

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 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:

1 **Section 3** of this bill provides that a person who knowingly, willfully and with
2 the intent to fraudulently alter the outcome of the election of a member to the
3 executive board of an association or other votes of the units' owners engages in
4 certain acts pertaining to the ballot or the casting of votes in such election is guilty
5 of a category D felony. (NRS 116.31034) Existing law prohibits a community
6 manager, an officer or a member of the executive board from accepting or soliciting
7 compensation that would influence him or appear to be a conflict of interest. (NRS
8 116.31185) **Section 4** of this bill provides that a community manager or member of
9 the executive board who asks for or receives compensation to influence his vote,
10 opinion or action upon any official matter is guilty of a category D felony. **Section**
11 **4** also provides that a person who offers or gives any gratuity, compensation or
12 reward, or makes a promise thereof, to a community manager or member of the
13 executive board in exchange for a vote, opinion or action on any official matter is
14 guilty of a category D felony.

15 Existing law requires each agency to provide by regulation for the filing and
16 prompt disposition of petitions for declaratory orders and advisory opinions as to
17 the applicability of any statutory provision, agency regulation or decision of the
18 agency, and the Department of Business and Industry, which includes the Real



* S B 1 8 2 R 3 *

19 Estate Division, has accordingly adopted regulations for such petitions. (NRS
20 233B.120; NAC 232.020) However, the Real Estate Division has not adopted any
21 regulations pertaining to such petitions. **Section 5** of this bill enacts a specific
22 statutory provision requiring the Real Estate Division to adopt regulations
23 pertaining to such petitions.

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30 superseded by the provisions of chapter 116 of NRS, regardless of whether the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

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

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

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

44 **Sections 13, 14 and 16** of this bill revise provisions relating to certain elections
45 and meetings of an association by: (1) requiring members of the executive board to
46 be units' owners; (2) providing that officers of an association are not required to be
47 units' owners, unless the governing documents provide otherwise; (3) providing
48 certain rights for candidates for election to an executive board; (4) reducing the
49 votes necessary for removal of a member of an executive board; (5) prohibiting an
50 association from interfering with the collection of signatures for a special meeting
51 or removal election; and (6) providing immunity from criminal or civil liability for
52 an association, its officers, employees and agents for the disclosure or publication
53 of certain information pursuant to certain duties required of the association or its
54 officers, employees and agents. **Section 14** also provides that punitive damages
55 may not be recovered against the members of the executive board or the officers of
56 an association for acts or omissions that occur in their capacity as members or
57 officers. (NRS 116.31034, 116.31036, 116.3108)

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

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

68 Existing law provides that an association has the statutory obligation to: (1)
69 fund adequately its reserves; (2) include in its annual budget a statement concerning
70 its reserves and whether it will be necessary to impose any special assessments; and
71 (3) review its study of the reserves on an annual basis and make any appropriate
72 adjustments necessary to ensure that the reserves are always funded adequately.
73 (NRS 116.3115, 116.31151, 116.31152) **Section 21** of this bill clarifies existing



* S B 1 8 2 R 3 *

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)

Existing law provides that an executive board of an association must, upon written request of a unit's owner, make available certain records and papers of the association, except for certain personnel records, records of other units' owners or contracts between the association and an attorney. (NRS 116.31175) **Section 23.5** of this bill removes from the exemptions for the production of records those records which pertain to a contract between the association and an attorney.

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 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. **Section 39** also provides for the issuance of temporary certificates for community managers for a period of 1 year under certain circumstances. (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)



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 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 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 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



* S B 1 8 2 R 3 *

1 *receiving, directly or indirectly, any compensation, gratuity or*
2 *reward, or any promise thereof, from the declarant or affiliate.*

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

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

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

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

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

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

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

24 **3. A petition filed pursuant to this section must:**

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

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

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

32 **5. The Division shall:**

33 *(a) Respond to a petition filed pursuant to this section within*
34 *60 days after the date on which the petition is submitted for*
35 *consideration; and*

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

39 **Sec. 6. (Deleted by amendment.)**

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

41 **116.1107 1. If a unit is acquired by eminent domain or part**
42 **of a unit is acquired by eminent domain leaving the unit's owner**
43 **with a remnant that may not practically or lawfully be used for any**
44 **purpose permitted by the declaration, the award must include**
45 **compensation to the unit's owner for that unit and its allocated**



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

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

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

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

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

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

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

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

37 116.1206 1. Any provision contained in a declaration, bylaw
38 or other governing document of a common-interest community that
39 violates the provisions of this chapter ~~[shall]~~ :

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

44 (b) *Is superseded by the provisions of this chapter, regardless*
45 *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*



* S B 1 8 2 R 3 *

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.

