

## Amendment No. 947

Assembly Amendment to Senate Bill No. 182 First Reprint (BDR 10-795)

Proposed by: Assembly Committee on Judiciary

Amends: Summary: No Title: Yes Preamble: Delete 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 dashed underlining* is newly added transitory language.

NMB/RRY



Date: 5/28/2009

S.B. No. 182—Makes various changes relating to common-interest communities.  
(BDR 10-795)



## SENATE BILL NO. 182—SENATOR SCHNEIDER

MARCH 9, 2009

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to common-interest communities.  
(BDR 10-795)

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

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EXPLANATION – Matter in **bolded italics** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to common-interest communities; clarifying various provisions of existing law relating to certain ~~definitions of terms,~~ provisions of governing documents that violate statutory provisions, elections and the authority of an association to levy certain assessments under certain circumstances; revising certain provisions governing the authority of an association to impose fines under certain circumstances; making various other changes to the provisions governing common-interest communities; providing penalties; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

**Section 3** of this bill provides that a person who knowingly, willfully and with the intent to fraudulently alter the outcome of the election of a member to the executive board of an association **or other votes of the units' owners** engages in certain acts pertaining to the ballot or the casting of votes in such election is guilty of a category ~~(C)~~ **D** felony. (NRS 116.31034) Existing law prohibits a community manager, an officer or a member of the executive board from accepting or soliciting compensation that would influence him or appear to be a conflict of interest. (NRS 116.31185) **Section 4** of this bill provides that a community manager or member of the executive board who asks for or receives compensation to influence his vote, opinion or action upon any official matter is guilty of a category ~~(C)~~ **D** felony. **Section 4** also provides that a person who offers or gives any gratuity, compensation or reward, or makes a promise thereof, to a community manager or member of the executive board in exchange for a vote, opinion or action on any official matter is guilty of a category ~~(C)~~ **D** felony.

Existing law requires each agency to provide by regulation for the filing and prompt disposition of petitions for declaratory orders and advisory opinions as to the applicability of any statutory provision, agency regulation or decision of the agency, and the Department of Business and Industry, which includes the Real Estate Division, has accordingly adopted regulations for such petitions. (NRS 233B.120; NAC 232.020) However, the Real Estate Division has not adopted any regulations pertaining to such petitions. **Section 5** of this bill enacts a specific statutory provision requiring the Real Estate Division to adopt regulations pertaining to such petitions.

~~Under existing law, a "common interest community" is defined as "real estate with respect to which a person, by virtue of his ownership of a unit, is obligated to pay for real estate other than that unit." (NRS 116.021) Section 6 of this bill clarifies existing law with respect to this definition by providing explicitly that, as used in this definition, the term "real~~

~~estate other than that unit" does not include any interest in any covenants, conditions or restrictions to which the unit is subject, and the fact that the unit is subject to covenants, conditions or restrictions is not relevant and not to be considered in determining whether real estate is a "common interest community."]~~

Existing law contains provisions concerning units or common elements of an association that are acquired by eminent domain. (NRS 116.1107) **Section 7** of this bill clarifies that existing law does not authorize an association to exercise the power of eminent domain. **Section 8** of this bill clarifies that any provision contained in a declaration, bylaw or other governing document of a common-interest community that violates the provisions of chapter 116 of NRS is superseded by the provisions of chapter 116 of NRS, regardless of whether the provision became effective before the enactment of the statutory provision being violated. (NRS 116.1206)

**Section 8.5 of this bill provides that an association may not charge a fee for entry into the common-interest community against a person providing services to a unit, a unit's owner or a tenant of a unit's owner or against a visitor, guest or invitee of a unit's owner or a tenant of a unit's owner. (NRS 116.2111)**

**Section 9** of this bill revises existing law to limit an association's power to include certain provisions in certain contracts involving the association. (NRS 116.3102)

Existing law authorizes an executive board to impose fines under certain circumstances. (NRS 116.31031) **Section 12** of this bill limits the imposition of fines against a unit's owner for violations of the governing documents by a tenant or an invitee of the unit's owner. ~~for~~ the tenant.

**Sections 13, 14 and 16** of this bill revise provisions relating to certain elections and meetings of an association by: (1) requiring members of the executive board to be units' owners; (2) providing that officers of an association are not required to be units' owners, unless the governing documents provide otherwise; (3) providing certain rights for candidates for election to an executive board; (4) reducing the votes necessary for removal of a member of an executive board; (5) prohibiting an association from interfering with the collection of signatures for a special meeting or removal election; and (6) providing immunity from criminal or civil liability for an association, its officers, employees and agents for the disclosure or publication of certain information pursuant to certain duties required of the association or its officers, employees and agents. (NRS 116.31034, 116.31036, 116.3108)

**Section 15** of this bill clarifies existing law concerning the respective duties of an association and the units' owners regarding the maintenance, repair and replacement of the common elements and the units. (NRS 116.3107)

**Sections 17-19** of this bill revise provisions relating to board meetings and hearings by: (1) requiring that meetings of the executive board be audio recorded and available in a certain manner; (2) requiring that certain written complaints be placed on the agenda; and (3) providing due process protections to units' owners at certain hearings. (NRS 116.31083, 116.31085, 116.31087) **Section 17** also revises existing law to allow public comments to be made at both the beginning and the end of a meeting. (NRS 116.31083)

Existing law provides that an association has the statutory obligation to: (1) fund adequately its reserves; (2) include in its annual budget a statement concerning its reserves and whether it will be necessary to impose any special assessments; and (3) review its study of the reserves on an annual basis and make any appropriate adjustments necessary to ensure that the reserves are always funded adequately. (NRS 116.3115, 116.31151, 116.31152) **Section 21** of this bill clarifies existing law by explicitly stating that notwithstanding any provision of the governing documents to the contrary, the executive board may, without seeking or obtaining the approval of units' owners, impose any necessary and reasonable assessments to establish adequate reserves. **This section also provides that any such assessments imposed must be based on the study of the reserves of the association conducted pursuant to NRS 116.31152.**

**Section 22** of this bill authorizes the filing of a civil action to recover certain fees, administrative penalties and interest that were imposed erroneously. (NRS 116.31155)

**Sections 24, 26 and 28** of this bill provide certain additional rights to units' owners by: (1) increasing the scope and definition of prohibited retaliatory action; (2) authorizing the exhibition of certain political signs in certain areas; and (3) mandating notice before interruption of utility service to a unit's owner. (NRS 116.31183, 116.325, 116.345)

**Section 25** of this bill expands the prohibition against certain contracts between an association and a member of the executive board or officer to include contracts involving financing. (NRS 116.31187) **Section 27** of this bill: (1) provides that existing law concerning drought tolerant landscaping must be construed broadly; and (2) clarifies the definition of "drought tolerant landscaping." (NRS 116.330) **Section 29** of this bill provides that if a community manager fails or refuses to comply with the governing documents of the association or the provisions of chapter 116 of NRS, any person or class of persons may bring a civil action for damages or other relief. (NRS 116.4117)

