

SENATE BILL NO. 436—COMMITTEE ON COMMERCE AND LABOR

MARCH 22, 2007

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes to the provisions governing common-interest communities. (BDR 10-234)

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; revising provisions governing restrictions on the use of systems for obtaining solar or wind energy; revising the provisions governing the regulation of certain streets in certain common-interest communities; exempting associations located in certain smaller counties from using a reserve study specialist for conducting a study of reserves; exempting associations located in certain smaller counties from using an independent certified public account for certain financial matters; making various other changes relating to common-interest communities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

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 1.4** of this bill prohibits a common-interest community from restricting the operation of motorcycles. **Section 1.6** of this bill prohibits a common-interest community from using information from radar guns as the basis for a fine or penalty.

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 21.5** of this bill provide that the only restriction on the use of such a system is with respect to color in certain circumstances.

Sections 4, 8, 12-14 and 16-21 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)

Sections 6.3 and 6.7 of this bill provide that in a county whose population is 45,000 or less an association is not required to use a certified public accountant to



* S B 4 3 6 R 2 *

prepare, present, audit or review certain financial statements. (NRS 116.31142, 116.31144)

Section 8 of this bill provides that an association located in a county whose population is 45,000 or less is not required to use a registered reserve study specialist to conduct the study of reserves of the association. (NRS 116.31152)

Existing law provides that certain common-interest communities are prohibited from regulating motor vehicles on thoroughfares accepted by State or local governments for public use. (NRS 116.350) **Section 10** of this bill further prohibits a common-interest community from restricting the parking of certain utility service vehicles, law enforcement vehicles and emergency services vehicles.

Section 11 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)

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]~~ *Except as otherwise provided in subsection 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.

2. ~~[For the purposes of this section, "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.]~~
A reasonable covenant, restriction or condition concerning the color of such a system is enforceable so long as it does not prohibit the owner from using the standard color in which the system is made, does not cost significantly more than another color and does not have the effect of prohibiting the use of such a system.

Sec. 1.2. Chapter 116 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.4 and 1.6 of this act.

Sec. 1.4. 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.

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

Sec. 1.6. 1. A member of the executive board of a common-interest community, a community manager for the common-interest community and any other representative of the association shall not use a radar gun or other device designed to gauge the speed of a vehicle for the purpose of imposing any fine or other penalty upon or taking any other action against a unit's owner or other person.

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

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

Sec. 1.8. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. NRS 116.31038 is hereby amended to read as follows:

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

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

2. An accounting for money of the association and audited financial statements for each fiscal year and any ancillary period



* S B 4 3 6 R 2 *

1 from the date of inception of the association to the date the period of
2 the declarant's control ends. The financial statements must fairly
3 and accurately report the association's financial position.

4 3. A complete study of the reserves of the association,
5 conducted by a person who ~~holds a permit to conduct such a study~~
6 ~~issued~~ *is registered as a reserve study specialist* pursuant to chapter
7 116A of NRS. At the time the control of the declarant ends, he shall:

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

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

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

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

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

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

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

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

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



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

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

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

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 6.3. NRS 116.31142 is hereby amended to read as follows:

116.31142 1. The Commission shall adopt regulations prescribing the requirements for the preparation and presentation of financial statements of an association pursuant to this chapter.

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

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

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

3. The Commission shall not adopt regulations requiring that financial statements be prepared by a certified public accountant if the association is located in a county whose population is 45,000 or less.

Sec. 6.7. NRS 116.31144 is hereby amended to read as follows:

116.31144 1. Except as otherwise provided in subsection 2, 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.



* S B 4 3 6 R 2 *

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. Each audit and review of the financial statement of an association must be conducted by an independent certified public accountant, unless the association is located in a county whose population is 45,000 or less, and then by a person deemed qualified by the association to conduct such an audit or review.

4. The Commission shall adopt regulations prescribing the requirements for the auditing or reviewing of 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 ~~[]~~ *which do not conflict with subsection 3;* and

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

Sec. 7. (Deleted by amendment.)

Sec. 8. 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

(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 ~~[]~~ *, unless the association is located in a county whose population is 45,000 or less, and then by a person deemed qualified by the executive board to conduct such a study.*

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

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

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

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

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

Sec. 9. (Deleted by amendment.)

