~[6-]~~ 7. At least once every ~~[90]~~ *quarter, and not less than once*
7 *every 100* days, unless the declaration or bylaws of the association
8 impose more stringent standards, the executive board shall review,
9 at a minimum, the following financial information at one of its
10 meetings:

- 11 (a) A current year-to-date financial statement of the association;
- 12 (b) A current year-to-date schedule of revenues and expenses for
13 the operating account and the reserve account, compared to the
14 budget for those accounts;
- 15 (c) A current reconciliation of the operating account of the
16 association;
- 17 (d) A current reconciliation of the reserve account of the
18 association;
- 19 (e) The latest account statements prepared by the financial
20 institutions in which the accounts of the association are maintained;
21 and
- 22 (f) The current status of any civil action or claim submitted to
23 arbitration or mediation in which the association is a party.

24 ~~[7-]~~ 8. The secretary or other officer specified in the bylaws
25 shall cause minutes to be recorded or otherwise taken at each
26 meeting of the executive board. Not more than 30 days after each
27 such meeting, the secretary or other officer specified in the bylaws
28 shall cause the minutes or a summary of the minutes of the meetings
29 to be made available to the units' owners. A copy of the minutes or
30 a summary of the minutes must be provided to any unit's owner
31 upon request and, if required by the executive board, upon payment
32 to the association of the cost of providing the copy to the unit's
33 owner.

34 ~~[8-]~~ 9. Except as otherwise provided in subsection ~~[9]~~ 10 and
35 NRS 116.31085, the minutes of each meeting of the executive board
36 must include:

- 37 (a) The date, time and place of the meeting;
- 38 (b) Those members of the executive board who were present and
39 those members who were absent at the meeting;
- 40 (c) The substance of all matters proposed, discussed or decided
41 at the meeting;
- 42 (d) A record of each member's vote on any matter decided by
43 vote at the meeting; and
- 44 (e) The substance of remarks made by any unit's owner who
45 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-]~~ 10. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of its meetings.

~~[10-]~~ 11. The association shall maintain the minutes of each meeting of the executive board until the common-interest community is terminated.

~~[11-]~~ 12. 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-]~~ 13. 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 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-]~~ 6.

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. NRS 116.31144 is hereby amended to read as follows:

116.31144 1. Except as otherwise provided in ~~[subsection 2-]~~ *this section*, the executive board shall:

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

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

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

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

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



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

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

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

(b) The standards and format to be followed in auditing or reviewing financial statements of an association ~~and~~;

(c) The requirement that an audit or review of the financial statements of an association be completed within 180 days after the end of the fiscal year; and

(d) The ability of the Commission to grant an exemption to the requirement of an audit or review of the financial statements of an association with an annual budget that is less than \$75,000. To receive an exemption pursuant to this paragraph, an association must submit a request to the Commission which includes a written statement of the reasons for requesting the exemption. If the Commission grants the exemption, the Commission shall notify the association within 30 days after receipt of the request for exemption.

Sec. 22. NRS 116.3115 is hereby amended to read as follows:

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

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

(a) All common expenses, including the reserves, must be assessed against all the units in accordance with the allocations set forth in the declaration pursuant to subsections 1 and 2 of NRS 116.2107.

(b) The association shall establish adequate reserves, funded on a reasonable basis, for the repair, replacement and restoration of the major components of the common elements. The reserves may be



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1 used only for those purposes, including, without limitation,
2 repairing, replacing and restoring roofs, roads and sidewalks, and
3 must not be used for daily maintenance. The association may
4 comply with the provisions of this paragraph through a funding plan
5 that is designed to allocate the costs for the repair, replacement and
6 restoration of the major components of the common elements over a
7 period of years if the funding plan is designed in an actuarially
8 sound manner which will ensure that sufficient money is available
9 when the repair, replacement and restoration of the major
10 components of the common elements are necessary.
11 *Notwithstanding any provision of the governing documents to the*
12 *contrary, to establish adequate reserves pursuant to this*
13 *paragraph, including, without limitation, to establish or carry out*
14 *a funding plan, the executive board may, without seeking or*
15 *obtaining the approval of the units' owners, impose any necessary*
16 *and reasonable assessments against the units in the common-*
17 *interest community if such assessments are made pursuant to*
18 *findings contained in a study of the reserves of the association*
19 *prepared by a person who is registered as a reserve study specialist*
20 *pursuant to chapter 116A of NRS.*