**Section 30** of this bill increases the membership of the Commission by adding two members who are units' owners but who are not required to have served as members of an executive board. (NRS 116.600) **Section 31** of this bill revises provisions relating to the Commission's duties by providing for the use of training officers to perform certain duties. (NRS 116.605)

~~[Section 35 of this bill: (1) eliminates the authority of the Commission or hearing panel to order a respondent to pay the costs of the attorney's fees of the Division; and (2) provides that in any matter brought before the Commission or a hearing panel, attorney's fees must not be granted to the prevailing party, regardless of whether the governing documents provide for such fees to be granted to a prevailing party. (NRS 116.785)]~~ **Section 36** of this bill clarifies that if the Commission or hearing officer orders an audit of an association, the audit is conducted at the expense of the association. (NRS 116.790)

Existing law provides that a written affidavit, supporting documentation and information compiled as the result of an investigation of an alleged violation are confidential unless and until a formal complaint is filed. (NRS 116.757, 116A.270) **Sections 33 and 37** of this bill clarify existing law to provide that such confidential information must not be disclosed to any person, including a person who is the subject of an investigation or complaint, unless and until a formal complaint is filed.

**Section 39** of this bill provides that the Commission must adopt regulations requiring an applicant for a certificate as a community manager or the applicant's employer to post a bond. (NRS 116A.410)

**Section 40** of this bill revises existing law to provide that upon selection or appointment of an arbitrator, the arbitrator must provide certain information concerning the procedures of the arbitration and applicable law to each party to the arbitration, and each party must return to the arbitrator an acknowledgment of the information provided by the arbitrator. (NRS 38.330)

~~{ Whereas, The Nevada Legislature previously deemed it important to set forth its intent regarding the creation and proper functioning of planned communities; and~~

~~Whereas, The Nevada Legislature previously noted that planned communities are a dominant method of residential development in the State of Nevada; and~~

~~Whereas, The Nevada Legislature previously noted that planned communities are developed for the purposes of preserving neighborhood continuity and creating desirable places to reside; and~~

~~Whereas, The Nevada Legislature previously noted that planned communities are governed by specific rules and regulations and by unit owners' associations; and~~

~~Whereas, The Nevada Legislature previously noted that a unit owners' association is the form of self-government closest to the people; and~~

~~Whereas, The Nevada Legislature previously declared that all forms of government should follow the basic principles of democracy found in the United States Constitution and the Nevada Constitution; and~~

~~Whereas, The Nevada Legislature previously noted that some unit owners' associations in this State have a history of abuse of power; and~~

~~Whereas, The Nevada Legislature previously noted that unit owners' associations have power over one of the most important aspects of a person's life, his residence; and~~

~~Whereas, The Nevada Legislature previously noted that homeowners invest financially and emotionally in their homes; and~~

~~Whereas, The Nevada Legislature previously declared that homeowners have the right to reside in a community without fear of illegal, unfair, unnecessary, unduly burdensome or costly interference with their property rights; and~~

~~Whereas, Many of the concerns previously noted by the Nevada Legislature persist to this day; and~~

~~Whereas, The Nevada Legislature deems it necessary and important to reiterate and endorse both the intent and the concerns previously expressed by the Nevada Legislature; and~~

~~Whereas, The establishment of planned communities is required by many local governments as a condition of granting necessary building permits for residential housing; and~~

~~Whereas, The form of self-government of a unit owners' association includes legislative, executive and quasi-judicial powers and functions; now, therefore,}~~

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

**Section 1.** Chapter 116 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

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

**Sec. 3.** *1. A person shall not knowingly, willfully and with the intent to fraudulently alter the true outcome of an election of a member of the executive board or any other vote of the units' owners engage in, attempt to engage in, or conspire with another person to engage in, any of the following acts:*

*(a) Changing or falsifying a voter's ballot so that the ballot does not reflect the voter's true ballot.*

*(b) Forging or falsely signing a voter's ballot.*

*(c) Fraudulently casting a vote for himself or for another person that the person is not authorized to cast.*

*(d) Rejecting, failing to count, destroying, defacing or otherwise invalidating the valid ballot of another voter.*

*(e) Submitting a counterfeit ballot.*

*2. A person who violates this section is guilty of a category ~~FC~~D felony and shall be punished as provided in NRS 193.130.*

**Sec. 4.** *1. Except as otherwise provided in subsection 3, a community manager or member of the executive board who asks for or receives, directly or indirectly, any compensation, gratuity or reward, or any promise thereof, upon an agreement or understanding that his vote, opinion or action upon any matter then pending or which may be brought before him in his capacity as a community manager or member of the executive board, will be influenced thereby, is guilty of a category ~~FC~~D felony and shall be punished as provided in NRS 193.130.*

*2. Except as otherwise provided in subsection 3, a person who offers or gives, directly or indirectly, any compensation, gratuity or reward, or any promise thereof, upon an agreement or understanding that the vote, opinion or action of a community manager or member of the executive board upon any matter then pending or which may be brought before the community manager or member of the executive board in his capacity as a community manager or member of the*

executive board will be influenced thereby, is guilty of a category ~~C~~ D felony and shall be punished as provided in NRS 193.130.

3. The provisions of this section do not prohibit:

(a) An employee of a declarant or an affiliate of a declarant who is a member of an executive board from asking for or receiving, directly or indirectly, any compensation, gratuity or reward, or any promise thereof, from the declarant or affiliate.

(b) A declarant or an affiliate of a declarant whose employee is a member of an executive board from offering or giving, directly or indirectly, any compensation, gratuity or reward, or any promise thereof, to the employee who is a member of the executive board.

(c) A community manager from asking for or receiving, directly or indirectly, or an employer of a community manager from offering or giving, directly or indirectly, any compensation for work performed by the community manager pursuant to the laws of this State.

Sec. 5. 1. The Division shall provide by regulation for the filing and prompt disposition of petitions for declaratory orders and advisory opinions as to the applicability or interpretation of:

(a) Any provision of this chapter or chapter 116A or 116B of NRS;

(b) Any regulation adopted by the Commission, the Administrator or the Division; or

(c) Any decision of the Commission, the Administrator or the Division or any of its sections.

2. Declaratory orders disposing of petitions filed pursuant to this section have the same status as agency decisions.

3. A petition filed pursuant to this section must:

(a) Set forth the name and address of the petitioner; and

(b) Contain a clear and concise statement of the issues to be decided by the Division in its declaratory order or advisory opinion.

4. A petition filed pursuant to this section is submitted for consideration by the Division when it is filed with the Administrator.

5. The Division shall:

(a) Respond to a petition filed pursuant to this section within 60 days after the date on which the petition is submitted for consideration; and

(b) Upon issuing its declaratory order or advisory opinion, mail a copy of the declaratory order or advisory opinion to the petitioner.

