

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; 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; revising the provisions governing the regulation of certain streets in certain common-interest communities; prohibiting the use of delegates or representatives to exercise the voting rights of units' owners in the election or removal of a member of the executive board; allowing the use of delegates or representatives to exercise the voting rights of owners of certain time shares; prohibiting an association in a common-interest community from imposing an assessment against certain tax-exempt property; exempting certain associations located in certain smaller counties from using a reserve study specialist for conducting a study of reserves; exempting certain associations from using an independent certified public accountant for certain financial matters; requiring the signatures of certain persons before money in the operating account of an association may be withdrawn; revising the provisions relating to foreclosure of liens against units; providing that official publications related to issues of official interest must provide equal space for opposing views and opinions; requiring applicants for a



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certificate for the management of a common-interest community to post certain bonds; making various other changes relating to 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 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.

Section 1.3 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)

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.

Section 1.7 of this bill: (1) states that the provisions of chapter 116 of NRS do not invalidate or modify the tariffs, rules and standards of a public utility; and (2) provides that the governing documents of an association must be consistent and not conflict with the tariffs, rules and standards of a public utility.

Under existing law, a common-interest community created before January 1, 1992, and a common-interest community, with a declaration so providing, that consists of at least 1,000 units, may have the voting rights of the units' owners in the association for that common-interest community be exercised by delegates or representatives. (NRS 116.1201, 116.31105) **Sections 2.3 and 3.5-4.7** of this bill prohibit the use of delegates or representatives to exercise the voting rights of units' owners in the election or removal of a member of the executive board. However, a master association which governs a time-share plan created pursuant to chapter 119A of NRS is allowed to continue using delegates or representatives to exercise the voting rights of owners of time shares.

Section 3.3 of this bill prohibits an association from imposing an assessment against property in the common-interest community that is exempt from taxation pursuant to NRS 361.125.

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)

Section 6.7 of this bill provides that if the annual budget of an association is less than \$40,000, then the association is not required to use a certified public accountant to audit certain financial statements. (NRS 116.31144)

Section 8 of this bill provides that an association which contains 20 or fewer units and which is 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 requires certain signatures before money in the reserve account of an association may be withdrawn. (NRS 116.31153) **Section 9.2** of this bill also requires certain signatures before money in the operating account of an association may be withdrawn.



Existing law provides for an association to have a lien on a unit for any construction penalty, assessment or fine imposed against the unit's owner which may later be foreclosed upon. (NRS 116.3116) **Section 9.4** of this bill requires an association to obtain approval from the Commission on Common-Interest Communities before attempting to foreclose its lien. The Commission must approve the foreclosure of the lien if the association has followed certain procedures. In addition, **section 9.6** of this bill changes existing law to provide that the sale of a unit as a result of a foreclosure of a lien is subject to an equity or right of redemption. (NRS 116.31166)

Section 9.8 of this bill 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. If an official publication contains information concerning a civil action or claim in which the association is a party, the official publication is not required to provide equal space to opposing views and opinions. In addition, **section 9.8** 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.

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 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)

Existing law provides for the Commission to adopt regulations concerning the issuance of certificates for community managers. (NRS 116A.410) **Section 15.5** of this bill provides that the regulations must: (1) require an applicant to post a bond in a form and in an amount established by regulation; and (2) adopt a sliding scale for the amount of the bond that is based upon the amount of money that applicants are expected to control.

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 a 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 1.3 to 1.7, inclusive, of this act.