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

24 4. To the extent required by the declaration:

25 (a) Any common expense associated with the maintenance,
26 repair, restoration or replacement of a limited common element
27 must be assessed against the units to which that limited common
28 element is assigned, equally, or in any other proportion the
29 declaration provides;

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

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

35 5. Assessments to pay a judgment against the association may
36 be made only against the units in the common-interest community at
37 the time the judgment was entered, in proportion to their liabilities
38 for common expenses.

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

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



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

9. The association shall provide written notice to each unit's owner of a meeting at which an assessment for a capital improvement is to be considered or action is to be taken on such an assessment at least 21 calendar days before the date of the meeting.

Sec. 23. NRS 116.31152 is hereby amended to read as follows:

116.31152 1. The executive board shall:

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

(b) At least annually, review the results of that study to determine whether those reserves are sufficient . ~~;~~ ~~and~~ *The reserves shall be deemed adequately funded if:*

(1) The amount of the reserves is equal to or greater than the amount specified in the funding plan; or

(2) The amount of reserves available for the next 5 years is sufficient to repair, replace and restore the major components of the common elements designated in the funding plan.

(c) At least annually, make any adjustments to the association's funding plan which the executive board deems necessary to provide adequate funding for the required reserves.

2. The study of the reserves required by subsection 1 must be conducted by a person who ~~holds a permit issued~~ *is registered as a reserve study specialist* pursuant to chapter 116A of NRS.

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

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

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

(c) An estimate of the remaining useful life of each major component 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 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



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1 association as of the date of the study, and an estimate of the
2 funding plan that may be necessary to provide adequate funding for
3 the required reserves.

4 4. A summary of the study of the reserves required by
5 subsection 1 must be submitted to the Division not later than 45
6 days after the date that the executive board adopts the results of the
7 study.

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

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

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

21 **Sec. 24.** (Deleted by amendment.)

22 **Sec. 25.** (Deleted by amendment.)

23 **Sec. 26.** (Deleted by amendment.)

24 **Sec. 27.** (Deleted by amendment.)

25 **Sec. 28.** NRS 116.31175 is hereby amended to read as
26 follows:

27 116.31175 1. Except as otherwise provided in this
28 subsection, the executive board of an association shall, upon the
29 written request of a unit's owner, make available the books, records
30 and other papers of the association for review during the regular
31 working hours of the association, including, without limitation, all
32 contracts to which the association is a party and all records filed
33 with a court relating to a civil or criminal action to which the
34 association is a party. The provisions of this subsection do not apply
35 to:

36 (a) The personnel records of the employees of the association,
37 except for those records relating to the number of hours worked and
38 the salaries and benefits of those employees;

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

41 (c) A contract between the association and an attorney ~~[-]~~; and

42 *(d) Any document, including, without limitation, minutes of an*
43 *executive board meeting, a reserve study and a budget, if the*
44 *document;*



1 (1) *Is in the process of being developed for final*
2 *consideration by the executive board; and*

3 (2) *Has not been placed on an agenda for final approval by*
4 *the executive board.*

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

10 (a) Must contain a general description of the nature of the
11 violation and the type of the sanction imposed. If the sanction
12 imposed was a fine or construction penalty, the general record must
13 specify the amount of the fine or construction penalty.

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

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

22 3. If the executive board refuses to allow a unit's owner to
23 review the books, records or other papers of the association, the
24 Ombudsman may:

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

28 (b) If he is denied access to the books, records or other papers,
29 request the Commission, or any member thereof acting on behalf of
30 the Commission, to issue a subpoena for their production.