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

~~116.021 1. "Common interest community" means real estate with respect to which a person, by virtue of his ownership of a unit, is obligated to pay for real estate other than that unit.~~

~~2. As used in this section:~~

~~(a) "Ownership of a unit" does not include holding a leasehold interest of less than 20 years in a unit, including options to renew;~~

~~(b) "Real estate other than that unit" does not include any interest in any covenants, conditions or restrictions to which the unit is subject, and the fact that the unit is subject to covenants, conditions or restrictions is not relevant and not to be considered in determining whether real estate is a "common interest community" pursuant to this section.~~ (Deleted by amendment.)

Sec. 7. NRS 116.1107 is hereby amended to read as follows:

116.1107 1. If a unit is acquired by eminent domain or part of a unit is acquired by eminent domain leaving the unit's owner with a remnant that may not practically or lawfully be used for any purpose permitted by the declaration, the award must include compensation to the unit's owner for that unit and its allocated

interests, whether or not any common elements are acquired. Upon acquisition, unless the decree otherwise provides, that unit's allocated interests are automatically reallocated to the remaining units in proportion to the respective allocated interests of those units before the taking, and the association shall promptly prepare, execute and record an amendment to the declaration reflecting the reallocations. Any remnant of a unit remaining after part of a unit is taken under this subsection is thereafter a common element.

2. Except as otherwise provided in subsection 1, if part of a unit is acquired by eminent domain, the award must compensate the unit's owner for the reduction in value of the unit and its interest in the common elements, whether or not any common elements are acquired. Upon acquisition, unless the decree otherwise provides:

(a) That unit's allocated interests are reduced in proportion to the reduction in the size of the unit, or on any other basis specified in the declaration; and

(b) The portion of the allocated interests divested from the partially acquired unit are automatically reallocated to that unit and to the remaining units in proportion to the respective allocated interests of those units before the taking, with the partially acquired unit participating in the reallocation on the basis of its reduced allocated interests.

3. If part of the common elements is acquired by eminent domain, the portion of the award attributable to the common elements taken must be paid to the association. Unless the declaration provides otherwise, any portion of the award attributable to the acquisition of a limited common element must be equally divided among the owners of the units to which that limited common element was allocated at the time of acquisition.

4. The judicial decree must be recorded in every county in which any portion of the common-interest community is located.

*5. The provisions of this section do not authorize an association to exercise the power of eminent domain pursuant to chapter 37 of NRS, and an association may not exercise the power of eminent domain, as provided in NRS 37.0097.*

**Sec. 8.** NRS 116.1206 is hereby amended to read as follows:

116.1206 1. Any provision contained in a declaration, bylaw or other governing document of a common-interest community that violates the provisions of this chapter ~~[shall]~~:

(a) *Shall* be deemed to conform with those provisions by operation of law, and any such declaration, bylaw or other governing document is not required to be amended to conform to those provisions.

(b) *Is superseded by the provisions of this chapter, regardless of whether the provision contained in the declaration, bylaw or other governing document became effective before the enactment of the provision of this chapter that is being violated.*

2. In the case of amendments to the declaration, bylaws or plats and plans of any common-interest community created before January 1, 1992:

(a) If the result accomplished by the amendment was permitted by law before January 1, 1992, the amendment may be made either in accordance with that law, in which case that law applies to that amendment, or it may be made under this chapter; and

(b) If the result accomplished by the amendment is permitted by this chapter, and was not permitted by law before January 1, 1992, the amendment may be made under this chapter.

3. An amendment to the declaration, bylaws or plats and plans authorized by this section to be made under this chapter must be adopted in conformity with the applicable provisions of chapter 117 or 278A of NRS and with the procedures and

requirements specified by those instruments. If an amendment grants to any person any rights, powers or privileges permitted by this chapter, all correlative obligations, liabilities and restrictions in this chapter also apply to that person.

**Sec. 8.5. NRS 116.2111 is hereby amended to read as follows:**

116.2111 1. Except as otherwise provided in this section and subject to the provisions of the declaration and other provisions of law, a unit's owner:

(a) May make any improvements or alterations to his unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the common-interest community;

(b) May not change the appearance of the common elements, or the exterior appearance of a unit or any other portion of the common-interest community, without permission of the association; and

(c) After acquiring an adjoining unit or an adjoining part of an adjoining unit, may remove or alter any intervening partition or create apertures therein, even if the partition in whole or in part is a common element, if those acts do not impair the structural integrity or mechanical systems or lessen the support of any portion of the common-interest community. Removal of partitions or creation of apertures under this paragraph is not an alteration of boundaries.

2. An association may not:

(a) Unreasonably restrict, prohibit or otherwise impede the lawful rights of a unit's owner to have reasonable access to his unit.

(b) Charge any fee for a person to enter the common-interest community to provide services to a unit, a unit's owner or a tenant of a unit's owner or for any visitor to the common-interest community or invitee of a unit's owner or a tenant of a unit's owner to enter the common-interest community.

(c) Unreasonably restrict, prohibit or withhold approval for a unit's owner to add to a unit:

(1) Improvements such as ramps, railings or elevators that are necessary to improve access to the unit for any occupant of the unit who has a disability;

(2) Additional locks to improve the security of the unit;

(3) Shutters to improve the security of the unit or to reduce the costs of energy for the unit; or

(4) A system that uses wind energy to reduce the costs of energy for the unit if the boundaries of the unit encompass 2 acres or more within the common-interest community.

~~(c)~~ (d) With regard to approving or disapproving any improvement or alteration made to a unit, act in violation of any state or federal law.

3. Any improvement or alteration made pursuant to subsection 2 that is visible from any other portion of the common-interest community must be installed, constructed or added in accordance with the procedures set forth in the governing documents of the association and must be selected or designed to the maximum extent practicable to be compatible with the style of the common-interest community.

4. A unit's owner may not add to the unit a system that uses wind energy as described in subparagraph 4 of paragraph ~~(b)~~ (c) of subsection 2 unless he first obtains the written consent of each owner of property within 300 feet of any boundary of the unit.

**Sec. 9. NRS 116.3102 is hereby amended to read as follows:**

116.3102 1. Except as otherwise provided in subsection 2, and subject to the provisions of the declaration, the association may do 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.



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

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

6 (e) Make contracts and incur liabilities. *Any contract between the association  
7 and a private entity for the furnishing of goods or services must not include a  
8 provision granting the private entity the right of first refusal with respect to  
9 extension or renewal of the contract.*

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

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

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

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

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

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

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

26 (k) Impose charges for late payment of assessments.