Sec. 1.3. *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:*

- 1. Disclose the matter to the executive board; and*
- 2. Abstain from voting on any such matter.*

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



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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. 1.7. *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. 1.8. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 2.3. NRS 116.1201 is hereby amended to read as follows:

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

2. This chapter does not apply to:

(a) A limited-purpose association, except that a limited-purpose association:

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

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

(3) Shall comply with the provisions of:

(I) NRS 116.31038, 116.31083 and 116.31152; and

(II) NRS 116.31075, if the limited-purpose association is created for a rural agricultural residential common-interest community;

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

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

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



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

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

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

3. The provisions of this chapter do not:

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

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

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

(d) Prohibit a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government ~~for~~, *except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives; or*

(e) *Prohibit a master association which governs a time-share plan created pursuant to chapter 119A of NRS from providing for a representative form of government for the time-share plan.*

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

5. The Commission shall establish, by regulation:

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

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

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

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

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



1 (2) Facilities for flood control; or
2 (3) A rural agricultural residential common-interest
3 community; and

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

8 **Sec. 2.7.** NRS 116.1203 is hereby amended to read as follows:

9 116.1203 1. Except as otherwise provided in subsection 2, if
10 a planned community contains no more than 12 units and is not
11 subject to any developmental rights, it is subject only to NRS
12 116.1106 and 116.1107 unless the declaration provides that this
13 entire chapter is applicable.

14 2. Except for NRS 116.3104, 116.31043, 116.31046 and
15 116.31138, the provisions of NRS 116.3101 to 116.350, inclusive,
16 *and section 1.3 of this act*, and the definitions set forth in NRS
17 116.005 to 116.095, inclusive, to the extent that such definitions are
18 necessary in construing any of those provisions, apply to a
19 residential planned community containing more than six units.

20 **Sec. 3.** (Deleted by amendment.)

21 **Sec. 3.3.** NRS 116.3102 is hereby amended to read as follows:

22 116.3102 1. Except as otherwise provided in ~~subsection 2,~~
23 *this section*, and subject to the provisions of the declaration, the
24 association may do any or all of the following:

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

26 (b) Adopt and amend budgets for revenues, expenditures and
27 reserves and collect assessments for common expenses from the
28 units' owners.

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

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

34 (e) Make contracts and incur liabilities.

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

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

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

41 (1) Common elements in a condominium or planned
42 community may be conveyed or subjected to a security interest only
43 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.

(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.



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(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 any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125.

Sec. 3.5. NRS 116.31034 is hereby amended to read as follows:

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

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

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

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

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

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



1 5. Each person whose name is placed on the ballot as a
2 candidate for a member of the executive board must:

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

8 (b) Disclose whether the candidate is a member in good
9 standing. For the purposes of this paragraph, a candidate shall not be
10 deemed to be in "good standing" if the candidate has any unpaid and
11 past due assessments or construction penalties that are required to be
12 paid to the association.

13 ↪ The candidate must make all disclosures required pursuant to this
14 subsection in writing to the association with his candidacy
15 information. The association shall distribute the disclosures to each
16 member of the association with the ballot in the manner established
17 in the bylaws of the association.

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

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

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

27 (1) That master association; or

28 (2) Any association that is subject to the governing
29 documents of that master association.

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

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

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

44 8. ~~[The]~~ *Except as otherwise provided in NRS 116.31105, the*
45 election of any member of the executive board must be conducted



1 by secret written ballot ~~[unless the declaration of the association~~
2 ~~provides that voting rights may be exercised by delegates or~~
3 ~~representatives as set forth in NRS 116.31105. If the election of any~~
4 ~~member of the executive board is conducted by secret written~~
5 ~~ballot.] in the following manner:~~

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

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

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

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

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

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

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

38 **Sec. 3.7.** NRS 116.31036 is hereby amended to read as
39 follows:

40 116.31036 1. Notwithstanding any provision of the
41 declaration or bylaws to the contrary, any member of the executive
42 board, other than a member appointed by the declarant, may be
43 removed from the executive board, with or without cause, if at a
44 removal election held pursuant to this section the number of votes
45 cast in favor of removal constitutes:



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

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

2. ~~[The]~~ *Except as otherwise provided in NRS 116.31105, the removal of any member of the executive board must be conducted by secret written ballot ~~[unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS 116.31105. If the removal of a member of the executive board is conducted by secret written ballot:]~~ in the following manner:*

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

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

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

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

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

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

4. The provisions of this section do not prohibit the Commission from taking any disciplinary action against a member



1 of an executive board pursuant to NRS 116.745 to 116.795,
2 inclusive.