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

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

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



* S B 1 8 2 R 3 *

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

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

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

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

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

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

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

(k) Impose charges for late payment of assessments.

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

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

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

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

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

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

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

(s) Direct the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described



1 in this paragraph, the association must post written notice in a
2 conspicuous place on the vehicle or provide oral or written notice to
3 the owner or operator of the vehicle at least 48 hours before the
4 association may direct the removal of the vehicle, unless the vehicle:

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

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

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

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

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

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

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

20 116.31031 1. Except as otherwise provided in this section, if
21 a unit's owner or a tenant or ~~guest~~ *an invitee* of a unit's owner *or a*
22 *tenant* violates any provision of the governing documents of an
23 association, the executive board may, if the governing documents so
24 provide:

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

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

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

34 (b) Impose a fine against the unit's owner or the tenant or
35 ~~guest~~ *the invitee* of the unit's owner *or the tenant* for each
36 violation, except that a fine may not be imposed for a violation that
37 is the subject of a construction penalty pursuant to NRS
38 116.310305. If the violation poses an imminent threat of causing a
39 substantial adverse effect on the health, safety or welfare of the
40 units' owners or residents of the common-interest community,
41 the amount of the fine must be commensurate with the severity of
42 the violation and must be determined by the executive board in
43 accordance with the governing documents. If the violation does not
44 pose an imminent threat of causing a substantial adverse effect on
45 the health, safety or welfare of the units' owners or residents of the



1 common-interest community, the amount of the fine must be
2 commensurate with the severity of the violation and must be
3 determined by the executive board in accordance with the governing
4 documents, but the amount of the fine must not exceed \$100 for
5 each violation or a total amount of \$1,000, whichever is less. The
6 limitations on the amount of the fine do not apply to any interest,
7 charges or costs that may be collected by the association pursuant to
8 this section if the fine becomes past due.

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

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

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

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

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

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

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

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

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

31 ~~[3-]~~ 4. The executive board must schedule the date, time and
32 location for the hearing on the violation so that the person against
33 whom the fine will be imposed is provided with a reasonable
34 opportunity to prepare for the hearing and to be present at the
35 hearing.

36 ~~[4-]~~ 5. The executive board must hold a hearing before it may
37 impose the fine, unless the person against whom the fine will be
38 imposed:

39 (a) Pays the fine;

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

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

43 ~~[5-]~~ 6. If a fine is imposed pursuant to subsection 1 and the
44 violation is not cured within 14 days, or within any longer period
45 that may be established by the executive board, the violation shall



* S B 1 8 2 R 3 *

1 be deemed a continuing violation. Thereafter, the executive board
2 may impose an additional fine for the violation for each 7-day
3 period or portion thereof that the violation is not cured. Any
4 additional fine may be imposed without notice and an opportunity to
5 be heard.

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

13 ~~[7-]~~ 8. The provisions of this section establish the minimum
14 procedural requirements that the executive board must follow before
15 it may impose a fine. The provisions of this section do not preempt
16 any provisions of the governing documents that provide greater
17 procedural protections.

18 ~~[8-]~~ 9. Any past due fine:

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

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

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

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

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

32 (4) May not exceed \$250, if the outstanding balance is
33 \$1,000 or more, but is less than \$5,000.

34 (5) May not exceed \$500, if the outstanding balance is
35 \$5,000 or more.

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

38 ~~[9-]~~ 10. As used in this section:

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



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

Sec. 12.5. 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.

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

6. Unless a person is appointed by the declarant:

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

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

(1) That master association; or

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

7. An officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, a member or manager of a limited-liability company that owns a unit, and a fiduciary of an estate that owns a unit may be an officer of the association or a member of the executive board. In all events where the person serving or offering to serve as an officer of the



1 association or a member of the executive board is not the record
2 owner, he shall file proof in the records of the association that:

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

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

8 8. The election of any member of the executive board must be
9 conducted by secret written ballot unless the declaration of the
10 association provides that voting rights may be exercised by
11 delegates or representatives as set forth in NRS 116.31105. If the
12 election of any member of the executive board is conducted by
13 secret written ballot:

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

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

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

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

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

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

37 9. *An association shall not adopt any rule or regulation that*
38 *has the effect of prohibiting or unreasonably interfering with a*
39 *candidate in his campaign for election as a member of the*
40 *executive board, except that his campaign may be limited to 90*
41 *days before the date that ballots are required to be returned to the*
42 *association. A candidate may request that the secretary or other*
43 *officer specified in the bylaws of the association send, 30 days*
44 *before the date of the election and at the association's expense, to*
45 *the mailing address of each unit within the common-interest*



1 *community or to any other mailing address designated in writing*
2 *by the unit's owner a candidate informational statement. The*
3 *candidate informational statement:*

4 *(a) Must be no longer than a single, typed page;*

5 *(b) Must not contain any defamatory, libelous or profane*
6 *information; and*

7 *(c) May be sent with the secret ballot mailed pursuant to*
8 *subsection 8 or in a separate mailing.*

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

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

23 **Sec. 14.** NRS 116.31036 is hereby amended to read as
24 follows:

25 116.31036 1. Notwithstanding any provision of the
26 declaration or bylaws to the contrary, any member of the executive
27 board, other than a member appointed by the declarant, may be
28 removed from the executive board, with or without cause, if at a
29 removal election held pursuant to this section ~~{the}~~ :

30 *(a) The number of votes cast ~~{in favor of removal}~~ constitutes ~~{~~:*
31 ~~—(a) At~~ *at* least 35 percent of the total number of voting members
32 of the association; and

33 *(b) At least a majority of all votes cast in that removal election*
34 ~~{}~~ *are cast in favor of removal.*

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

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



* S B 1 8 2 R 3 *

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

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

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

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

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

(a) ~~The association [, but may be recovered from persons whose activity gave rise to the damages.];~~

(b) *The members of the executive board for acts or omissions that occur in their official capacity as members of the executive board; or*

(c) *The officers of the association for acts or omissions that occur in their capacity as officers of the association.*

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

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

116.3107 1. Except to the extent provided by the declaration, subsection 2 and NRS 116.31135, the association ~~is responsible~~ *has the duty to provide* for *the* maintenance, repair and replacement of the common elements, and each unit's owner ~~is responsible~~ *has the duty to provide* for *the* maintenance, repair and replacement of his unit. Each unit's owner shall afford to the association and the other units' owners, and to their agents or employees, access through his unit reasonably necessary for those purposes. If damage



1 is inflicted on the common elements or on any unit through which
2 access is taken, the unit's owner responsible for the damage, or the
3 association if it is responsible, is liable for the prompt repair thereof.

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

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

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

18 116.3108 1. A meeting of the units' owners must be held at
19 least once each year. If the governing documents do not designate
20 an annual meeting date of the units' owners, a meeting of the units'
21 owners must be held 1 year after the date of the last meeting of the
22 units' owners. If the units' owners have not held a meeting for 1
23 year, a meeting of the units' owners must be held on the following
24 March 1.

25 2. Special meetings of the units' owners may be called by the
26 president, by a majority of the executive board or by units' owners
27 constituting at least 10 percent, or any lower percentage specified in
28 the bylaws, of the total number of voting members of the
29 association. The same number of units' owners may also call a
30 removal election pursuant to NRS 116.31036. To call a special
31 meeting or a removal election, the units' owners must submit a
32 written petition which is signed by the required percentage of the
33 total number of voting members of the association pursuant to this
34 section and which is mailed, return receipt requested, or served by a
35 process server to the executive board or the community manager for
36 the association. If the petition calls for a special meeting, the
37 executive board shall set the date for the special meeting so that the
38 special meeting is held not less than 15 days or more than 60 days
39 after the date on which the petition is received. If the petition calls
40 for a removal election and:

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



* S B 1 8 2 R 3 *

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

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

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

(a) Have a copy of 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.

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

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

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

(c) A period devoted to comments by units' owners and discussion of those comments. Except in emergencies, no action may be taken upon a matter raised under this item of the agenda



* S B 1 8 2 R 3 *

1 until the matter itself has been specifically included on an agenda as
2 an item upon which action may be taken pursuant to paragraph (b).

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

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

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

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

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

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

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

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

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

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

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



* S B 1 8 2 R 3 *

- 1 (a) Could not have been reasonably foreseen;
- 2 (b) Affects the health, welfare and safety of the units' owners or
- 3 residents of the common-interest community;
- 4 (c) Requires the immediate attention of, and possible action by,
- 5 the executive board; and
- 6 (d) Makes it impracticable to comply with the provisions of
- 7 subsection 3 or 4.

