

Amendment No. 1006

Assembly Amendment to Senate Bill No. 436 Second Reprint (BDR 10-234)

Proposed by: Assemblywomen Allen and Gerhardt**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold* is newly added transitory language.

KEL/BAW



Date: 5/25/2007

S.B. No. 436—Makes various changes to the provisions governing common-interest communities. (BDR 10-234)



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 ~~located in certain smaller counties~~ from using an independent certified public ~~accountant~~ **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 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:

1 Existing law provides that a covenant, restriction or condition in a deed, contract or
2 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.

~~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 1.7 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)

~~Sections 6.3 and 6.7 of this bill provide that in a county whose population is 45,000 or less 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 prepare, present, audit or review certain financial statements. (NRS 116.31142, 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 ~~utility~~ service vehicles, law enforcement vehicles and emergency services vehicles.

Section 11 of this bill deems deposits made in connection with the purchase or reservation of units from a person required to deliver a public offering statement placed in out-of-state escrow companies as being deposited in this State if the escrow holder has a legal right to conduct business in the State, has a resident agent in this State and has consented to the jurisdiction of the courts of this State. (NRS 116.411)

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 ~~{the}~~ 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 ~~{1.4 and 1.6}~~ 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,

1 *restrict, prohibit or otherwise impede the operation of a motorcycle if the*
2 *motorcycle is operated on any road, street, alley or other surface intended for use*
3 *by a motor vehicle.*

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

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

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

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

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

25 **Sec. 1.7.** 1. *The provisions of this chapter do not invalidate or modify the*
26 *tariffs, rules and standards of a public utility.*

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

31 3. *As used in this section, "public utility" has the meaning ascribed to it in*
32 *NRS 704.020.*

33 **Sec. 1.8.** (Deleted by amendment.)

34 **Sec. 2.** (Deleted by amendment.)

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

36 116.1201 1. Except as otherwise provided in this section and NRS
37 116.1203, this chapter applies to all common-interest communities created within
38 this State.

39 2. This chapter does not apply to:

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

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

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

43 (3) Shall comply with the provisions of:

44 (I) NRS 116.31038, 116.31083 and 116.31152; and

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

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

50 (5) Shall not enforce any restrictions concerning the use of units by the
51 units' owners, unless the limited-purpose association is created for a rural
52 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; ~~but~~

(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 ~~but~~, 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;

(2) Facilities for flood control; or

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

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

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

116.1203 1. Except as otherwise provided in subsection 2, if a planned community contains no more than 12 units and is not subject to any developmental

rights, it is subject only to NRS 116.1106 and 116.1107 unless the declaration provides that this entire chapter is applicable.

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

Sec. 3. (Deleted by amendment.)

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

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

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

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

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

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

(e) Make contracts and incur liabilities.

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

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

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

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

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

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

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

(k) Impose charges for late payment of assessments.

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

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

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

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

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

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

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

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

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

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

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

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

3. Notwithstanding any provision of this chapter or the governing documents to the contrary, an association may not impose any assessment pursuant to this chapter or the governing documents on 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.

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

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

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

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

6. Unless a person is appointed by the declarant:

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

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

(1) That master association; or

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

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

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

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

8. ~~The~~ Except as otherwise provided in NRS 116.31105, the election 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 election of any 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) A quorum is not required for the election of any member of the executive board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. The association's money or control thereof.

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

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

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

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

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

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

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

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

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

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

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

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

3. Not less than 15 days or more than 60 days in advance of any meeting of the units' owners, the secretary or other officer specified in the bylaws shall cause notice of the meeting to be hand-delivered, sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner or, if the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner. The notice of the meeting must

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

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

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

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

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

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

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

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

29 6. The secretary or other officer specified in the bylaws shall cause minutes to
30 be recorded or otherwise taken at each meeting of the units' owners. Not more than
31 30 days after each such meeting, the secretary or other officer specified in the
32 bylaws shall cause the minutes or a summary of the minutes of the meeting to be
33 made available to the units' owners. A copy of the minutes or a summary of the
34 minutes must be provided to any unit's owner upon request and, if required by the
35 executive board, upon payment to the association of the cost of providing the copy
36 to the unit's owner.

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

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

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

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

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

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

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

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

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

(a) Could not have been reasonably foreseen;

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

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

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

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

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

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

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

(a) The proxy must be dated.

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

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

(d) The proxy must designate each specific item on the agenda of the meeting for which the unit's owner has executed the proxy, except that the unit's owner may execute the proxy without designating any specific items on the agenda of the meeting if the proxy is to be used solely for determining whether a quorum is present for the meeting. If the proxy designates one or more specific items on the agenda of the meeting for which the unit's owner has executed the proxy, the proxy must indicate, for each specific item designated in the proxy, whether the holder of the proxy must cast a vote in the affirmative or the negative on behalf of the unit's owner. If the proxy does not indicate whether the holder of the proxy must cast a vote in the affirmative or the negative for a particular item on the agenda of the meeting, the proxy must be treated, with regard to that particular item, as if the unit's owner were present but not voting on that particular item.