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

4 116.31038 In addition to any applicable requirement set forth
5 in NRS 116.310395, within 30 days after units' owners other than
6 the declarant may elect a majority of the members of the executive
7 board, the declarant shall deliver to the association all property of
8 the units' owners and of the association held by or controlled by
9 him, including:

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

17 2. An accounting for money of the association and audited
18 financial statements for each fiscal year and any ancillary period
19 from the date of inception of the association to the date the period of
20 the declarant's control ends. The financial statements must fairly
21 and accurately report the association's financial position.

22 3. A complete study of the reserves of the association,
23 conducted by a person who ~~holds a permit to conduct such a study~~
24 ~~issued~~ *is registered as a reserve study specialist* pursuant to chapter
25 116A of NRS. At the time the control of the declarant ends, he shall:

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

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

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

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



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

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

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

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

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

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

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

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

Sec. 4.3. NRS 116.3108 is hereby amended to read as follows:

116.3108 1. A meeting of the units' owners must be held at least once each year. If the governing documents do not designate an annual meeting date of the units' owners, a meeting of the units' owners must be held 1 year after the date of the last meeting of the units' owners. If the units' owners have not held a meeting for 1 year, a meeting of the units' owners must be held on the following March 1.

2. Special meetings of the units' owners may be called by the president, by a majority of the executive board or by units' owners constituting at least 10 percent, or any lower percentage specified in the bylaws, of the total number of voting members of the association. The same number of units' owners may also call a removal election pursuant to NRS 116.31036. To call a special meeting or a removal election, the units' owners must submit a written petition which is signed by the required percentage of the total number of voting members of the association pursuant to this section and which is mailed, return receipt requested, or served by a process server to the executive board or the community manager for



1 the association. If the petition calls for a special meeting, the
2 executive board shall set the date for the special meeting so that the
3 special meeting is held not less than 15 days or more than 60 days
4 after the date on which the petition is received. If the petition calls
5 for a removal election and:

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

11 (b) The voting rights of the units' owners will be exercised
12 through the use of secret written ballots pursuant to NRS 116.31036,
13 the secret written ballots for the removal election must be sent in the
14 manner required by NRS 116.31036 not less than 15 days or more
15 than 60 days after the date on which the petition is received, and the
16 executive board shall set the date for the meeting to open and count
17 the secret written ballots so that the meeting is held not more than
18 15 days after the deadline for returning the secret written ballots.

19 3. Not less than 15 days or more than 60 days in advance of
20 any meeting of the units' owners, the secretary or other officer
21 specified in the bylaws shall cause notice of the meeting to be hand-
22 delivered, sent prepaid by United States mail to the mailing address
23 of each unit or to any other mailing address designated in writing by
24 the unit's owner or, if the association offers to send notice by
25 electronic mail, sent by electronic mail at the request of the unit's
26 owner to an electronic mail address designated in writing by the
27 unit's owner. The notice of the meeting must state the time and
28 place of the meeting and include a copy of the agenda for the
29 meeting. The notice must include notification of the right of a unit's
30 owner to:

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

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

37 4. The agenda for a meeting of the units' owners must consist
38 of:

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



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

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

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

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

7. Except as otherwise provided in subsection 8, the minutes of each meeting of the units' owners must include:

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

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

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

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

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

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



* S B 4 3 6 R 3 *

1 11. The units' owners may approve, at the annual meeting of
2 the units' owners, the minutes of the prior annual meeting of the
3 units' owners and the minutes of any prior special meetings of
4 the units' owners. A quorum is not required to be present when the
5 units' owners approve the minutes.

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

8 (a) Could not have been reasonably foreseen;

9 (b) Affects the health, welfare and safety of the units' owners or
10 residents of the common-interest community;

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

13 (d) Makes it impracticable to comply with the provisions of
14 subsection 3 or 4.