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

10 116.31083 1. A meeting of the executive board must be held
11 at least once every 90 days.

12 2. Except in an emergency or unless the bylaws of an
13 association require a longer period of notice, the secretary or other
14 officer specified in the bylaws of the association shall, not less than
15 10 days before the date of a meeting of the executive board, cause
16 notice of the meeting to be given to the units' owners. Such notice
17 must be:

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

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

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

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

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

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

44 (b) Speak to the association or executive board, unless the
45 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 ~~[]~~, *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 ~~[or]~~ *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



1 discussion would otherwise be governed by the privilege set forth in
2 NRS 49.035 to 49.115, inclusive. ~~[, or to enter into, renew, modify,~~
3 ~~terminate or take any other action regarding a contract between the~~
4 ~~association and the attorney.]~~

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

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

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

14 4. An executive board shall meet in executive session to hold a
15 hearing on an alleged violation of the governing documents unless
16 the person who may be sanctioned for the alleged violation requests
17 in writing that an open hearing be conducted by the executive board.
18 If the person who may be sanctioned for the alleged violation
19 requests in writing that an open hearing be conducted, the person:

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

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

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

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

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

43 ~~[6.]~~ 7. Except as otherwise provided in subsection 4, a unit's
44 owner is not entitled to attend or speak at a meeting of the executive
45 board held in executive session.



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

3 116.31087 1. If an executive board receives a written
4 complaint from a unit's owner alleging that the executive board has
5 violated any provision of this chapter or any provision of the
6 governing documents of the association, the executive board shall ~~if~~
7 ~~if action is required by the executive board,~~ *, upon the written*
8 *request of the unit's owner*, place the subject of the complaint on
9 the agenda of the next regularly scheduled meeting of the executive
10 board.

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

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

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

22 116.3115 1. Until the association makes an assessment for
23 common expenses, the declarant shall pay all common expenses.
24 After an assessment has been made by the association, assessments
25 must be made at least annually, based on a budget adopted at least
26 annually by the association in accordance with the requirements set
27 forth in NRS 116.31151. Unless the declaration imposes more
28 stringent standards, the budget must include a budget for the daily
29 operation of the association and a budget for the reserves required
30 by paragraph (b) of subsection 2.

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

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

36 (b) The association shall establish adequate reserves, funded on
37 a reasonable basis, for the repair, replacement and restoration of the
38 major components of the common elements. The reserves may be
39 used only for those purposes, including, without limitation,
40 repairing, replacing and restoring roofs, roads and sidewalks, and
41 must not be used for daily maintenance. The association may
42 comply with the provisions of this paragraph through a funding plan
43 that is designed to allocate the costs for the repair, replacement and
44 restoration of the major components of the common elements over a
45 period of years if the funding plan is designed in an actuarially



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1 sound manner which will ensure that sufficient money is available
2 when the repair, replacement and restoration of the major
3 components of the common elements are necessary.
4 *Notwithstanding any provision of the governing documents to the*
5 *contrary, to establish adequate reserves pursuant to this*
6 *paragraph, including, without limitation, to establish or carry out*
7 *a funding plan, the executive board may, without seeking or*
8 *obtaining the approval of the units' owners, impose any necessary*
9 *and reasonable assessments against the units in the common-*
10 *interest community. Any such assessments imposed by the*
11 *executive board must be based on the study of the reserves of the*
12 *association conducted pursuant to NRS 116.31152.*

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

16 4. To the extent required by the declaration:

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

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

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

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

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

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

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

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



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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.)

Sec. 23.5. NRS 116.31175 is hereby amended to read as follows:

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

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



(b) The records of the association relating to another unit's owner, except for those records described in subsection 2. ~~[-; and
(c) A contract between the association and an attorney.]~~

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

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

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

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

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

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

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

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

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

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

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

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

116.31183 An executive board, a member of an executive board, *a community manager* or an officer, employee or agent of an association shall not take, or direct or encourage another person



1 to take, any retaliatory action against a unit's owner because the
2 unit's owner has:

3 1. Complained in good faith about any alleged violation of any
4 provision of this chapter or the governing documents of the
5 association;

6 ***2. Recommended the selection or replacement of an attorney,***
7 ***community manager or vendor;*** or

8 ~~[2.]~~ 3. Requested in good faith to review the books, records
9 or other papers of the association.

