

CHAPTER.....

AN ACT relating to common-interest communities; revising provisions concerning voting rights exercised by delegates or representatives; prohibiting an association in a common-interest community from imposing an assessment against the owners of certain tax-exempt property; clarifying various provisions governing common-interest communities; making various other changes to the provisions governing common-interest communities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 3 of this bill provides additional ethical requirements for members of an executive board by requiring a member who stands to gain any personal profit or compensation from a matter before the executive board to disclose the matter to the executive board and to abstain from voting on the matter. (NRS 116.31185, 116.31187)

Section 5.5 of this bill authorizes the Commission for Common-Interest Communities and Condominium Hotels, or the Administrator of the Real Estate Division of the Department of Business and Industry with the Commission's approval, to adopt regulations to require any additional disclosures in the sale of a unit as the Commission deems necessary.

Under existing law, a common-interest community created before January 1, 1992, and a common-interest community, with a declaration so providing, that consists of at least 1,000 units, may have the voting rights of the units' owners in the association for that common-interest community be exercised by delegates or representatives. (NRS 116.1201, 116.31105) **Sections 8, 14, 15, 18, 20 and 21** of this bill prohibit the use of delegates or representatives to exercise the voting rights of units' owners in the election or removal of a member of the executive board. Also, **sections 9 and 22** of this bill provide that this form of voting may occur only during the period that the declarant is in control of the association and during the 2-year period after the declarant's control of the association is terminated. A master association which governs a time-share plan created pursuant to chapter 119A of NRS is excluded from these new provisions and is allowed to continue using delegates or representatives to exercise the voting rights of owners of time shares. A master association which governs a planned community that is exempt from the provisions of chapter 116 of NRS is also excluded from these new provisions.

Section 11 of this bill prohibits an association from imposing an assessment against the owner of any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125. **Section 46** of this bill provides that this prohibition applies to such owners who are not obligated to pay assessments as of January 1, 2009.

Section 12 of this bill provides that: (1) a unit's owner must receive notice of a violation and possible fine; (2) an association may not impose a fine against a unit's owner or tenant of a unit's owner for a vehicular violation of the governing documents committed by a person delivering goods to, or performing services for, a unit's owner or tenant of a unit's owner; (3) a member of the executive board cannot participate in hearings on fines if he has not paid his assessments; and (4)



the association must provide written confirmation when a fine is paid. (NRS 116.31031)

Section 13 of this bill requires an association to establish an account for a unit owner's payments for fines, which must be kept separate from any account established for assessments. (NRS 116.310315)

Section 14 of this bill increases the maximum term of office for a member of an executive board from 2 years to 3 years. (NRS 116.31034) **Section 14** also provides that an association is not obligated to distribute any disclosure made by a candidate for the executive board if the disclosure contains information that is believed to be defamatory, libelous or profane.

Section 16 of this bill requires that a declarant deliver to an association an ancillary audit of the association's money and audited financial statements from the date of the last audit until the date the declarant's control ends. (NRS 116.31038) **Section 16** also requires the declarant to pay for the costs of the ancillary audit.

Sections 35-37 and 39-44 of this bill eliminate the issuance of permits to reserve study specialists and instead provide for their registration. (NRS 116.750, 116A.120, 116A.260, 116A.420-116A.900)

Section 19 of this bill lengthens the period between which meetings of the executive board must be held from every 90 days to every quarter, but not less than every 100 days. (NRS 116.31083)

Existing law requires certain signatures before money in the reserve account of an association may be withdrawn. (NRS 116.31153) **Section 26** of this bill also requires certain signatures before money in the operating account of an association may be withdrawn, unless the withdrawal is to transfer money to the reserve account or to make automatic payments for utilities.

Section 28 of this bill excludes the books, records and other papers of the association which are in the process of being developed and have not yet been placed on an agenda for final approval by the executive board from the material which the board must make available upon the written request of a unit's owner. (NRS 116.31175) **Section 28** also provides that if an official publication contains any mention of a candidate or ballot question or contains the views or opinions of the association concerning an issue of official interest, the official publication must, upon request, provide equal space and equivalent exposure to opposing views and opinions. In addition, **section 28** provides immunity from criminal or civil liability for an association and its officers, employees and agents who publish or disclose information pursuant to the duties imposed by this section.