15 **Sec. 4.5.** NRS 116.311 is hereby amended to read as follows:

16 116.311 1. If only one of several owners of a unit is present
17 at a meeting of the association, that owner is entitled to cast all the
18 votes allocated to that unit. If more than one of the owners are
19 present, the votes allocated to that unit may be cast only in
20 accordance with the agreement of a majority in interest of the
21 owners, unless the declaration expressly provides otherwise. There
22 is majority agreement if any one of the owners cast the votes
23 allocated to that unit without protest made promptly to the person
24 presiding over the meeting by any of the other owners of the unit.

25 2. Except as otherwise provided in this section, votes allocated
26 to a unit may be cast pursuant to a proxy executed by a unit's owner.
27 A unit's owner may give a proxy only to a member of his immediate
28 family, a tenant of the unit's owner who resides in the common-
29 interest community, another unit's owner who resides in the
30 common-interest community, or a delegate or representative when
31 authorized pursuant to NRS 116.31105. If a unit is owned by more
32 than one person, each owner of the unit may vote or register protest
33 to the casting of votes by the other owners of the unit through an
34 executed proxy. A unit's owner may revoke a proxy given pursuant
35 to this section only by actual notice of revocation to the person
36 presiding over a meeting of the association.

37 3. Before a vote may be cast pursuant to a proxy:

38 (a) The proxy must be dated.

39 (b) The proxy must not purport to be revocable without notice.

40 (c) The proxy must designate the meeting for which it is
41 executed.

42 (d) The proxy must designate each specific item on the agenda
43 of the meeting for which the unit's owner has executed the proxy,
44 except that the unit's owner may execute the proxy without
45 designating any specific items on the agenda of the meeting if the



* S B 4 3 6 R 3 *

1 proxy is to be used solely for determining whether a quorum is
2 present for the meeting. If the proxy designates one or more specific
3 items on the agenda of the meeting for which the unit's owner has
4 executed the proxy, the proxy must indicate, for each specific item
5 designated in the proxy, whether the holder of the proxy must cast a
6 vote in the affirmative or the negative on behalf of the unit's owner.
7 If the proxy does not indicate whether the holder of the proxy must
8 cast a vote in the affirmative or the negative for a particular item on
9 the agenda of the meeting, the proxy must be treated, with regard to
10 that particular item, as if the unit's owner were present but not
11 voting on that particular item.

12 (e) The holder of the proxy must disclose at the beginning of the
13 meeting for which the proxy is executed the number of proxies
14 pursuant to which the holder will be casting votes.

15 4. A proxy terminates immediately after the conclusion of the
16 meeting for which it is executed.

17 5. ~~[A]~~ *Except as otherwise provided in this subsection, a* vote
18 may not be cast pursuant to a proxy for the election or removal of a
19 member of the executive board of an association . ~~[unless]~~ *A vote*
20 *may be cast pursuant to a proxy for the election or removal of a*
21 *member of the executive board of a master association which*
22 *governs a time-share plan created pursuant to chapter 119A of*
23 *NRS if* the proxy is exercised through a delegate or representative
24 authorized pursuant to NRS 116.31105.

25 6. The holder of a proxy may not cast a vote on behalf of the
26 unit's owner who executed the proxy in a manner that is contrary to
27 the proxy.

28 7. A proxy is void if the proxy or the holder of the proxy
29 violates any provision of subsections 1 to 6, inclusive.

30 8. If the declaration requires that votes on specified matters
31 affecting the common-interest community must be cast by the
32 lessees of leased units rather than the units' owners who have leased
33 the units:

34 (a) The provisions of subsections 1 to 7, inclusive, apply to the
35 lessees as if they were the units' owners;

36 (b) The units' owners who have leased their units to the lessees
37 may not cast votes on those specified matters;

38 (c) The lessees are entitled to notice of meetings, access to
39 records and other rights respecting those matters as if they were the
40 units' owners; and

41 (d) The units' owners must be given notice, in the manner
42 provided in NRS 116.3108, of all meetings at which the lessees are
43 entitled to vote.



9. If any votes are allocated to a unit that is owned by the association, those votes may not be cast, by proxy or otherwise, for any purpose.