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

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

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

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

42 6. *If an official publication contains or will contain any*
43 *mention of a candidate or ballot question, the official publication*
44 *must, upon request and without charge, provide equal space in the*



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1 *same issue to the candidate or a representative of an organization*
2 *which supports the passage or defeat of the ballot question.*

3 7. *Except as otherwise provided in this subsection, if an*
4 *official publication contains or will contain the views or opinions*
5 *of the association, the executive board, a community manager or*
6 *an officer, employee or agent of an association concerning an*
7 *issue of official interest, the official publication must, upon*
8 *request and without charge, provide equal space to opposing views*
9 *and opinions of a unit's owner, tenant or resident of the common-*
10 *interest community.*

11 8. *As used in this section:*

12 (a) *"Issue of official interest" includes, without limitation:*

13 (1) *Any issue on which the executive board or the units'*
14 *owners will be voting, including, without limitation, the election of*
15 *members of the executive board; and*

16 (2) *The enactment or adoption of rules or regulations that*
17 *will affect a common-interest community.*

18 (b) *"Official publication" means:*

19 (1) *An official website;*

20 (2) *An official newsletter or other similar publication that is*
21 *circulated to each unit's owner; or*

22 (3) *An official bulletin board that is available to each unit's*
23 *owner,*

24 *↪ which is published or maintained at the cost of an association*
25 *and by an association, an executive board, a member of an*
26 *executive board, a community manager or an officer, employee or*
27 *agent of an association.*

28 **Sec. 29.** NRS 116.31187 is hereby amended to read as
29 follows:

30 116.31187 1. Except as otherwise provided in this section, a
31 member of an executive board or an officer of an association shall
32 not:

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

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

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

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



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

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

Sec. 30. NRS 116.345 is hereby amended to read as follows:

116.345 1. An association of a planned community may not restrict, prohibit or otherwise impede the lawful residential use of any property that is within or encompassed by the boundaries of the planned community and that is not designated as part of the planned community.

2. Except as otherwise provided in this subsection, an association may not restrict the access of a person to any of his property. An association may restrict access to and from a unit within a planned community if the right to restrict such access was included in the declaration or in a separate recorded instrument at the time that the owner of the unit acquired title to the unit. The provisions of this subsection do not prohibit an association from charging the owner of the property a reasonable and nondiscriminatory fee to operate or maintain a gate or other similar device designed to control access to the planned community that would otherwise impede ingress or egress to the property.

3. An association may not expand, construct or situate a building or structure that is not part of any plat or plan of the planned community if the expansion, construction or situation of the building or structure was not previously disclosed to the units' owners of the planned community unless the association obtains the written consent of a majority of the units' owners and residents of the planned community who own property or reside within 500 feet of the proposed location of the building or structure.

4. *An association may not interrupt any utility service furnished to a unit's owner or a tenant of a unit's owner except for the nonpayment of utility charges when due. The interruption of any utility service pursuant to this subsection must be performed in a manner which is consistent with all laws, regulations and governing documents relating to the interruption of any utility service. An association must in every case send a written notice of its intent to interrupt any utility service to the unit's owner or the tenant of the unit's owner at least 10 days before the association interrupts any utility service.*

5. The provisions of this section do not abrogate any easement, restrictive covenant, decision of a court, agreement of a party or any contract, governing document or declaration of covenants, conditions and restrictions, or any other decision, rule or regulation that a local governing body or other entity that makes decisions concerning land use or planning is authorized to make or enact that



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exists before October 1, 1999, including, without limitation, a zoning ordinance, permit or approval process or any other requirement of a local government or other entity that makes decisions concerning land use or planning.