Section 29 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 31 of this bill provides additional rights to units' owners by mandating notice before an association may interrupt utility service to a unit's owner. (NRS 116.345)

Section 34 of this bill deems deposits made in connection with the purchase or reservation of units from a person required to deliver a public offering statement placed in out-of-state escrow companies as being deposited in this State if the escrow holder has a legal right to conduct business in the State, has a registered agent in this State and has consented to the jurisdiction of the courts of this State. (NRS 116.411)



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

Section 1. (Deleted by amendment.)

Sec. 2. Chapter 116 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 6, inclusive, of this act.

Sec. 3. 1. *A member of an executive board who stands to gain any personal profit or compensation of any kind from a matter before the executive board shall:*

(a) Disclose the matter to the executive board; and

(b) Abstain from voting on any such matter.

2. *For the purposes of this section:*

(a) An employee of a declarant or an affiliate of a declarant who is a member of the executive board shall not, solely by reason of such employment or affiliation, be deemed to gain any personal profit or compensation.

(b) A member of an executive board shall not be deemed to gain any personal profit or compensation solely because the member of the executive board is the owner of a unit in the common-interest community.

Secs. 4 and 5. (Deleted by amendment.)

Sec. 5.5. *The Commission, or the Administrator with the approval of the Commission, may adopt regulations to require any additional disclosures in the case of a sale of a unit as it deems necessary.*

Secs. 6 and 7. (Deleted by amendment.)

Sec. 8. NRS 116.1201 is hereby amended to read as follows:

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

2. This chapter does not apply to:

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

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

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

(3) Shall comply with the provisions of:

(I) NRS 116.31038, 116.31083 and 116.31152; and

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



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

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

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

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

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

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

3. The provisions of this chapter do not:

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

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

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

(d) Prohibit a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government ~~for~~, *except that, in the election or removal of a member of the*



executive board, the voting rights of the units' owners may not be exercised by delegates or representatives;

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

(f) Prohibit a master association which governs a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted and which is exempt from the provisions of this chapter pursuant to paragraph (b) of subsection 2 from providing for a representative form of government.

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

5. The Commission shall establish, by regulation:

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

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

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

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

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

(2) Facilities for flood control; or

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

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

Sec. 9. NRS 116.1201 is hereby amended to read as follows:

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

2. This chapter does not apply to:

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

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

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

(3) Shall comply with the provisions of:



(I) NRS 116.31038, 116.31083 and 116.31152; and

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

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

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

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

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

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

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

3. The provisions of this chapter do not:

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

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

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



(d) ~~[Prohibit]~~ *Except as otherwise provided in subsection 8 of NRS 116.31105, prohibit* a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government, except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives; ~~[or]~~

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

(f) Prohibit a master association which governs a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted and which is exempt from the provisions of this chapter pursuant to paragraph (b) of subsection 2 from providing for a representative form of government.

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

5. The Commission shall establish, by regulation:

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

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

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

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

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

(2) Facilities for flood control; or

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

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

Sec. 10. (Deleted by amendment.)

Sec. 11. NRS 116.3102 is hereby amended to read as follows:

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

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



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

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

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

(e) Make contracts and incur liabilities.

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

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

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

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

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

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

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

(k) Impose charges for late payment of assessments.

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

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

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

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

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



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

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

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

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

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

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

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

3. Notwithstanding any provision of this chapter or the governing documents to the contrary, an association may not impose any assessment pursuant to this chapter or the governing documents on the owner of any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125. For the purposes of this subsection, "assessment" does not include any charge for any utility services, including, without limitation, telecommunications, broadband communications, cable television, electricity, natural gas, sewer services, garbage collection, water or for any other service which is delivered to and used or consumed directly by the property in the common-interest community that is exempt from taxation pursuant to NRS 361.125.

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

116.31031 1. Except as otherwise provided in this section, if a unit's owner or a tenant or ~~guest~~ invitee of a unit's owner



violates any provision of the governing documents of an association, the executive board may, if the governing documents so provide:

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

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

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

(b) Impose a fine against the unit's owner or the tenant or ~~[guest]~~ *invitee* of the unit's owner for each violation, except that ~~[a]~~ ;

(1) A fine may not be imposed for a violation that is the subject of a construction penalty pursuant to NRS 116.310305 ~~[1]~~ ; and

(2) A fine may not be imposed against a unit's owner or a tenant or invitee of a unit's owner for a violation of the governing documents which involves a vehicle and which is committed by a person who is delivering goods to, or performing services for, the unit's owner or tenant or invitee of the unit's owner.

↳ If the violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents. If the violation does not pose an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents, but the amount of the fine must not exceed \$100 for each violation or a total amount of \$1,000, whichever is less. The limitations on the amount of the fine do not apply to any interest, charges or costs that may be collected by the association pursuant to this section if the fine becomes past due.