Sec. 4.7. NRS 116.31105 is hereby amended to read as follows:

116.31105 1. If the declaration so provides, in a common-interest community that consists of at least 1,000 units, the voting rights of the units' owners in the association for that common-interest community may be exercised by delegates or representatives ~~[4]~~ *except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives.*

2. In addition to a common-interest community identified in subsection 1, if the declaration so provides, in a common-interest community created before October 1, 1999, the voting rights of the units' owners in the association for that common-interest community may be exercised by delegates or representatives ~~[4]~~ *except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives.*

3. *In addition to a common-interest community identified in subsections 1 and 2, if the declaration so provides, the voting rights of the owners of time shares within a time-share plan created pursuant to chapter 119A of NRS which is governed by a master association may be exercised by delegates or representatives.*

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

~~[4]~~ 5. *For the purposes of subsection 3, each time share that a developer has reserved the right to create pursuant to paragraph (g) of subsection 2 of NRS 119A.380 must be counted in determining the number of time shares in a time-share plan.*

6. Notwithstanding any provision in the declaration, the election of any delegate or representative must be conducted by secret written ballot.

~~[5]~~ 7. When an election of a delegate or representative is conducted by secret written ballot:

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



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

(c) Only the secret written ballots that are returned to the association in the manner prescribed on the ballot may be counted to determine the outcome of the election.

(d) The secret written ballots must be opened and counted at a meeting called for the purpose of electing delegates or representatives. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(e) A candidate for delegate or representative may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association in the manner prescribed on the ballot before those secret written ballots have been opened and counted at a meeting called for that purpose.

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 6.3. (Deleted by amendment.)

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 \$40,000, cause the financial statement of the association to be audited at least once every 4 fiscal years.*

(b) If the annual budget of the association is *\$40,000 or more but* 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)]~~ (c) 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)]~~ (d) 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.

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)]~~ :



1 (a) *A person deemed qualified by the association to conduct*
2 *such an audit if the annual budget of the association is less than*
3 *\$40,000; or*

4 (b) *An independent certified public accountant if the annual*
5 *budget of the association is \$40,000 or more,*

6 ↳ if, within 180 days before the end of the fiscal year, 15 percent of
7 the total number of voting members of the association submit a
8 written request for such an audit.

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

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

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

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

18 **Sec. 8.** NRS 116.31152 is hereby amended to read as follows:

19 116.31152 1. The executive board shall:

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

23 (b) At least annually, review the results of that study to
24 determine whether those reserves are sufficient; and

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

28 2. The study of the reserves required by subsection 1 must be
29 conducted by a person who ~~holds a permit issued~~ *is registered as a*
30 *reserve study specialist* pursuant to chapter 116A of NRS ~~[]~~ ,
31 *unless the association contains 20 or fewer units and is located in*
32 *a county whose population is 45,000 or less, and then by a person*
33 *deemed qualified by the executive board to conduct such a study.*

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

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

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

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



* S B 4 3 6 R 3 *

(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. 9.2. NRS 116.31153 is hereby amended to read as follows:

116.31153 **1.** Money in the reserve account of an association required by paragraph (b) of subsection 2 of NRS 116.3115 may not be withdrawn without the signatures of at least two members of the executive board or the signatures of at least one member of the executive board and one officer of the association who is not a member of the executive board.

2. *Money in the operating account of an association may not be withdrawn without the signatures of at least one member of the executive board or one officer of the association and a member of the executive board, an officer of the association or the community manager.*

Sec. 9.4. NRS 116.31162 is hereby amended to read as follows:

116.31162 **1.** Except as otherwise provided in subsection 4, in a condominium, in a planned community, in a cooperative where



* S B 4 3 6 R 3 *

1 the owner's interest in a unit is real estate under NRS 116.1105, or
2 in a cooperative where the owner's interest in a unit is personal
3 property under NRS 116.1105 and the declaration provides that a
4 lien may be foreclosed under NRS 116.31162 to 116.31168,
5 inclusive, the association may foreclose its lien by sale after all of
6 the following occur:

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

15 (b) Not less than 30 days after mailing the notice of delinquent
16 assessment pursuant to paragraph (a), the association or other person
17 conducting the sale has executed and caused to be recorded, with the
18 county recorder of the county in which the common-interest
19 community or any part of it is situated, a notice of default and
20 election to sell the unit to satisfy the lien which must contain the
21 same information as the notice of delinquent assessment and which
22 must also comply with the following:

23 (1) Describe the deficiency in payment.