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

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

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

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

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

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

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

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

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

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

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

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

**Sec. 10.** (Deleted by amendment.)

**Sec. 11.** (Deleted by amendment.)

**Sec. 12.** NRS 116.31031 is hereby amended to read as follows:

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

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

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

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

(b) Impose a fine against the unit's owner or the tenant or ~~guest~~ the invitee of the unit's owner or the tenant for each violation, except that a fine may not be imposed for a violation that is the subject of a construction penalty pursuant to NRS 116.310305. If the violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents. If the violation does not pose an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents, but the amount of the fine must not exceed \$100 for each violation or a total amount of \$1,000, whichever is less. The limitations on the amount of the fine do not apply to any interest, charges or costs that may be collected by the association pursuant to this section if the fine becomes past due.

2. *The executive board may not impose a fine pursuant to subsection 1 against a unit's owner for a violation of any provision of the governing documents of an association committed by an invitee of the unit's owner or the tenant unless the unit's owner:*

*(a) Participated in or authorized the violation;*

*(b) Had prior notice of the violation; or*

*(c) Had an opportunity to stop the violation and failed to do so.*

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

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

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

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

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

4 ~~[3-]~~ 4. The executive board must schedule the date, time and location for the  
5 hearing on the violation so that the person against whom the fine will be imposed is  
6 provided with a reasonable opportunity to prepare for the hearing and to be present  
7 at the hearing.

8 ~~[4-]~~ 5. The executive board must hold a hearing before it may impose the  
9 fine, unless the person against whom the fine will be imposed:

10 (a) Pays the fine;

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

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

14 ~~[5-]~~ 6. If a fine is imposed pursuant to subsection 1 and the violation is not  
15 cured within 14 days, or within any longer period that may be established by the  
16 executive board, the violation shall be deemed a continuing violation. Thereafter,  
17 the executive board may impose an additional fine for the violation for each 7-day  
18 period or portion thereof that the violation is not cured. Any additional fine may be  
19 imposed without notice and an opportunity to be heard.

20 ~~[6-]~~ 7. If the governing documents so provide, the executive board may  
21 appoint a committee, with not less than three members, to conduct hearings on  
22 violations and to impose fines pursuant to this section. While acting on behalf of  
23 the executive board for those limited purposes, the committee and its members are  
24 entitled to all privileges and immunities and are subject to all duties and  
25 requirements of the executive board and its members.

26 ~~[7-]~~ 8. The provisions of this section establish the minimum procedural  
27 requirements that the executive board must follow before it may impose a fine. The  
28 provisions of this section do not preempt any provisions of the governing  
29 documents that provide greater procedural protections.

30 ~~[8-]~~ 9. Any past due fine:

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

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

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

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

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

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

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

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

47 ~~[9-]~~ 10. As used in this section:

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

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

**Sec. 12.5.** NRS 116.310315 is hereby amended to read as follows:

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

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

2. Shall not apply, in whole or in part, any payment made by the unit's owner for any assessment, fee or other charge toward the payment of the outstanding balance of the fine or any costs of collecting the fine, unless the unit's owner provides written authorization which directs the association to apply the payment made by the unit's owner in such a manner.

**Sec. 13.** 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~~ *all* 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. Unless the governing documents provide otherwise, the officers of the association are not required to be units' owners.* 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.

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

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

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

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

13       (1) That master association; or

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

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

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

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

28    8. The election of any member of the executive board must be conducted by  
29    secret written ballot unless the declaration of the association provides that voting  
30    rights may be exercised by delegates or representatives as set forth in NRS  
31    116.31105. If the election of any member of the executive board is conducted by  
32    secret written ballot:

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

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

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

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

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

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

52    9. *An association shall not adopt any rule or regulation that has the effect*  
53    *of prohibiting or unreasonably interfering with a candidate in his campaign for*

election as a member of the executive board, except that his campaign may be limited to 90 days before the date that ballots are required to be returned to the association. A candidate may request that the secretary or other officer specified in the bylaws of the association send, 30 days before the date of the election and at the association's expense, 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 a candidate informational statement. The candidate informational statement:

- (a) Must be no longer than a single, typed page;
- (b) Must not contain any defamatory, libelous or profane information; and
- (c) May be sent with the secret ballot mailed pursuant to subsection 8 or in a separate mailing.

↳ The association and its directors, officers, employees and agents are immune from criminal or civil liability for any act or omission which arises out of the publication or disclosure of any information related to any person and which occurs in the course of carrying out any duties required pursuant to this subsection.

10. 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. 14. 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}~~:

(a) ~~The~~ number of votes cast ~~{in favor of removal}~~ constitutes ~~{~~ ~~(a) At~~ 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 ~~{~~ ~~are cast in favor of removal.~~

2. The removal of any member of the executive board must be conducted by secret written ballot unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS 116.31105. If the removal of a member of the executive board is conducted by secret written ballot:

(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

1 access to or participate in the opening or counting of the secret written ballots that  
2 are returned to the association before those secret written ballots have been opened  
3 and counted at a meeting of the association.

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

14 4. The provisions of this section do not prohibit the Commission from taking  
15 any disciplinary action against a member of an executive board pursuant to NRS  
16 116.745 to 116.795, inclusive.

17 **Sec. 15.** NRS 116.3107 is hereby amended to read as follows:

18 116.3107 1. Except to the extent provided by the declaration, subsection 2  
19 and NRS 116.31135, the association ~~(is responsible)~~ *has the duty to provide* for *the*  
20 maintenance, repair and replacement of the common elements, and each unit's  
21 owner ~~(is responsible)~~ *has the duty to provide* for *the* maintenance, repair and  
22 replacement of his unit. Each unit's owner shall afford to the association and the  
23 other units' owners, and to their agents or employees, access through his unit  
24 reasonably necessary for those purposes. If damage is inflicted on the common  
25 elements or on any unit through which access is taken, the unit's owner responsible  
26 for the damage, or the association if it is responsible, is liable for the prompt repair  
27 thereof.

28 2. In addition to the liability that a declarant as a unit's owner has under this  
29 chapter, the declarant alone is liable for all expenses in connection with real estate  
30 subject to developmental rights. No other unit's owner and no other portion of the  
31 common-interest community is subject to a claim for payment of those expenses.  
32 Unless the declaration provides otherwise, any income or proceeds from real estate  
33 subject to developmental rights inures to the declarant.

34 3. In a planned community, if all developmental rights have expired with  
35 respect to any real estate, the declarant remains liable for all expenses of that real  
36 estate unless, upon expiration, the declaration provides that the real estate becomes  
37 common elements or units.

38 **Sec. 16.** NRS 116.3108 is hereby amended to read as follows:

39 116.3108 1. A meeting of the units' owners must be held at least once each  
40 year. If the governing documents do not designate an annual meeting date of the  
41 units' owners, a meeting of the units' owners must be held 1 year after the date of the  
42 last meeting of the units' owners. If the units' owners have not held a meeting  
43 for 1 year, a meeting of the units' owners must be held on the following March 1.

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



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

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

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

15 *↪ The association shall not adopt any rule or regulation which prevents ~~fr~~  
16 ~~discourages~~ or unreasonably interferes with the collection of the required  
17 percentage of signatures for a petition pursuant to this subsection.*

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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. 17.** NRS 116.31083 is hereby amended to read as follows:

116.31083 1. A meeting of the executive board must be held at least once every 90 days.