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

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

5. ~~¶~~ Except as otherwise provided in this subsection, a vote may not be cast pursuant to a proxy for the election or removal of a member of the executive board of an association. ~~¶~~ A vote may be cast pursuant to a proxy for the election or removal of a member of the executive board of a master association which governs a time-share plan created pursuant to chapter 119A of NRS if the proxy is exercised through a delegate or representative authorized pursuant to NRS 116.31105.

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

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

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

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

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

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

(d) The units' owners must be given notice, in the manner provided in NRS 116.31108, of all meetings at which the lessees are 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 ~~¶~~ 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 ~~¶~~ 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.

~~¶~~ 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.~~ 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. ~~NRS 116.31142 is hereby amended to read as follows:~~

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

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

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

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

~~3. The Commission shall not adopt regulations requiring that financial statements be prepared by a certified public accountant if the association is located in a county whose population is 45,000 or less. (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~~ ~~independent certified public accountant~~ ~~if the annual budget of the association is less than \$40,000; or~~ ~~if the annual budget of the association is \$40,000 or more.~~

(a) A person deemed qualified by the association to conduct such an audit if the annual budget of the association is less than \$40,000; or
(b) An independent certified public accountant if the annual budget of the association is \$40,000 or more.

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

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

~~4.~~ The Commission shall adopt regulations prescribing the requirements for the auditing or reviewing of financial statements of an association pursuant to this section. Such regulations must include, without limitation:

(a) The qualifications necessary for a person to audit or review financial statements of an association ~~which do not conflict with subsection 3;~~ and

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

Sec. 7. (Deleted by amendment.)

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

116.31152 1. The executive board shall:

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

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

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

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

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

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

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

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

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

(e) An estimate of the total annual assessment that may be necessary to cover the cost of repairing, replacement or restoration of the major components of the

common elements identified pursuant to paragraph (b), after subtracting the reserves of the association as of the date of the study, and an estimate of the funding plan that may be necessary to provide adequate funding for the required reserves.

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

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

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

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

Sec. 9. (Deleted by amendment.)

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

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

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

(1) Describe the deficiency in payment.

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

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

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

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

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

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

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

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

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

➤ whichever date occurs later.

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

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

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

Sec. 9.6. NRS 116.31166 is hereby amended to read as follows:

116.31166 1. The recitals in a deed made pursuant to NRS 116.31164 of:

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

(b) The elapsing of the 90 days; and

(c) The giving of notice of sale,

➤ are conclusive proof of the matters recited.

2. Such a deed containing those recitals is conclusive against the unit's former owner, his heirs and assigns, and all other persons. The receipt for the purchase money contained in such a deed is sufficient to discharge the purchaser from obligation to see to the proper application of the purchase money.

3. The sale of a unit pursuant to NRS 116.31162, 116.31163 and 116.31164 ~~[vests in the purchaser the title of the unit's owner without]~~ is subject to an equity or right of redemption. ~~[]~~ as provided in this section.

4. Upon a sale of a unit:

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

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

(1) The description of the unit sold;

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

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

5. A copy of the certificate of sale must be posted on the door of the unit, with a copy mailed first class, postage prepaid, to the addresses of the unit's owner and persons entitled to redeem as indicated in the records of the association and the last known address as shown in the records of the county.

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The records of the association relating to another unit's 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 of the association, the executive board, a community manager or an officer, employee or agent of an association concerning an issue of official interest, the official publication must, upon request and without charge, provide equal space to opposing views and opinions of a unit's owner, tenant or resident of the common-interest community. If an official publication contains or will contain any 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 any opposing views or opinions.

8. As used in this section:

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

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

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

(b) "Official publication" means:

(1) An official website;

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

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

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

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

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

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

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

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

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

(2) *If the person is:*

(I) *A unit's owner;*

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

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

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

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

(2) *If the person is:*

(I) *A unit's owner;*

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

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

4. *As used in this section:*

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

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

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

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

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

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

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

(d) ~~["Utility service"]~~ *"Service vehicle" means any commercial motor vehicle:*

(1) *Used in the furtherance of repairing, maintaining or operating any structure or any other physical facility necessary for the delivery of ~~[public utility]~~*

1 *services, including, without limitation, the furnishing of electricity, gas, water,*
 2 *sanitary sewer, telephone, cable or community antenna service.*

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

6 **Sec. 11.** NRS 116.411 is hereby amended to read as follows:

7 116.411 1. Except as otherwise provided in subsections 2 ~~and 3,~~ 3 and 4,
 8 a deposit made in connection with the purchase or reservation of a unit from a
 9 person required to deliver a public offering statement pursuant to subsection 3 of
 10 NRS 116.4102 must be placed in escrow and held either in this State or in the state
 11 where the unit is located in an account designated solely for that purpose by a
 12 licensed title insurance company, an independent bonded escrow company, or an
 13 institution whose accounts are insured by a governmental agency or instrumentality
 14 until:

15 (a) Delivered to the declarant at closing;
 16 (b) Delivered to the declarant because of the purchaser's default under a
 17 contract to purchase the unit;

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

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

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

24 (d) Refunded to the purchaser.