24 (2) State the name and address of the person authorized by
25 the association to enforce the lien by sale.

26 (3) Contain, in 14-point bold type, the following warning:
27

28 WARNING! IF YOU FAIL TO PAY THE AMOUNT
29 SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR
30 HOME, EVEN IF THE AMOUNT IS IN DISPUTE!
31

32 (c) *The Commission has approved of the foreclosure of the*
33 *lien. The Commission shall grant approval for the foreclosure of*
34 *the lien if the Commission finds that the association has complied*
35 *with paragraph (a) and the association or other person conducting*
36 *the sale has complied with paragraph (b).*

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

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

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



- 1 (a) The date on which the notice of default is recorded; or
- 2 (b) The date on which a copy of the notice of default is mailed
- 3 by certified or registered mail, return receipt requested, to the unit's
- 4 owner or his successor in interest at his address, if known, and at the
- 5 address of the unit,
- 6 ➤ whichever date occurs later.

7 4. The association may not foreclose a lien by sale based on a

8 fine or penalty for a violation of the governing documents of the

9 association unless:

- 10 (a) The violation poses an imminent threat of causing a
- 11 substantial adverse effect on the health, safety or welfare of the
- 12 units' owners or residents of the common-interest community; or

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

15 **Sec. 9.6.** NRS 116.31166 is hereby amended to read as

16 follows:

17 116.31166 1. The recitals in a deed made pursuant to NRS

18 116.31164 of:

- 19 (a) Default, the mailing of the notice of delinquent assessment,
- 20 and the recording of the notice of default and election to sell;

- 21 (b) The elapsing of the 90 days; and

- 22 (c) The giving of notice of sale,

23 ➤ are conclusive proof of the matters recited.

24 2. Such a deed containing those recitals is conclusive against

25 the unit's former owner, his heirs and assigns, and all other persons.

26 The receipt for the purchase money contained in such a deed is

27 sufficient to discharge the purchaser from obligation to see to the

28 proper application of the purchase money.

29 3. The sale of a unit pursuant to NRS 116.31162, 116.31163

30 and 116.31164 ~~{vests in the purchaser the title of the unit's owner~~

31 ~~without}~~ *is subject to an* equity or right of redemption ~~{}~~ *as*

32 *provided in this section.*

33 4. *Upon a sale of a unit:*

- 34 (a) *The purchaser acquires all the right, title, interest and*
- 35 *claim of the unit's owner thereto; and*

- 36 (b) *The purchaser must receive a certificate of sale in*
- 37 *recordable form which must state:*

- 38 (1) *The description of the unit sold;*

- 39 (2) *The price bid for the unit sold; and*

- 40 (3) *That the unit is subject to redemption within 120 days of*
- 41 *the date of the sale.*

42 5. *A copy of the certificate of sale must be posted on the door*

43 *of the unit, with a copy mailed first class, postage prepaid, to the*

44 *addresses of the unit's owner and persons entitled to redeem as*



* S B 4 3 6 R 3 *

1 *indicated in the records of the association and the last known*
2 *address as shown in the records of the county.*

3 6. *A person who purchases a unit at a sale pursuant to this*
4 *section may not transfer ownership of the unit to a person other*
5 *than a unit's owner or redemptioner during the redemption*
6 *period.*

7 7. *A unit sold subject to redemption, as provided in this*
8 *section, may be redeemed within 120 days of the date of the sale in*
9 *the manner hereinafter provided by the following persons or their*
10 *successors in interest:*

11 (a) *The unit's owner or a successor in interest with a recorded*
12 *interest in the whole or any part of the unit.*