2. Except in an emergency or unless the bylaws of an association require a longer period of notice, the secretary or other officer specified in the bylaws of the association shall, not less than 10 days before the date of a meeting of the executive board, cause notice of the meeting to be given to the units' owners. Such notice must be:

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

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

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

3. In an emergency, the secretary or other officer specified in the bylaws of the association shall, if practicable, cause notice of the meeting to be sent prepaid by United States mail to the mailing address of each unit within the common-interest community. If delivery of the notice in this manner is impracticable, the notice must be hand-delivered to each unit within the common-interest community or posted in a prominent place or places within the common elements of the association.

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

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

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

5. The agenda of the meeting of the executive board must comply with the provisions of subsection 4 of NRS 116.3108. ~~The~~ A period required to be devoted to comments by the units' owners and discussion of those comments must be scheduled for *both the beginning and the end* of each meeting. *During the period devoted to comments by the units' owners and discussion of those comments at the beginning of each meeting, comments by the units' owners and discussion of those comments must be limited to items listed on the agenda.* In an emergency, the executive board may take action on an item which is not listed on the agenda as an item on which action may be taken.

6. At least once every 90 days, unless the declaration or bylaws of the association impose more stringent standards, the executive board shall review, at a minimum, the following financial information at one of its meetings:

(a) A current year-to-date financial statement of the association;

(b) A current year-to-date schedule of revenues and expenses for the operating account and the reserve account, compared to the budget for those accounts;

(c) A current reconciliation of the operating account of the association;

(d) A current reconciliation of the reserve account of the association;

(e) The latest account statements prepared by the financial institutions in which the accounts of the association are maintained; and

(f) The current status of any civil action or claim submitted to arbitration or mediation in which the association is a party.

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

8. Except as otherwise provided in subsection 9 and NRS 116.31085, the minutes of each meeting of the executive board must include:

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

(b) Those members of the executive board who were present and those members who were absent at the meeting;

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

(d) A record of each member's vote on any matter decided by vote at the meeting; and

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

9. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of its meetings.

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

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

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

(a) Could not have been reasonably foreseen;

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

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

(d) Makes it impracticable to comply with the provisions of subsection 2 or 5.

**Sec. 18.** NRS 116.31085 is hereby amended to read as follows:

116.31085 1. Except as otherwise provided in this section, a unit's owner may attend any meeting of the units' owners or of the executive board and speak at any such meeting. The executive board may establish reasonable limitations on the time a unit's owner may speak at such a meeting.

2. An executive board may not meet in executive session to enter into, renew, modify, terminate or take any other action regarding a contract . ~~[-, unless it is a contract between the association and an attorney.]~~

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

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

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

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

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

4. An executive board shall meet in executive session to hold a hearing on an alleged violation of the governing documents unless the person who may be sanctioned for the alleged violation requests in writing that an open hearing be

conducted by the executive board. If the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted, the person:

(a) Is entitled to attend all portions of the hearing related to the alleged violation, including, without limitation, the presentation of evidence and the testimony of witnesses; ~~and~~

(b) *Is entitled to due process, as set forth in the standards adopted by regulation by the Commission, which must include, without limitation, the right to counsel, the right to present witnesses and the right to present information relating to any conflict of interest of any member of the hearing panel; and*

(c) Is not entitled to attend the deliberations of the executive board.

5. *The provisions of subsection 4 establish the minimum protections that the executive board must provide before it may make a decision. The provisions of subsection 4 do not preempt any provisions of the governing documents that provide greater protections.*

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

~~6-7~~ 7. Except as otherwise provided in subsection 4, a unit's owner is not entitled to attend or speak at a meeting of the executive board held in executive session.

**Sec. 19.** NRS 116.31087 is hereby amended to read as follows:

116.31087 1. If an executive board receives a written complaint from a unit's owner alleging that the executive board has violated any provision of this chapter or any provision of the governing documents of the association, the executive board shall ~~[, if action is required by the executive board,]~~, *upon the written request of the unit's owner*, place the subject of the complaint on the agenda of the next regularly scheduled meeting of the executive board.

2. Not later than 10 business days after the date that the association receives such a complaint, the executive board or an authorized representative of the association shall acknowledge the receipt of the complaint and notify the unit's owner that, if ~~[action is required by the executive board,]~~ *the unit's owner submits a written request that the subject of the complaint be placed on the agenda of the next regularly scheduled meeting of the executive board*, the subject of the complaint will be placed on the agenda of the next regularly scheduled meeting of the executive board.

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

**Sec. 21.** NRS 116.3115 is hereby amended to read as follows:

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

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

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

(b) The association shall establish adequate reserves, funded on a reasonable basis, for the repair, replacement and restoration of the major components of the common elements. The reserves may be used only for those purposes, including, without limitation, repairing, replacing and restoring roofs, roads and sidewalks, and must not be used for daily maintenance. The association may comply with the provisions of this paragraph through a funding plan that is designed to allocate the costs for the repair, replacement and restoration of the major components of the common elements over a period of years if the funding plan is designed in an actuarially sound manner which will ensure that sufficient money is available when the repair, replacement and restoration of the major components of the common elements are necessary. *Notwithstanding any provision of the governing documents to the contrary, to establish adequate reserves pursuant to this paragraph, including, without limitation, to establish or carry out a funding plan, the executive board may, without seeking or obtaining the approval of the units' owners, impose any necessary and reasonable assessments against the units in the common-interest community. Any such assessments imposed by the executive board must be based on the study of the reserves of the association conducted pursuant to NRS 116.31152.*

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

4. To the extent required by the declaration:

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

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

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

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

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

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

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

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

**Sec. 22.** NRS 116.31155 is hereby amended to read as follows:

116.31155 1. Except as otherwise provided in subsection 2, an association shall:

(a) If the association is required to pay the fee imposed by NRS 78.150, 82.193, 86.263, 87.541, 87A.560 or 88.591, pay to the Administrator a fee established by regulation of the Administrator for every unit in the association used for residential use.

(b) If the association is organized as a trust or partnership, or as any other authorized business entity, pay to the Administrator a fee established by regulation of the Administrator for each unit in the association.

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

3. The fees required to be paid pursuant to this section must be:

(a) Paid at such times as are established by the Division.

(b) Deposited with the State Treasurer for credit to the Account for Common-Interest Communities and Condominium Hotels created by NRS 116.630.

(c) Established on the basis of the actual costs of administering the Office of the Ombudsman and the Commission and not on a basis which includes any subsidy beyond those actual costs. In no event may the fees required to be paid pursuant to this section exceed \$3 per unit.