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

(a) Not less than 30 days before the violation, the *unit's owner and, if different, the* person against whom the fine will be imposed



had been provided with written notice of the applicable provisions of the governing documents that form the basis of the violation; and

(b) Within a reasonable time after the discovery of the violation, the *unit's owner and, if different, the* person against whom the fine will be imposed has been provided with:

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

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

↪ *For the purposes of this subsection, a unit's owner shall not be deemed to have received written notice unless written notice is mailed to the address of the unit and, if different, to a mailing address specified by the unit's owner.*

3. The executive board must schedule the date, time and location for the hearing on the violation so that the *unit's owner and, if different, the* person against whom the fine will be imposed is provided with a reasonable opportunity to prepare for the hearing and to be present at the hearing.

4. The executive board must hold a hearing before it may impose the fine, unless *the fine is paid before the hearing or unless the unit's owner and, if different, the* person against whom the fine will be imposed:

(a) ~~Pays the fine;~~

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

~~(c)}~~ *(b)* Fails to appear at the hearing after being provided with proper notice of the hearing.

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

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



7. *A member of the executive board shall not participate in any hearing or cast any vote relating to a fine imposed pursuant to subsection 1 if the member has not paid all assessments which are due to the association by the member. If a member of the executive board:*

(a) Participates in a hearing in violation of this subsection, any action taken at the hearing is void.

(b) Casts a vote in violation of this subsection, the vote is void.

8. The provisions of this section establish the minimum procedural requirements that the executive board must follow before it may impose a fine. The provisions of this section do not preempt any provisions of the governing documents that provide greater procedural protections.

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

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

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

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

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

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

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

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

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

~~[9-]~~ 10. *If requested by a person upon whom a fine was imposed, not later than 60 days after receiving any payment of a fine, an association shall provide to the person upon whom the fine was imposed a statement of the remaining balance owed.*

11. As used in this section:

(a) "Costs of collecting" includes, without limitation, any collection fee, filing fee, recording fee, referral fee, fee for postage or delivery, and any other fee or cost that an association may reasonably charge to the unit's owner for the collection of a past due



fine. The term does not include any costs incurred by an association 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. 13. 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]~~ *invitee* of a unit’s owner 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.]~~ *shall establish a compliance account to account for the fine, which must be separate from any account established for assessments.*

Sec. 14. NRS 116.31034 is hereby amended to read as follows:

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

2. The term of office of a member of the executive board may not exceed ~~[2]~~ *3* 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]~~ *Except as otherwise provided in this subsection, the association shall distribute the disclosures , on behalf of the candidate, to each member of the association with the ballot in the manner established in the bylaws of the association. The association is not obligated to distribute any disclosure pursuant to this subsection if the disclosure contains information that is believed to be defamatory, libelous or profane.*

6. Unless a person is appointed by the declarant:

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

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



- (1) That master association; or
- (2) Any association that is subject to the governing documents of that master association.

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

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

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

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

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

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

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

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

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

(f) The incumbent members of the executive board and each person whose name is placed on the ballot as a candidate for a



member of the executive board may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

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

Sec. 15. NRS 116.31036 is hereby amended to read as follows:

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

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

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

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

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

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

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

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



when the secret written ballots are opened and counted at the meeting.

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

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

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

Sec. 16. NRS 116.31038 is hereby amended to read as follows:

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

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

2. An accounting for money of the association and audited financial statements for each fiscal year and any ancillary period from the date of ~~inception~~ *the last audit* of the association to the date the period of the declarant's control ends. The financial



statements must fairly and accurately report the association's financial position. *The declarant shall pay the costs of the ancillary audit. The ancillary audit must be delivered within 210 days after the date the period of the declarant's control ends.*

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

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

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

4. The association's money or control thereof.

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

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

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

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

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



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

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

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

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

Sec. 17. NRS 116.310395 is hereby amended to read as follows:

116.310395 1. At the time of each close of escrow of a unit in a converted building, the declarant shall deliver to the association the amount of the converted building reserve deficit allocated to that unit.

2. The allocation to a unit of the amount of any converted building reserve deficit must be made in the same manner as assessments are allocated to that unit.

3. As used in this section, "converted building reserve deficit" means the amount necessary to replace the major components of the common elements needing replacement within 10 years after the date of the first ~~sale~~ *close of escrow* of a unit.