Sec. 31. NRS 116.350 is hereby amended to read as follows:

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

2. ~~The~~ *Except as otherwise provided in subsection 3, the provisions of subsection 1 do not preclude an association from adopting, and do not preclude the governing documents of an association from setting forth, rules that reasonably restrict the*:

(a) Parking on any road, street, alley or other thoroughfare the right-of-way of which is accepted by the State or a local government for dedication as a road, street, alley or other thoroughfare for public use if the requirement that no parking be allowed is included in the terms of any applicable zoning ordinance, permit or approval or as a condition for approval of any final subdivision map; or

(b) The parking or storage of inoperable vehicles, recreational vehicles, watercraft, trailers or commercial vehicles in the common-interest community to the extent authorized by law.

3. *In a common-interest community, the executive board shall not and the governing documents must not prohibit a person from:*

(a) Parking a utility service vehicle that has a gross vehicle weight rating of 20,000 pounds or less on a driveway, road, street, alley or other thoroughfare:

(1) While the person is engaged in any activity relating to the delivery of public utility services to subscribers or consumers; or

(2) If the person is:

(I) A unit's owner;

(II) Parking the vehicle within 50 yards of his unit; and

(III) Bringing the vehicle to his unit pursuant to his employment with the entity which owns the vehicle for the purpose of responding to requests for public utility services; or

(b) Parking a law enforcement vehicle or emergency services vehicle on a driveway, road, street, alley or other thoroughfare:

(1) While the person is engaged in his official duties; or

(2) If the person is:



(I) A unit's owner;
(II) Parking the vehicle within 50 yards of his unit; and
(III) Bringing the vehicle to his unit pursuant to his employment with the entity which owns the vehicle for the purpose of responding to requests for law enforcement services or emergency services.

4. As used in this section:

(a) "Commercial motor vehicle" has the meaning ascribed to it in 49 C.F.R. § 350.105.

(b) "Emergency services vehicle" means a vehicle:

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide emergency services.

(c) "Law enforcement vehicle" means a vehicle:

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide law enforcement services.

(d) "Utility service vehicle" means any commercial motor vehicle:

(1) Used in the furtherance of repairing, maintaining or operating any structure or any other physical facility necessary for the delivery of public utility services, including, without limitation, the furnishing of electricity, gas, water, sanitary sewer, telephone, cable or community antenna service.

(2) Except for any emergency use, operated primarily within the service area of a utility's subscribers or consumers, without regard to whether the commercial motor vehicle is owned, leased or rented by the utility.

Sec. 32. NRS 116.411 is hereby amended to read as follows:

116.411 1. Except as otherwise provided in subsections 2 ~~{and 3,}~~, 3 and 4, a deposit made in connection with the purchase or reservation of a unit from a person required to deliver a public offering statement pursuant to subsection 3 of NRS 116.4102 must be placed in escrow and held either in this State or in the state where the unit is located in an account designated solely for that purpose by a licensed title insurance company, an independent bonded escrow company, or an institution whose accounts are insured by a governmental agency or instrumentality until:

(a) Delivered to the declarant at closing;

(b) Delivered to the declarant because of the purchaser's default under a contract to purchase the unit;



(c) Released to the declarant for an additional item, improvement, optional item or alteration, but the amount so released:

(1) Must not exceed the lesser of the amount due the declarant from the purchaser at the time of the release or the amount expended by the declarant for the purpose; and

(2) Must be credited upon the purchase price; or

(d) Refunded to the purchaser.

2. A deposit or advance payment made for an additional item, improvement, optional item or alteration may be deposited in escrow or delivered directly to the declarant, as the parties may contract.

3. In lieu of placing a deposit in escrow pursuant to subsection 1, the declarant may furnish a bond executed by him as principal and by a corporation qualified under the laws of this State as surety, payable to the State of Nevada, and conditioned upon the performance of the declarant's duties concerning the purchase or reservation of a unit. Each bond must be in a principal sum equal to the amount of the deposit. The bond must be held until:

(a) Delivered to the declarant at closing;

(b) Delivered to the declarant because of the purchaser's default under a contract to purchase the unit; or

(c) Released to the declarant for an additional item, improvement, optional item or alteration, but the amount so released must not exceed the amount due the declarant from the purchaser at the time of the release or the amount expended by the declarant for that purpose, whichever is less.