4. The Division shall impose an administrative penalty against an association or master association that violates the provisions of this section by failing to pay the fees owed by the association or master association within the times established by the Division. The administrative penalty that is imposed for each violation must equal 10 percent of the amount of the fees owed by the association or master association or \$500, whichever amount is less. The amount of the unpaid fees owed by the association or master association bears interest at the rate set forth in NRS 99.040 from the date the fees are due until the date the fees are paid in full.

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

6. An association that is subject to the governing documents of a master association may not be required to pay any portion of the fees or any administrative penalties or interest required to be paid pursuant to this section to the extent they have already been paid by the master association.

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

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

*9. Any person, association or master association which has been requested or required to pay any fees, administrative penalties or interest pursuant to this section and which believes that such fees, administrative penalties or interest has been imposed in error may, without exhausting any available administrative remedies, bring an action in a court of competent jurisdiction to recover:*

*(a) Any amount paid in error for any fees, administrative penalties or interest during the immediately preceding 3 years;*

*(b) Interest on the amount paid in error at the rate set forth in NRS 99.040; and*

*(c) Reasonable costs and attorney's fees.*

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

1       **Sec. 24.** NRS 116.31183 is hereby amended to read as follows:

2       116.31183 ~~[(a)]~~ An executive board, a member of an executive board, *a*  
3 *community manager* or an officer, employee or agent of an association shall not  
4 take, or direct or encourage another person to take, any retaliatory action against a  
5 unit's owner because the unit's owner has:

6       1. ~~[(a)]~~ Complained in good faith about any alleged violation of any provision  
7 of this chapter or the governing documents of the association;

8       ~~[(b)]~~ 2. Recommended the selection or replacement of an attorney,  
9 *community manager or vendor;* or

10       ~~[(2)]~~ ~~[(c)]~~ 3. Requested in good faith to review the books, records or other  
11 papers of the association.

12 ~~*2. An executive board, a member of an executive board, a community*~~  
13 ~~*manager or an officer, employee or agent of an association shall not intentionally*~~  
14 ~~*interfere with the exercise of any right conferred on a person pursuant to the*~~  
15 ~~*provisions of this chapter.*~~

16       **Sec. 25.** NRS 116.31187 is hereby amended to read as follows:

17       116.31187 1. Except as otherwise provided in this section, a member of an  
18 executive board or an officer of an association shall not:

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

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

24       2. The provisions of this section do not prohibit a declarant, an affiliate of a  
25 declarant or an officer, employee or agent of a declarant or an affiliate of a  
26 declarant from:

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

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

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

34       **Sec. 26.** NRS 116.325 is hereby amended to read as follows:

35       116.325 1. The executive board shall not and the governing documents must  
36 not prohibit a unit's owner or an occupant of a unit from exhibiting ~~*[a political*~~  
37 ~~*sign]*~~ *one or more political signs* within such physical portion of the common-  
38 interest community as that owner or occupant has a right to occupy and use  
39 exclusively ~~*[if the political sign is]*~~, *subject to the following conditions:*

40       (a) *All political signs exhibited must not be* larger than 24 inches by 36 inches.

41       (b) *If the unit is occupied by a tenant, the unit's owner may not exhibit any*  
42 *political sign unless the tenant consents, in writing, to the exhibition of the*  
43 *political sign.*

44       (c) *All political signs exhibited are subject to any applicable provisions of law*  
45 *governing the posting of political signs.*

46       (d) *A unit's owner or an occupant of a unit may exhibit as many political*  
47 *signs as desired, but may not exhibit more than one political sign for each*  
48 *candidate, political party or ballot question.*

49       2. The provisions of this section establish the minimum rights of a unit's  
50 owner or an occupant of a unit to exhibit ~~*[a]*~~ ~~*political [sign-] signs.*~~ The provisions  
51 of this section do not preempt any provisions of the governing documents that  
52 provide greater rights and do not require the governing documents or the executive



board to impose any restrictions on the exhibition of political signs other than those established by other provisions of law.

~~3. Any provision in a rental agreement which violates the provisions of this section or which requires a tenant to waive any rights pursuant to this section or other provisions of law is void as against public policy.~~

~~4.7~~ As used in this section, "political sign" means a sign that expresses support for or opposition to a candidate, political party or ballot question ~~in~~ *in any federal, state or local election or any election of an association.*

**Sec. 27.** NRS 116.330 is hereby amended to read as follows:

116.330 1. The executive board shall not and the governing documents must not prohibit a unit's owner from installing or maintaining drought tolerant landscaping within such physical portion of the common-interest community as that owner has a right to occupy and use exclusively, *including, without limitation, the front yard or back yard of the unit's owner,* except that:

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

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

*↳ The provisions of this subsection must be construed liberally in favor of effectuating the purpose of encouraging the use of drought tolerant landscaping, and the executive board shall not and the governing documents must not unreasonably deny or withhold approval for the installation of drought tolerant landscaping or unreasonably determine that the drought tolerant landscaping is not compatible with the style of the common-interest community.*

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

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

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

3. As used in this section, "drought tolerant landscaping" means landscaping which conserves water, protects the environment and is adaptable to local conditions. *The term includes, without limitation, the use of mulches such as decorative rock and artificial turf.*

**Sec. 28.** NRS 116.345 is hereby amended to read as follows:

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

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



1 device designed to control access to the planned community that would otherwise  
2 impede ingress or egress to the property.

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

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

18 5. The provisions of this section do not abrogate any easement, restrictive  
19 covenant, decision of a court, agreement of a party or any contract, governing  
20 document or declaration of covenants, conditions and restrictions, or any other  
21 decision, rule or regulation that a local governing body or other entity that makes  
22 decisions concerning land use or planning is authorized to make or enact that exists  
23 before October 1, 1999, including, without limitation, a zoning ordinance, permit or  
24 approval process or any other requirement of a local government or other entity that  
25 makes decisions concerning land use or planning.

26 **Sec. 29.** NRS 116.4117 is hereby amended to read as follows:

27 116.4117 1. ~~##~~ *Subject to the requirements set forth in subsection 2, if a*  
28 *declarant, community manager* or any other person subject to this chapter fails to  
29 comply with any of its provisions or any provision of the declaration or bylaws, any  
30 person or class of persons suffering actual damages from the failure to comply ~~has~~  
31 ~~a claim~~ *may bring a civil action for damages or other* appropriate relief.

32 2. Subject to the requirements set forth in NRS 38.310 and except as  
33 otherwise provided in NRS 116.3111, a civil action for damages ~~caused by~~ *or*  
34 *other appropriate relief for* a failure or refusal to comply with any provision of this  
35 chapter or the governing documents of an association may be brought:

36 (a) By the association against:

- 37 (1) A declarant; ~~or~~  
38 (2) *A community manager; or*  
39 (3) A unit's owner.

40 (b) By a unit's owner against:

- 41 (1) The association;  
42 (2) A declarant; or  
43 (3) Another unit's owner of the association.