13 (b) *A creditor having a security interest on the unit sold or on*
14 *some share or part thereof.*

15 8. *To redeem a unit purchased at a sale pursuant to this*
16 *section, the unit's owner or redemptioner must pay to the*
17 *purchaser:*

18 (a) *The amount the purchaser paid for the unit at the sale;*

19 (b) *The amount of the fee for recording the certificate of sale;*
20 *and*

21 (c) *The amount paid by the purchaser for property taxes and*
22 *assessments, including, without limitation, assessments due under*
23 *any applicable declaration, any penalties, interest and costs on the*
24 *unit, and any applicable real property transfer taxes.*

25 9. *Written notice of redemption in recordable form must be*
26 *given to the redemptioner by the purchaser at the time of payment.*

27 10. *If the property is not redeemed within the 120-day period,*
28 *then the purchaser or his assignee is entitled to a deed to the*
29 *property from the association.*

30 **Sec. 9.8.** NRS 116.31175 is hereby amended to read as
31 follows:

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

41 (a) The personnel records of the employees of the association,
42 except for those records relating to the number of hours worked and
43 the salaries and benefits of those employees;

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



(c) A contract between the association and an attorney.

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

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

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

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

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

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

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

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

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

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

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

6. If an official publication contains or will contain any mention of a candidate or ballot question, the official publication must, upon request and without charge, provide equal space in the same issue to the candidate or a representative of an organization which supports the passage or defeat of the ballot question.

7. Except as otherwise provided in this subsection, if an official publication contains or will contain the views or opinions



1 *of the association, the executive board, a community manager or*
2 *an officer, employee or agent of an association concerning an*
3 *issue of official interest, the official publication must, upon*
4 *request and without charge, provide equal space to opposing views*
5 *and opinions of a unit's owner, tenant or resident of the common-*
6 *interest community. If an official publication contains or will*
7 *contain any information concerning a civil action or claim in*
8 *which the association is a party, the official publication is not*
9 *required to provide equal space to any opposing views or opinions.*

10 8. *As used in this section:*

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

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

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

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

18 (1) *An official website;*

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

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

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

27 **Sec. 10.** NRS 116.350 is hereby amended to read as follows:

28 116.350 1. In a common-interest community which is not
29 gated or enclosed and the access to which is not restricted or
30 controlled by a person or device, the executive board shall not and
31 the governing documents must not provide for the regulation of any
32 road, street, alley or other thoroughfare the right-of-way of which is
33 accepted by the State or a local government for dedication as a road,
34 street, alley or other thoroughfare for public use.

35 2. ~~[The]~~ *Except as otherwise provided in subsection 3, the*
36 *provisions of subsection 1 do not preclude an association from*
37 *adopting, and do not preclude the governing documents of an*
38 *association from setting forth, rules that reasonably restrict the*
39 *parking or storage of inoperable vehicles, recreational vehicles,*
40 *watercraft, trailers or commercial vehicles in the common-interest*
41 *community to the extent authorized by law.*

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



* S B 4 3 6 R 3 *

1 (a) *Parking a service vehicle on a driveway, road, street, alley*
2 *or other thoroughfare:*

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

5 (2) *If the person is:*

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

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

8 (III) *Bringing the vehicle to his unit pursuant to his*
9 *employment with the entity which owns the vehicle for the purpose*
10 *of responding to requests for services; or*

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

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

14 (2) *If the person is:*

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

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

17 (III) *Bringing the vehicle to his unit pursuant to his*
18 *employment with the entity which owns the vehicle for the purpose*
19 *of responding to requests for law enforcement services or*
20 *emergency services.*

21 4. *As used in this section:*

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

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

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

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

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

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

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

34 (d) *"Service vehicle" means any commercial motor vehicle:*

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

40 (2) *Except for any emergency use, operated primarily*
41 *within the service area of subscribers or consumers, without*
42 *regard to whether the commercial motor vehicle is owned, leased*
43 *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
~~3 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:*