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

12 116.31187 1. Except as otherwise provided in this section, a
13 member of an executive board or an officer of an association shall
14 not:

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

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

21 2. The provisions of this section do not prohibit a declarant, an
22 affiliate of a declarant or an officer, employee or agent of a
23 declarant or an affiliate of a declarant from:

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

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

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

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

32 116.325 1. The executive board shall not and the governing
33 documents must not prohibit a unit's owner or an occupant of a unit
34 from exhibiting ~~[a political sign]~~ ***one or more political signs*** within
35 such physical portion of the common-interest community as that
36 owner or occupant has a right to occupy and use exclusively ~~[if the~~
37 ~~political sign is]~~, ***subject to the following conditions:***

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

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

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



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

4 2. The provisions of this section establish the minimum rights
5 of a unit's owner or an occupant of a unit to exhibit ~~the~~ political
6 ~~signs.~~ *signs.* The provisions of this section do not preempt any
7 provisions of the governing documents that provide greater rights
8 and do not require the governing documents or the executive board
9 to impose any restrictions on the exhibition of political signs other
10 than those established by other provisions of law.

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

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

16 116.330 1. The executive board shall not and the governing
17 documents must not prohibit a unit's owner from installing or
18 maintaining drought tolerant landscaping within such physical
19 portion of the common-interest community as that owner has a right
20 to occupy and use exclusively, *including, without limitation, the*
21 *front yard or back yard of the unit's owner,* except that:

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

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

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

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

43 (a) The common element has been designated as a park, open
44 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 device designed to control access to the planned community that would otherwise impede ingress or egress to the property.

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

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



* S B 1 8 2 R 3 *

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

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

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

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

(a) By the association against:

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

(b) By a unit's owner against:

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

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

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

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

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

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

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



* S B 1 8 2 R 3 *

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. *The training officer shall:*



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

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

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

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

9 116.675 1. The Commission may appoint one or more
10 hearing panels. Each hearing panel must consist of one or more
11 independent hearing officers. *An independent hearing officer may*
12 *be, without limitation, a member of the Commission or an*
13 *employee of the Commission.*

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

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

23 4. A final order of a hearing panel:

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

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

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

34 116.757 1. Except as otherwise provided in this section and
35 NRS 239.0115, a written affidavit filed with the Division pursuant
36 to NRS 116.760, all documents and other information filed with the
37 written affidavit and all documents and other information compiled
38 as a result of an investigation conducted to determine whether to file
39 a formal complaint with the Commission are confidential. *The*
40 *Division shall not disclose any information that is confidential*
41 *pursuant to this subsection, in whole or in part, to any person,*
42 *including, without limitation, a person who is the subject of an*
43 *investigation or complaint, unless and until a formal complaint is*
44 *filed pursuant to subsection 2 and the disclosure is required*
45 *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. (Deleted by amendment.)

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

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

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

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

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

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

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

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

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

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

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

6. Any receiver appointed pursuant to this section has, among the usual powers, all the functions, powers, tenure and duties to be



* S B 1 8 2 R 3 *

1 exercised under the direction of the court as are conferred on
2 receivers and as provided in NRS 78.635, 78.640 and 78.645,
3 whether or not the association is insolvent. Such powers include,
4 without limitation, the powers to:

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

6 (b) Appoint an agent or agents;

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

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

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

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

18 116A.270 1. Except as otherwise provided in this section and
19 NRS 239.0115, a complaint filed with the Division alleging a
20 violation of this chapter or chapter 116 or 116B of NRS, all
21 documents and other information filed with the complaint and all
22 documents and other information compiled as a result of an
23 investigation conducted to determine whether to initiate disciplinary
24 action are confidential. ~~[and may be disclosed]~~

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

36 ~~[2-]~~ 3. The *formal* complaint or other charging documents filed
37 *by the Administrator* with the Commission to initiate disciplinary
38 action and all documents and other information considered by the
39 Commission or a hearing panel when determining whether to
40 impose discipline are public records.