44 (c) *By a class of units' owners constituting at least 10 percent of the total*  
45 *number of voting members of the association against a community manager.*

46 3. ~~Punitive~~ *Except as otherwise provided in NRS 116.31036, punitive*  
47 *damages may be awarded for a willful and material failure to comply with any*  
48 *provision of* this chapter if the failure is established by clear and convincing  
49 evidence.

50 4. The court may award reasonable attorney's fees to the prevailing party.

51 5. The civil remedy provided by this section is in addition to, and not  
52 exclusive of, any other available remedy or penalty.

1       **Sec. 30.** NRS 116.600 is hereby amended to read as follows:

2       116.600 1. The Commission for Common-Interest Communities and  
3 Condominium Hotels is hereby created.

4       2. The Commission consists of ~~{five}~~ *seven* members appointed by the  
5 Governor. The Governor shall appoint to the Commission:

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

8       (b) *Two members who are units' owners residing in this State but who are*  
9 *not required to have served as members of an executive board;*

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

12       ~~{(e)}~~ (d) One member who holds a certificate;

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

15       ~~{(e)}~~ (f) One member who is an attorney licensed to practice in this State.

16       3. Each member of the Commission must be a resident of this State. At least  
17 ~~{three}~~ *four* members of the Commission must be residents of a county whose  
18 population is 400,000 or more.

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

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

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

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

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

34       **Sec. 31.** NRS 116.605 is hereby amended to read as follows:

35       116.605 1. The Division shall *employ one or more training officers who*  
36 *are qualified by training and experience to* provide ~~{for arrange to have provided}~~  
37 to each member of the Commission courses of instruction concerning rules of  
38 procedure and substantive law appropriate for members of the Commission. *Such*  
39 *courses of instruction may be made available to the staff of the Division as well*  
40 *as to community managers.*

41       2. *The training officer shall:*

42       (a) *Prepare and make available a manual containing the policies and*  
43 *procedures to be followed by executive boards and community managers; and*

44       (b) *Perform any other duties as directed by the Division.*

45       3. Each member of the Commission must attend the courses of instruction  
46 *described in subsection 1* not later than 6 months after the date that the member is  
47 first appointed to the Commission.

48       **Sec. 32.** NRS 116.675 is hereby amended to read as follows:

49       116.675 1. The Commission may appoint one or more hearing panels. Each  
50 hearing panel must consist of one or more independent hearing officers. *An*  
51 *independent hearing officer may be, without limitation, a member of the*  
52 *Commission or an employee of the Commission.*

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

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

4. A final order of a hearing panel:

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

(b) Must be reviewed and approved by the Commission if, not later than 40 days after the date that the final order is issued by the hearing panel, the Division, upon the direction of the Chairman of the Commission, provides written notice to all parties of the intention of the Commission to review the final order.

**Sec. 33.** NRS 116.757 is hereby amended to read as follows:

116.757 1. Except as otherwise provided in this section and NRS 239.0115, a written affidavit filed with the Division pursuant to NRS 116.760, all documents and other information filed with the written affidavit and all documents and other information compiled as a result of an investigation conducted to determine whether to file a formal complaint with the Commission are confidential. *The Division shall not disclose any information that is confidential pursuant to this subsection, in whole or in part, to any person, including, without limitation, a person who is the subject of an investigation or complaint, unless and until a formal complaint is filed pursuant to subsection 2 and the disclosure is required pursuant to subsection 2.*

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

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

**Sec. 35.** ~~NRS 116.785 is hereby amended to read as follows:~~

~~116.785 1. If the Commission or the hearing panel, after notice and hearing, finds that the respondent has committed a violation, the Commission or the hearing panel may take any or all of the following actions:~~

~~(a) Issue an order directing the respondent to cease and desist from continuing to engage in the unlawful conduct that resulted in the violation;~~

~~(b) Issue an order directing the respondent to take affirmative action to correct any conditions resulting from the violation;~~

~~(c) Impose an administrative fine of not more than \$1,000 for each violation;~~

~~2. If the respondent is a member of an executive board or an officer of an association, the Commission or the hearing panel may order the respondent removed from his office or position if the Commission or the hearing panel, after notice and hearing, finds that:~~

~~(a) The respondent has knowingly and willfully committed a violation; and~~

~~(b) The removal is in the best interest of the association;~~

~~3. If the respondent violates any order issued by the Commission or the hearing panel pursuant to this section, the Commission or the hearing panel, after notice and hearing, may impose an administrative fine of not more than \$1,000 for each violation;~~

~~4. If the Commission or the hearing panel takes any disciplinary action pursuant to this section, the Commission or the hearing panel may order the~~

1 ~~respondent to pay the costs of the proceedings incurred by the Division, including,~~  
2 ~~without limitation, the cost of the investigation, [and reasonable attorney's fees.]~~

3 ~~5. In any matter brought before the Commission or a hearing panel~~  
4 ~~pursuant to the provisions of this chapter, attorney's fees must not be granted to a~~  
5 ~~prevailing party, regardless of whether the governing documents provide for such~~  
6 ~~fees to be granted to a prevailing party.~~

7 ~~6. Notwithstanding any other provision of this section, unless the respondent~~  
8 ~~has knowingly and willfully committed a violation, if the respondent is a member~~  
9 ~~of an executive board or an officer of an association:~~

10 ~~(a) The association is liable for all fines and costs imposed against the~~  
11 ~~respondent pursuant to this section; and~~

12 ~~(b) The respondent may not be held personally liable for those fines and costs.]~~

13 ~~(Deleted by amendment.)~~

14 **Sec. 36.** NRS 116.790 is hereby amended to read as follows:

15 116.790 1. If the Commission or a hearing panel, after notice and hearing,  
16 finds that the executive board or any person acting on behalf of the association has  
17 committed a violation, the Commission or the hearing panel may take any or all of  
18 the following actions:

19 (a) Order an audit of the association ~~H~~, *at the expense of the association.*

20 (b) Require the executive board to hire a community manager who holds a  
21 certificate.

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

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

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

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

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

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

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

44 6. Any receiver appointed pursuant to this section has, among the usual  
45 powers, all the functions, powers, tenure and duties to be exercised under the  
46 direction of the court as are conferred on receivers and as provided in NRS 78.635,  
47 78.640 and 78.645, whether or not the association is insolvent. Such powers  
48 include, without limitation, the powers to:

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

50 (b) Appoint an agent or agents;

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

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

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

**Sec. 37.** NRS 116A.270 is hereby amended to read as follows:

116A.270 1. Except as otherwise provided in this section and NRS 239.0115, a complaint filed with the Division alleging a violation of this chapter or chapter 116 or 116B of NRS, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential. ~~[and may be disclosed]~~

2. *The Division shall not disclose any information that is confidential pursuant to subsection 1, in whole or in part ~~[only]~~, to any person, including, without limitation, a person who is the subject of an investigation or complaint, unless and until a formal complaint is filed pursuant to subsection 3 and the disclosure is required pursuant to subsection 3, except that the Division may disclose the information described in subsection 1 as necessary in the course of administering this chapter or to a licensing board or agency or any other governmental agency, including, without limitation, a law enforcement agency, that is investigating a person who holds a certificate or permit issued pursuant to this chapter.*

~~[2.]~~ 3. The *formal* complaint or other charging documents filed *by the Administrator* with the Commission to initiate disciplinary action and all documents and other information considered by the Commission or a hearing panel when determining whether to impose discipline are public records.