4. Pursuant to subsection 1, a deposit made in connection with the purchase or reservation of a unit from a person required to deliver a public offering statement pursuant to subsection 3 of NRS 116.4102 is deemed to be placed in escrow and held in this State when the escrow holder has:

(a) The legal right to conduct business in this State;

(b) A resident agent in this State pursuant to subsection 1 of NRS 14.020; and

(c) Consented to the jurisdiction of the courts of this State by:

(1) Maintaining a physical presence in this State; or

(2) Executing a written instrument containing such consent, with respect to any suit or claim, whether brought by the declarant or purchaser, relating to or arising in connection with such sale or the escrow agreement related thereto.

Sec. 33. NRS 116.750 is hereby amended to read as follows:

116.750 1. In carrying out the provisions of NRS 116.745 to 116.795, inclusive, the Division and the Ombudsman have jurisdiction to investigate and the Commission and each hearing



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1 panel has jurisdiction to take appropriate action against any person
2 who commits a violation, including, without limitation:

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

5 (b) Any member of an executive board.

6 (c) Any community manager who holds a certificate and any
7 other community manager.

8 (d) Any person who ~~holds a permit to conduct a study of the~~
9 ~~reserves of an association issued~~ *is registered as a reserve study*
10 *specialist, or who conducts a study of reserves*, pursuant to chapter
11 116A of NRS.

12 (e) Any declarant or affiliate of a declarant.

13 (f) Any unit's owner.

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

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

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

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

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

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

28 **Sec. 34.** NRS 116A.120 is hereby amended to read as follows:

29 116A.120 ~~["Permit"]~~ *"Registration"* means ~~{a—permit}~~
30 *registration* to conduct a study of the reserves of an association
31 pursuant to NRS 116.31152 ~~{issued by}~~ *with* the Division pursuant
32 to this chapter.

33 **Sec. 35.** NRS 116A.260 is hereby amended to read as follows:

34 116A.260 The Division shall maintain in each district office a
35 public docket or other record in which it shall record, from time to
36 time as made:

37 1. The rulings or decisions upon all complaints filed with that
38 district office.

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

42 3. Denials of applications made to that district office for
43 examination , *registration* or issuance of a certificate . ~~{or permit.}~~



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1 **Sec. 36.** NRS 116A.410 is hereby amended to read as follows:

2 116A.410 1. The Commission shall by regulation provide for
3 the issuance by the Division of certificates. The regulations:

4 (a) Must establish the qualifications for the issuance of such a
5 certificate, including, without limitation, the education and
6 experience required to obtain such a certificate. *The regulations*
7 *must include, without limitation, provisions that:*

8 (1) *Provide for the issuance of a temporary certificate for a*
9 *1-year period to a person who:*

10 (I) *Holds a professional designation in the field of*
11 *management of a common-interest community from a nationally*
12 *recognized organization;*

13 (II) *Provides evidence that the person has been engaged*
14 *in the management of a common-interest community for at least 5*
15 *years; and*

16 (III) *Has not been the subject of any disciplinary action*
17 *in another state in connection with the management of a common-*
18 *interest community.*

19 (2) *Except as otherwise provided in subparagraph (3),*
20 *provide for the issuance of a temporary certificate for a 1-year*
21 *period to a person who:*

22 (I) *Receives an offer of employment as a community*
23 *manager from an association; and*

24 (II) *Has management experience determined to be*
25 *sufficient by the executive board of the association making the*
26 *offer in sub-subparagraph (I). The executive board must have sole*
27 *discretion to make the determination required in this*
28 *sub-subparagraph.*

29 (3) *Require a temporary certificate described in*
30 *subparagraph (2) to expire before the end of the 1-year period if*
31 *the certificate holder ceases to be employed by the association*
32 *which offered him employment as described in subparagraph (2).*

33 (4) *Require a person who is issued a temporary certificate*
34 *as described in subparagraph (1) or (2) to successfully complete*
35 *not less than 18 hours of instruction relating to the Uniform*
36 *Common-Interest Ownership Act within the 1-year period.*