- 1 (a) *The legal right to conduct business in this State;*
- 2 (b) *A resident agent in this State pursuant to subsection 1 of*
- 3 *NRS 14.020; and*
- 4 (c) *Consented to the jurisdiction of the courts of this State by:*
- 5 (1) *Maintaining a physical presence in this State; or*
- 6 (2) *Executing a written instrument containing such*
- 7 *consent, with respect to any suit or claim, whether brought by the*
- 8 *declarant or purchaser, relating to or arising in connection with*
- 9 *such sale or the escrow agreement related thereto.*

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

11 116.750 1. In carrying out the provisions of NRS 116.745 to
12 116.795, inclusive, the Division and the Ombudsman have
13 jurisdiction to investigate and the Commission and each hearing
14 panel has jurisdiction to take appropriate action against any person
15 who commits a violation, including, without limitation:

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

18 (b) Any member of an executive board.

19 (c) Any community manager who holds a certificate and any
20 other community manager.

21 (d) Any person who ~~holds a permit to conduct a study of the~~
22 ~~reserves of an association issued~~ *is registered as a reserve study*
23 *specialist, or who conducts a study of reserves*, pursuant to chapter
24 116A of NRS.

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

26 (f) Any unit's owner.

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

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

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

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

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

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

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

42 116A.120 ~~["Permit"]~~ *"Registration"* means ~~[a permit]~~
43 *registration* to conduct a study of the reserves of an association
44 pursuant to NRS 116.31152 ~~[issued by]~~ *with* the Division pursuant
45 to this chapter.



* S B 4 3 6 R 3 *

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. ~~for permit.~~

Sec. 15. (Deleted by amendment.)

Sec. 15.5. NRS 116A.410 is hereby amended to read as follows:

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

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

(b) *Must require an applicant to post a bond in a form and in an amount established by regulation. The Commission shall, by regulation, adopt a sliding scale for the amount of the bond that is based upon the amount of money that applicants are expected to control.*

(c) May require applicants to pass an examination in order to obtain a certificate. 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.

~~(e)~~ (d) 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)~~ (e) 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)~~ (f) 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.



* S B 4 3 6 R 3 *

1 **Sec. 16.** NRS 116A.420 is hereby amended to read as follows:

2 116A.420 1. Except as otherwise provided in this section, a
3 person shall not act as a reserve study specialist unless the person
4 ~~[holds a permit.]~~ *registers with the Division on a form provided by*
5 *the Division.*

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

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

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

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

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

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

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

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

35 **Sec. 17.** NRS 116A.430 is hereby amended to read as follows:

36 116A.430 1. The Commission shall by regulation provide for
37 the ~~[issuance]~~ *registration* by the Division of ~~[permits to]~~ reserve
38 study specialists. The regulations:

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

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



* S B 4 3 6 R 3 *

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

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

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

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

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

16 **Sec. 18.** NRS 116A.440 is hereby amended to read as follows:

17 116A.440 1. An applicant for a certificate or ~~{permit}~~
18 *registration* shall submit to the Division:

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

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

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

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

28 (b) A separate form prescribed by the Division.

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

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

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

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



* S B 4 3 6 R 3 *

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 , ~~[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. 20. 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. 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.*



* S B 4 3 6 R 3 *

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.

~~[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. 22.5. Section 9.6 of this act applies to a sale of a unit
conducted pursuant to NRS 116.31162, 116.31163 and 116.31164
on or after October 1, 2007.

Sec. 23. 1. This section becomes effective upon passage and
approval.

2. Section 11 of this act becomes effective on July 1, 2007.

3. Sections 1 to 10, inclusive, 12 to 15, inclusive, and 16 to
22.5, inclusive, of this act become effective on October 1, 2007.

4. Section 15.5 of this act becomes effective:

(a) Upon passage and approval for the purpose of adopting
regulations and performing any other preparatory administrative
tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2008, for all other purposes.

5. 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
withhold or suspend, or to restrict the use of professional,
occupational and recreational licenses of persons who:

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

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

↪ are repealed by the Congress of the United States.