**Sec. 38.** NRS 116A.300 is hereby amended to read as follows:

116A.300 1. The Commission may appoint one or more hearing panels. Each hearing panel must consist of one or more independent hearing officers. *An independent hearing officer may be, without limitation, a member of the Commission or an employee of the Commission.*

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

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

4. A final order of a hearing panel:

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

(b) Must be reviewed and approved by the Commission if, not later than 40 days after the date that the final order is issued by the hearing panel, the Division, upon the direction of the Chairman of the Commission, provides written notice to all parties of the intention of the Commission to review the final order.

**Sec. 39.** 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 or the employer of the applicant to post a bond 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.

~~(d)~~ (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.

~~(f)~~ (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. 40.** NRS 38.330 is hereby amended to read as follows:

38.330 1. If all parties named in a written claim filed pursuant to NRS 38.320 agree to have the claim submitted for mediation, the parties shall reduce the agreement to writing and shall select a mediator from the list of mediators maintained by the Division pursuant to NRS 38.340. Any mediator selected must be available within the geographic area. If the parties fail to agree upon a mediator, the Division shall appoint a mediator from the list of mediators maintained by the Division. Any mediator appointed must be available within the geographic area. Unless otherwise provided by an agreement of the parties, mediation must be completed within 60 days after the parties agree to mediation. Any agreement obtained through mediation conducted pursuant to this section must, within 20 days after the conclusion of mediation, be reduced to writing by the mediator and a copy thereof provided to each party. The agreement may be enforced as any other written agreement. Except as otherwise provided in this section, the parties are responsible for all costs of mediation conducted pursuant to this section.

2. If all the parties named in the claim do not agree to mediation, the parties shall select an arbitrator from the list of arbitrators maintained by the Division pursuant to NRS 38.340. Any arbitrator selected must be available within the geographic area. If the parties fail to agree upon an arbitrator, the Division shall appoint an arbitrator from the list maintained by the Division. Any arbitrator appointed must be available within the geographic area. Upon appointing an arbitrator, the Division shall provide the name of the arbitrator to each party. *An arbitrator shall, not later than 5 days after his selection or appointment pursuant to this subsection, provide to the parties an informational statement relating to the arbitration of a claim pursuant to this section. The written informational statement:*

(a) *Must be written in plain English;*

(b) *Must explain the procedures and applicable law relating to the arbitration of a claim conducted pursuant to this section, including, without limitation, the procedures, timelines and applicable law relating to confirmation of an award pursuant to NRS 38.239, vacation of an award pursuant to NRS 38.241, judgment on an award pursuant to NRS 38.243, and any applicable statute or court rule governing the award of attorney's fees or costs to any party; and*

1       (c) *Must be accompanied by a separate form acknowledging that the party*  
2 *has received and read the informational statement, which must be returned to the*  
3 *arbitrator by the party not later than 10 days after receipt of the informational*  
4 *statement.*

5       3. The Division may provide for the payment of the fees for a mediator or an  
6 arbitrator selected or appointed pursuant to this section from the Account for  
7 Common-Interest Communities and Condominium Hotels created by NRS 116.630,  
8 to the extent that:

9       (a) The Commission for Common-Interest Communities and Condominium  
10 Hotels approves the payment; and

11       (b) There is money available in the account for this purpose.

12       4. Except as otherwise provided in this section and except where inconsistent  
13 with the provisions of NRS 38.300 to 38.360, inclusive, the arbitration of a claim  
14 pursuant to this section must be conducted in accordance with the provisions of  
15 NRS 38.231, 38.232, 38.233, 38.236 to 38.239, inclusive, 38.242 and 38.243. At  
16 any time during the arbitration of a claim relating to the interpretation, application  
17 or enforcement of any covenants, conditions or restrictions applicable to residential  
18 property or any bylaws, rules or regulations adopted by an association, the  
19 arbitrator may issue an order prohibiting the action upon which the claim is based.  
20 An award must be made within 30 days after the conclusion of arbitration, unless a  
21 shorter period is agreed upon by the parties to the arbitration.

22       5. If all the parties have agreed to nonbinding arbitration, any party to the  
23 *nonbinding* arbitration may, within 30 days after a decision and award have been  
24 served upon the parties, commence a civil action in the proper court concerning the  
25 claim which was submitted for arbitration. Any complaint filed in such an action  
26 must contain a sworn statement indicating that the issues addressed in the complaint  
27 have been arbitrated pursuant to the provisions of NRS 38.300 to 38.360, inclusive.  
28 If such an action is not commenced within that period, any party to the arbitration  
29 may, within 1 year after the service of the award, apply to the proper court for a  
30 confirmation of the award pursuant to NRS 38.239.

31       6. If all the parties agree in writing to binding arbitration, the arbitration must  
32 be conducted in accordance with the provisions of this chapter. An award procured  
33 pursuant to such *binding* arbitration may be vacated and a rehearing granted upon  
34 application of a party pursuant to the provisions of NRS 38.241.

35       7. If, after the conclusion of *binding* arbitration, a party:

36       (a) Applies to have an award vacated and a rehearing granted pursuant to NRS  
37 38.241; or

38       (b) Commences a civil action based upon any claim which was the subject of  
39 arbitration,

40       the party shall, if he fails to obtain a more favorable award or judgment than that  
41 which was obtained in the initial *binding* arbitration, pay all costs and reasonable  
42 attorney's fees incurred by the opposing party after the application for a rehearing  
43 was made or after the complaint in the civil action was filed.

44       8. Upon request by a party, the Division shall provide a statement to the party  
45 indicating the amount of the fees for a mediator or an arbitrator selected or  
46 appointed pursuant to this section.

47       9. As used in this section, "geographic area" means an area within 150 miles  
48 from any residential property or association which is the subject of a written claim  
49 submitted pursuant to NRS 38.320.

50       **Sec. 41.** The Governor shall appoint to the Commission for Common-Interest  
51 Communities and Condominium Hotels pursuant to NRS 116.600, as amended by  
52 section 30 of this act:

1           1. One member who is a unit's owner residing in this State whose term begins  
2 on October 1, 2009, and expires on October 1, 2010; and

3           2. One member who is a unit's owner residing in this State whose term begins  
4 on October 1, 2009, and expires on October 1, 2011.

5           **Sec. 42.** The manual described in subsection 2 of NRS 116.605, as amended  
6 by section 31 of this act, must be prepared and made available by October 1, 2010.