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

42 116A.300 1. The Commission may appoint one or more
43 hearing panels. Each hearing panel must consist of one or more
44 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. *The regulations must include, without limitation, provisions that:*

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

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

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

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

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

(I) Receives an offer of employment as a community manager from an association or its agent; and



* S B 1 8 2 R 3 *

1 (II) *Has management experience determined to be*
2 *sufficient by the executive board of the association or its agent*
3 *making the offer in sub-subparagraph (I). The executive board or*
4 *its agent must have sole discretion to make the determination*
5 *required in this sub-subparagraph.*

6 (3) *Require a temporary certificate described in*
7 *subparagraph (2) to expire before the end of the 1-year period if*
8 *the certificate holder ceases to be employed by the association, or*
9 *its agent, which offered him employment as described in*
10 *subparagraph (2).*

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

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

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

20 (II) *Has not been the subject of any disciplinary action*
21 *pursuant to this chapter or chapter 116 of NRS or any regulations*
22 *adopted pursuant thereto.*

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

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

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

33 (b) *Must require an applicant or the employer of the applicant*
34 *to post a bond in a form and in an amount established by*
35 *regulation. The Commission shall, by regulation, adopt a sliding*
36 *scale for the amount of the bond that is based upon the amount of*
37 *money that applicants are expected to control. In adopting the*
38 *regulations establishing the form and sliding scale for the amount*
39 *of a bond required to be posted pursuant to this paragraph, the*
40 *Commission shall consider the availability and cost of such bonds.*

41 (c) *May require applicants to pass an examination in order to*
42 *obtain a certificate [H] other than a temporary certificate described*
43 *in paragraph (a). If the regulations require such an examination, the*
44 *Commission shall by regulation establish fees to pay the costs of the*



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

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

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

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

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

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

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

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

30 **Sec. 40.** NRS 38.330 is hereby amended to read as follows:

31 38.330 1. If all parties named in a written claim filed
32 pursuant to NRS 38.320 agree to have the claim submitted for
33 mediation, the parties shall reduce the agreement to writing and
34 shall select a mediator from the list of mediators maintained by the
35 Division pursuant to NRS 38.340. Any mediator selected must be
36 available within the geographic area. If the parties fail to agree upon
37 a mediator, the Division shall appoint a mediator from the list of
38 mediators maintained by the Division. Any mediator appointed must
39 be available within the geographic area. Unless otherwise provided
40 by an agreement of the parties, mediation must be completed within
41 60 days after the parties agree to mediation. Any agreement
42 obtained through mediation conducted pursuant to this section must,
43 within 20 days after the conclusion of mediation, be reduced to
44 writing by the mediator and a copy thereof provided to each party.
45 The agreement may be enforced as any other written agreement.



1 Except as otherwise provided in this section, the parties are
2 responsible for all costs of mediation conducted pursuant to this
3 section.

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

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

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

26 (c) *Must be accompanied by a separate form acknowledging
27 that the party has received and read the informational statement,
28 which must be returned to the arbitrator by the party not later than
29 10 days after receipt of the informational statement.*

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

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

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

37 4. Except as otherwise provided in this section and except
38 where inconsistent with the provisions of NRS 38.300 to 38.360,
39 inclusive, the arbitration of a claim pursuant to this section must be
40 conducted in accordance with the provisions of NRS 38.231,
41 38.232, 38.233, 38.236 to 38.239, inclusive, 38.242 and 38.243. At
42 any time during the arbitration of a claim relating to the
43 interpretation, application or enforcement of any covenants,
44 conditions or restrictions applicable to residential property or any
45 bylaws, rules or regulations adopted by an association, the arbitrator



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1 may issue an order prohibiting the action upon which the claim is
2 based. An award must be made within 30 days after the conclusion
3 of arbitration, unless a shorter period is agreed upon by the parties to
4 the arbitration.

5 5. If all the parties have agreed to nonbinding arbitration, any
6 party to the **nonbinding** arbitration may, within 30 days after a
7 decision and award have been served upon the parties, commence a
8 civil action in the proper court concerning the claim which was
9 submitted for arbitration. Any complaint filed in such an action must
10 contain a sworn statement indicating that the issues addressed in the
11 complaint have been arbitrated pursuant to the provisions of NRS
12 38.300 to 38.360, inclusive. If such an action is not commenced
13 within that period, any party to the arbitration may, within 1 year
14 after the service of the award, apply to the proper court for a
15 confirmation of the award pursuant to NRS 38.239.

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

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

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

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

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

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

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

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

41 1. One member who is a unit's owner residing in this State
42 whose term begins on October 1, 2009, and expires on October 1,
43 2010; and



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

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

7 **Sec. 43.** 1. This section becomes effective upon passage and
8 approval.

9 2. Section 39 of this act becomes effective:

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

13 (b) On January 1, 2010, for all other purposes.

14 3. Sections 1 to 38, inclusive, 40, 41 and 42 of this act become
15 effective on October 1, 2009.