Sec. 10. 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 parking or storage of *inoperable vehicles*, recreational vehicles,*



1 watercraft, trailers or commercial vehicles in the common-interest
2 community to the extent authorized by law.

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

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

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

12 *(2) If the person is:*

13 *(I) A unit's owner;*

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

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

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

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

21 *(2) If the person is:*

22 *(I) A unit's owner;*

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

24 *(III) Bringing the vehicle to his unit pursuant to his*
25 *employment with the entity which owns the vehicle for the purpose*
26 *of responding to requests for law enforcement services or*
27 *emergency services.*

28 *4. As used in this section:*

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

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

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

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

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

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

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

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

43 *(1) Used in the furtherance of repairing, maintaining or*
44 *operating any structure or any other physical facility necessary for*
45 *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. 11. 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



* S B 4 3 6 R 2 *

1 the time of the release or the amount expended by the declarant for
2 that purpose, whichever is less.

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

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

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

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

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

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

17 **Sec. 12.** NRS 116.750 is hereby amended to read as follows:

18 116.750 1. In carrying out the provisions of NRS 116.745 to
19 116.795, inclusive, the Division and the Ombudsman have
20 jurisdiction to investigate and the Commission and each hearing
21 panel has jurisdiction to take appropriate action against any person
22 who commits a violation, including, without limitation:

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

25 (b) Any member of an executive board.

26 (c) Any community manager who holds a certificate and any
27 other community manager.

28 (d) Any person who ~~holds a permit to conduct a study of the~~
29 ~~reserves of an association issued~~ *is registered as a reserve study*
30 *specialist, or who conducts a study of reserves*, pursuant to chapter
31 116A of NRS.

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

33 (f) Any unit's owner.

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

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

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

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

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



* S B 4 3 6 R 2 *

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

Sec. 13. NRS 116A.120 is hereby amended to read as follows:

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

Sec. 14. NRS 116A.260 is hereby amended to read as follows:

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

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

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

3. Denials of applications made to that district office for examination, *registration* or issuance of a certificate. ~~[or permit.]~~

Sec. 15. (Deleted by amendment.)

Sec. 16. 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. 17. 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. 18. 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 ; ~~for permit;~~ or

(b) A separate form prescribed by the Division.

3. A certificate ~~for 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. 19. 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 , ~~for permit;~~ the Division shall deem the *registration or* certificate ~~for 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 ~~for 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 ~~for 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 ~~for 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 ~~for permit~~ that he has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 20. NRS 116A.460 is hereby amended to read as follows:

116A.460 The expiration or revocation of a *registration or* certificate ~~for 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. 21. 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 certificate or ~~[permit]~~ *registration* is required pursuant to this chapter or chapter 116 of NRS, or any regulation adopted pursuant thereto, if the person does not hold the required certificate or ~~[permit]~~ *has not registered* 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. 21.5. NRS 278.0208 is hereby amended to read as follows:

278.0208 1. ~~[A]~~ *Except as otherwise provided in this subsection, 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. A reasonable ordinance, regulation or plan concerning the color of such a system is enforceable so long as it does not prohibit the owner from using the standard color in which the system is made, does not cost significantly more than another color and does not have the effect of prohibiting the use of such a system.*

2. ~~[Any]~~ *Except as otherwise provided in subsection 3, 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. ~~[For the purposes of this section, "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.]~~ *A reasonable covenant, restriction or condition concerning the color of a system is enforceable so long as it does not prohibit the owner from using the standard color in which the system is made, does not cost significantly more than another color and does not have the effect of prohibiting the use of such a system.*

Sec. 22. (Deleted by amendment.)

Sec. 23. 1. This section and section 11 of this act become effective on July 1, 2007.

2. Sections 1 to 10, inclusive, and 12 to 22, inclusive, become effective on October 1, 2007.

3. Sections 18 and 19 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to



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- 1 withhold or suspend, or to restrict the use of professional,
2 occupational and recreational licenses of persons who:
3 (a) Have failed to comply with a subpoena or warrant relating to
4 a proceeding to determine the paternity of a child or to establish or
5 enforce an obligation for the support of a child; or
6 (b) Are in arrears in the payment for the support of one or more
7 children,
8 ➔ are repealed by the Congress of the United States.