Sec. 18. NRS 116.3108 is hereby amended to read as follows:

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

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



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

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

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

3. Not less than 15 days or more than 60 days in advance of any meeting of the units' owners, the secretary or other officer specified in the bylaws shall cause notice of the meeting to be hand-delivered, sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner or, if the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner. The notice of the meeting must 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 until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to paragraph (b).

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

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

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

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

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

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

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

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



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

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

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

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

Sec. 19. NRS 116.31083 is hereby amended to read as follows:

116.31083 1. A meeting of the executive board must be held at least once every ~~[90]~~ *quarter, and not less than once every 100* days.

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

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

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

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

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



must be hand-delivered to each unit within the common-interest community or posted in a prominent place or places within the common elements of the association.

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

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

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

5. The agenda of the meeting of the executive board must comply with the provisions of subsection 4 of NRS 116.3108. The period required to be devoted to comments by the units' owners and discussion of those comments must be scheduled for the beginning of each meeting. 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~~ *quarter, and not less than once every 100* 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 minutes to be recorded or otherwise taken at each meeting of the executive board. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the



minutes or a summary of the minutes of the meetings to be made available to the units' owners. A copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

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. 20. NRS 116.311 is hereby amended to read as follows:

116.311 1. If only one of several owners of a unit is present at a meeting of the association, that owner is entitled to cast all the



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

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

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

(a) The proxy must be dated.

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

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

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

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



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

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

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

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

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

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

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

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

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

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

Sec. 21. NRS 116.31105 is hereby amended to read as follows:

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

2. In addition to a common-interest community identified in subsection 1, if the declaration so provides, in a common-interest



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

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

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

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

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

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

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

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

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

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

(e) A candidate for delegate or representative may not possess, be given access to or participate in the opening or counting of the



secret written ballots that are returned to the association in the manner prescribed on the ballot before those secret written ballots have been opened and counted at a meeting called for that purpose.

Sec. 22. NRS 116.31105 is hereby amended to read as follows:

116.31105 1. ~~HH~~ *Except as otherwise provided in subsection 8, if* the declaration so provides, in a common-interest community that consists of at least 1,000 units, the voting rights of the units' owners in the association for that common-interest community may be exercised by delegates or representatives except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives.

2. ~~HH~~ *Except as otherwise provided in subsection 8, in* addition to a common-interest community identified in subsection 1, if the declaration so provides, in a common-interest community created before October 1, 1999, the voting rights of the units' owners in the association for that common-interest community may be exercised by delegates or representatives except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives.

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

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

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

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

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

(a) The secretary or other officer of the association specified in the bylaws of the association shall cause a secret written ballot and a return envelope to be sent, prepaid by United States mail, to the



mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

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

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

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

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

8. Except as otherwise provided in subsection 9, the voting rights of the units' owners in the association for a common-interest community may be exercised by delegates or representatives only during the period that the declarant is in control of the association and during the 2-year period after the declarant's control of the association is terminated pursuant to NRS 116.31032.

9. The provisions of subsection 8 do not apply to:

(a) A time-share plan created pursuant to chapter 119A of NRS which is governed by a master association; or

(b) A condominium or cooperative containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted.

Secs. 23-25. (Deleted by amendment.)

Sec. 26. NRS 116.31153 is hereby amended to read as follows:

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

2. Except as otherwise provided in subsection 3, money in the operating account of an association may not be withdrawn without the signatures of at least one member of the executive board or



one officer of the association and a member of the executive board, an officer of the association or the community manager.

3. Money in the operating account of an association may be withdrawn without the signatures required pursuant to subsection 2 to:

(a) Transfer money to the reserve account of the association at regular intervals; or

(b) Make automatic payments for utilities.

Sec. 27. (Deleted by amendment.)

Sec. 28. NRS 116.31175 is hereby amended to read as follows:

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

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

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

(c) A contract between the association and an attorney ~~and~~; *and*

(d) Any document, including, without limitation, minutes of an executive board meeting, a reserve study and a budget, if the document:

(1) Is in the process of being developed for final consideration by the executive board; and

(2) Has not been placed on an agenda for final approval by the executive board.

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

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



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

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

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

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

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

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

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

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

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

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

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

8. The association and its officers, employees and agents are immune from criminal or civil liability for any act or omission which arises out of the publication or disclosure of any



information related to any person and which occurs in the course of carrying out any duties required pursuant to subsection 6 or 7.

9. As used in this section:

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

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

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

(b) "Official publication" means:

(1) An official website;

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

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

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

Sec. 29. NRS 116.31187 is hereby amended to read as follows:

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

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

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

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

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

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

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

Sec. 30. (Deleted by amendment.)