37 (5) *Provide for the issuance of a certificate at the*
38 *conclusion of the 1-year period if the person:*

39 (I) *Has successfully completed not less than 18 hours of*
40 *instruction relating to the Uniform Common-Interest Ownership*
41 *Act; and*

42 (II) *Has not been the subject of any disciplinary action*
43 *pursuant to this chapter, chapter 116 of NRS or any regulations*
44 *adopted pursuant thereto.*



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(6) Provide that a temporary certificate described in subparagraph (1) or (2), and a certificate described in subparagraph (5):

(I) Must authorize the person who is issued a temporary certificate described in subparagraph (1) or (2) or certificate described in subparagraph (5) to act in all respects as a community manager and exercise all powers available to any other community manager without regard to experience; and

(II) Must not be treated as a limited, restricted or provisional form of a certificate.

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

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

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

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

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

3. As used in this section, "management experience" means experience in a position in business or government, including, without limitation, in the military:

(a) In which the person holding the position was required, as part of holding the position, to engage in one or more management activities, including, without limitation, supervision of personnel, development of budgets or financial plans, protection of assets, logistics, management of human resources, development or training of personnel, public relations, or protection or maintenance of facilities; and

(b) Without regard to whether the person holding the position has any experience managing or otherwise working for an association.

Sec. 37. NRS 116A.420 is hereby amended to read as follows:

116A.420 1. Except as otherwise provided in this section, a person shall not act as a reserve study specialist unless the person



~~[holds a permit.]~~ registers with the Division on a form provided by the Division.

2. The Commission shall by regulation provide for the standards of practice for reserve study specialists . ~~[who hold permits.]~~

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

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

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

(a) Refuse to ~~[issue a permit to]~~ *accept the registration of* a person who has failed to pay money which the person owes to the Commission or the Division.

(b) Suspend, revoke or refuse to renew the ~~[permit]~~ *registration* of a person who has failed to pay money which the person owes to the Commission or the Division.

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

7. A person who assists a registered reserve study specialist in preparing a reserve study, signed by a registered reserve study specialist, is not required to register as a reserve study specialist.

Sec. 38. NRS 116A.430 is hereby amended to read as follows:

116A.430 1. The Commission shall by regulation provide for the ~~[issuance]~~ *registration* by the Division of ~~[permits to]~~ reserve study specialists. The regulations:

(a) Must establish the qualifications for ~~[the issuance of such a permit,]~~ *registration*, including, without limitation, the education and experience required ~~[to obtain such a permit.]~~ *for registration.*

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



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

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

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

2. The Division may collect a fee for ~~{the issuance of a permit}~~ *registration* in an amount not to exceed the administrative costs of ~~{issuing the permit.}~~ *registration.*

Sec. 39. NRS 116A.440 is hereby amended to read as follows:

116A.440 1. An applicant for a certificate or ~~{permit}~~ *registration* shall submit to the Division:

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

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

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

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

(b) A separate form prescribed by the Division.

3. A certificate ~~{or permit}~~ may not be issued *and an application for registration may not be accepted* if the applicant:

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

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

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



Sec. 40. NRS 116A.450 is hereby amended to read as follows:

116A.450 1. If the Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to *a person who is registered or* the holder of a certificate, ~~{or permit}~~ the Division shall deem the *registration or* certificate ~~{or permit}~~ to be suspended at the end of the 30th day after the date the court order was issued unless the Division receives a letter issued to the *person who is registered or the* holder of the certificate ~~{or permit}~~ by the district attorney or other public agency pursuant to NRS 425.550 stating that the *person who is registered or the* holder of the certificate ~~{or permit}~~ has complied with a subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

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

Sec. 41. NRS 116A.460 is hereby amended to read as follows:

116A.460 The expiration or revocation of a *registration or* certificate ~~{or permit}~~ by operation of law or by order or decision of any agency or court of competent jurisdiction, or the voluntary surrender of such a *registration or* certificate ~~{or permit}~~ by the *person who is registered or the* holder of the certificate ~~{or permit}~~ does not:

1. Prohibit the Commission or the Division from initiating or continuing an investigation of, or action or disciplinary proceeding against, the *person who is registered or the* holder of the certificate ~~{or permit}~~ as authorized pursuant to the provisions of this chapter or chapter 116 of NRS or the regulations adopted pursuant thereto; or

2. Prevent the imposition or collection of any fine or penalty authorized pursuant to the provisions of this chapter or chapter 116 of NRS or the regulations adopted pursuant thereto against the *person who is registered or the* holder of the certificate . ~~{or permit}~~

Sec. 42. NRS 116A.900 is hereby amended to read as follows:

116A.900 1. In addition to any other remedy or penalty, the Commission may impose an administrative fine against any person who knowingly:

(a) Engages or offers to engage in any activity for which a *registration or* certificate ~~{or permit}~~ is required pursuant to this



chapter or chapter 116 of NRS, or any regulation adopted pursuant thereto, if the person *has not registered or* does not hold the required certificate ~~for permit~~ or has not been given the required authorization; or

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 43. NRS 278.0208 is hereby amended to read as follows:

278.0208 1. A governing body shall not adopt an ordinance, regulation or plan or take any other action that prohibits or unreasonably restricts the owner of real property from using a system for obtaining solar or wind energy on his property.

2. Any covenant, restriction or condition contained in a deed, contract or other legal instrument which affects the transfer, sale or any other interest in real property that prohibits or unreasonably restricts the owner of the property from using a system for obtaining solar or wind energy on his property is void and unenforceable.

3. *The owner of the property has the burden of showing that a restriction or requirement on the use of such a system*



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significantly decreases the efficiency or performance of the system.

4. For the purposes of this section ~~["unreasonably"]~~ :

(a) *"Significantly decreases the efficiency or performance of the system" means a decrease of 20 percent or more in the efficiency or performance of the system.*

(b) *"Unreasonably* restricting the use of a system for obtaining solar or wind energy" means placing a restriction or requirement on the use of such a system which significantly decreases the efficiency or performance of the system and does not allow for the use of an alternative system at a comparable cost and with comparable efficiency and performance.

Sec. 44. NRS 360.765 is hereby amended to read as follows:

360.765 1. Except as otherwise provided in subsection 2, "business" means:

(a) Any person, except a natural person, that performs a service or engages in a trade for profit; or

(b) Any natural person who performs a service or engages in a trade for profit if the person is required to file with the Internal Revenue Service a Schedule C (Form 1040), Profit or Loss From Business Form, or its equivalent or successor form, a Schedule E (Form 1040), Supplemental Income and Loss Form, or its equivalent or successor form, or a Schedule F (Form 1040), Profit or Loss From Farming Form, or its equivalent or successor form, for that activity.

2. The term does not include:

(a) A governmental entity.

(b) A nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c).

(c) A person who operates a business from his home and whose net earnings from that business are not more than 66 2/3 percent of the average annual wage, as computed for the preceding calendar year pursuant to chapter 612 of NRS and rounded to the nearest hundred dollars.

(d) A natural person whose sole business is the rental of four or fewer dwelling units to others.

(e) A business whose primary purpose is to create or produce motion pictures. As used in this paragraph, "motion pictures" has the meaning ascribed to it in NRS 231.020.

(f) A unit-owners' association organized pursuant to NRS 116.3101 as a nonprofit corporation, trust or partnership.

Sec. 45. (Deleted by amendment.)

Sec. 46. (Deleted by amendment.)

Sec. 47. (Deleted by amendment.)



1 **Sec. 48.** The amendatory provisions of section 10 of this act
2 apply to all owners of property in a common-interest community
3 that is exempt from taxation pursuant to NRS 361.125 who are not
4 obligated to pay assessments as of January 1, 2007.

5 **Sec. 49.** 1. This act becomes effective on October 1, 2007.

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

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

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

16 ➔ are repealed by the Congress of the United States.