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

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

34 (a) Delivered to the declarant at closing;

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

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

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

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

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

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

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

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

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

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

- (a) Any association and any officer, employee or agent of an association.
- (b) Any member of an executive board.
- (c) Any community manager who holds a certificate and any other community manager.

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

(e) Any declarant or affiliate of a declarant.

(f) Any unit's owner.

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[(e)]~~ *(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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) A separate form prescribed by the Division.

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

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

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

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

Sec. 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}~~

1 that he has complied with the subpoena or warrant or has satisfied the arrearage
2 pursuant to NRS 425.560.

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

4 116A.460 The expiration or revocation of a *registration or* certificate ~~for~~
5 ~~permit~~ by operation of law or by order or decision of any agency or court of
6 competent jurisdiction, or the voluntary surrender of such a *registration or*
7 certificate ~~for permit~~ by the *person who is registered or the* holder of the
8 certificate ~~for permit~~ does not:

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

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

18 **Sec. 21.** NRS 116A.900 is hereby amended to read as follows:

19 116A.900 1. In addition to any other remedy or penalty, the Commission
20 may impose an administrative fine against any person who knowingly:

21 (a) Engages or offers to engage in any activity for which a certificate or
22 ~~permit~~ *registration* is required pursuant to this chapter or chapter 116 of NRS, or
23 any regulation adopted pursuant thereto, if the person does not hold the required
24 certificate or ~~permit~~ *has not registered* or has not been given the required
25 authorization; or

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

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

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

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

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

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

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

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

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

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

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

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

1 **Sec. 21.5.** NRS 278.0208 is hereby amended to read as follows:

2 278.0208 1. ~~{A}~~ *Except as otherwise provided in this subsection, a*
 3 governing body shall not adopt an ordinance, regulation or plan or take any other
 4 action that prohibits or ~~{unreasonably}~~ restricts the owner of real property from
 5 using a system for obtaining solar or wind energy on his property. *A reasonable*
 6 *ordinance, regulation or plan concerning the color of such a system is*
 7 *enforceable so long as it does not prohibit the owner from using the standard*
 8 *color in which the system is made, does not cost significantly more than another*
 9 *color and does not have the effect of prohibiting the use of such a system.*

10 2. ~~{Any}~~ *Except as otherwise provided in subsection 3, any* covenant,
 11 restriction or condition contained in a deed, contract or other legal instrument
 12 which affects the transfer, sale or any other interest in real property that prohibits or
 13 ~~{unreasonably}~~ restricts the owner of the property from using a system for obtaining
 14 solar or wind energy on his property is void and unenforceable.

15 3. ~~{For the purposes of this section, "unreasonably restricting the use of a~~
 16 ~~system for obtaining solar or wind energy" means placing a restriction or~~
 17 ~~requirement on the use of such a system which significantly decreases the~~
 18 ~~efficiency or performance of the system and does not allow for the use of an~~
 19 ~~alternative system at a comparable cost and with comparable efficiency and~~
 20 ~~performance.}~~ *A reasonable covenant, restriction or condition concerning the*
 21 *color of a system is enforceable so long as it does not prohibit the owner from*
 22 *using the standard color in which the system is made, does not cost significantly*
 23 *more than another color and does not have the effect of prohibiting the use of*
 24 *such a system.*

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

26 **Sec. 22.5.** *Section 9.6 of this act applies to a sale of a unit conducted*
 27 *pursuant to NRS 116.31162, 116.31163 and 116.31164 on or after October 1,*
 28 *2007.*

29 **Sec. 23.** 1. This section ~~{and section}~~ *becomes effective upon passage and*
 30 *approval.*

31 2. *Section 11 of this act ~~{become}~~ becomes effective on July 1, 2007.*

32 ~~{2}~~ 3. *Sections 1 to 10, inclusive, ~~{and}~~ 12 to ~~{22}~~ 15, inclusive, and 16 to*
 33 *22.5, inclusive, become effective on October 1, 2007.*

34 ~~{2}~~ 4. *Section 15.5 of this act becomes effective:*

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

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

39 5. Sections 18 and 19 of this act expire by limitation on the date on which the
 40 provisions of 42 U.S.C. § 666 requiring each state to establish procedures under
 41 which the state has authority to withhold or suspend, or to restrict the use of
 42 professional, occupational and recreational licenses of persons who:

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

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

47 ↪ are repealed by the Congress of the United States.