Sec. 31. 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 must 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.*

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.

Secs. 32 and 33. (Deleted by amendment.)

Sec. 34. NRS 116.411 is hereby amended to read as follows:

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

- (a) Delivered to the declarant at closing;
- (b) Delivered to the declarant because of the purchaser's default under a contract to purchase the unit;
- (c) Released to the declarant for an additional item, improvement, optional item or alteration, but the amount so released:

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

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

(d) Refunded to the purchaser.

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

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

- (a) Delivered to the declarant at closing;
- (b) Delivered to the declarant because of the purchaser's default under a contract to purchase the unit; or
- (c) Released to the declarant for an additional item, improvement, optional item or alteration, but the amount so released must not exceed the amount due the declarant from the purchaser at the time of the release or the amount expended by the declarant for that purpose, whichever is less.



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

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

Sec. 35. NRS 116.750 is hereby amended to read as follows:

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

- (a) Any association and any officer, employee or agent of an association.
- (b) Any member of an executive board.
- (c) Any community manager who holds a certificate and any other community manager.
- (d) Any person who ~~holds a permit to conduct a study of the reserves of an association issued~~ *is registered as a reserve study specialist, or who conducts a study of reserves*, pursuant to chapter 116A of NRS.
- (e) Any declarant or affiliate of a declarant.
- (f) Any unit's owner.
- (g) Any tenant of a unit's owner if the tenant has entered into an agreement with the unit's owner to abide by the governing documents of the association and the provisions of this chapter and any regulations adopted pursuant thereto.

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

- (a) Currently holds his office, employment, agency or position or who held his office, employment, agency or position at the commencement of proceedings against him.
- (b) Resigns his office, employment, agency or position:
 - (1) After the commencement of proceedings against him; or



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

Sec. 36. NRS 116A.120 is hereby amended to read as follows:

116A.120 ~~["Permit"]~~ **"Registration"** means ~~{a permit}~~ **a registration** to conduct a study of the reserves of an association pursuant to NRS 116.31152 or 116B.605 ~~{issued by}~~ **with** the Division pursuant to this chapter.

Sec. 37. NRS 116A.260 is hereby amended to read as follows:

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

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

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

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

Sec. 38. (Deleted by amendment.)

Sec. 39. NRS 116A.420 is hereby amended to read as follows:

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

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

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

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

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



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

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

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

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

Sec. 40. NRS 116A.430 is hereby amended to read as follows:

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

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

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

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

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

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

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

Sec. 41. NRS 116A.440 is hereby amended to read as follows:

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

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



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

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

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

(b) A separate form prescribed by the Division.

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

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

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

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

Sec. 42. NRS 116A.450 is hereby amended to read as follows:

116A.450 1. If the Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to *a person who is registered or* the holder of a certificate , ~~for permit;~~ the Division shall deem the *registration or* certificate ~~for permit~~ to be suspended at the end of the 30th day after the date the court order was issued unless the Division receives a letter issued to the *person who is registered or the* holder of the certificate ~~for permit~~ by the district attorney or other public agency pursuant to NRS 425.550 stating that the *person who is registered or the* holder of the certificate ~~for permit~~ has complied with a subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Division shall reinstate a *registration or* certificate ~~for permit~~ that has been suspended by a district court pursuant to NRS 425.540 if the Division receives a letter issued by the district



attorney or other public agency pursuant to NRS 425.550 to the *person who is registered or the* holder of the certificate ~~[or permit]~~ that he has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 43. NRS 116A.460 is hereby amended to read as follows:

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

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

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

Sec. 44. NRS 116A.900 is hereby amended to read as follows:

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

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

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

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

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

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



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

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

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

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

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

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

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

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

Sec. 45. (Deleted by amendment.)

Sec. 46. The amendatory provisions of section 11 of this act apply to all owners of property in a common-interest community that is exempt from taxation pursuant to NRS 361.125 who are not obligated to pay assessments as of January 1, 2009.

Sec. 47. 1. This section becomes effective upon passage and approval.

2. Section 38 of this act becomes effective:

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

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

3. Section 34 of this act becomes effective on July 1, 2009.

4. Sections 1 to 8, inclusive, 10, 11, 12, 14 to 21, inclusive, 23 to 33, inclusive, 35, 36, 37 and 39 to 46, inclusive, of this act become effective on October 1, 2009.

5. Sections 9, 13 and 22 of this act become effective on October 1, 2011.

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



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

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

↪ are repealed by the Congress of the United States.

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