

SENATE BILL NO. 183—SENATOR SCHNEIDER

MARCH 9, 2009

Referred to Committee on Judiciary

SUMMARY—Revises various provisions governing common-interest communities. (BDR 10-70)

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

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

AN ACT relating to common-interest communities; revising provisions relating to systems for obtaining solar or wind energy; revising the provisions governing the regulation of certain streets in 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:

Existing law provides that a covenant, restriction or condition in a deed, contract or other legal instrument cannot unreasonably restrict the use of a system for obtaining solar or wind energy. (NRS 111.239, 278.0208) **Sections 1 and 45** of this bill specify the circumstances under which a specification regarding the color of such a system is enforceable.

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



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Existing law provides that certain common-interest communities are prohibited from regulating motor vehicles on thoroughfares accepted by the State or local governments for public use. (NRS 116.350) **Section 5** of this bill prohibits a common-interest community from restricting the operation of motorcycles. **Section 6** of this bill prohibits a common-interest community from using information from radar guns or other devices unless the radar gun or device meets certain specifications and the person operating the radar gun or device meets certain qualifications.

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 14** 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)

Section 23 of this bill revises provisions relating to financial statements for certain associations. (NRS 116.31144)

Existing law provides that an association has the statutory obligation to: (1) fund adequately its reserves; (2) include in its annual budget a statement concerning its reserves and whether it will be necessary to impose any special assessments; and (3) review its study of the reserves on an annual basis and make any appropriate adjustments necessary to ensure that the reserves are always funded adequately. (NRS 116.3115, 116.31151, 116.31152) **Section 24** of this bill clarifies existing law by explicitly stating that notwithstanding any provision of the governing documents to the contrary, the executive board may, without seeking or obtaining the approval of units' owners, impose any necessary and reasonable assessments to establish adequate reserves.

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)

Existing law provides that except as otherwise provided in the declaration, an association may not require a unit's owner to secure or obtain any approval from the association in order to rent or lease his unit. (NRS 116.335) **Section 30** of this bill provides that unless at the time a unit's owner purchases his unit the declaration prohibited the unit's owner from renting or leasing his unit or required the unit's owner to secure or obtain any approval from the association in order to rent or lease his unit, the association may not: (1) prohibit the unit's owner from renting or leasing his unit; or (2) require the unit's owner to secure or obtain any approval from the association in order to rent or lease his unit.

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)

Existing law provides that certain common-interest communities are prohibited from regulating motor vehicles on thoroughfares accepted by the State or local governments for public use. (NRS 116.350) **Section 32** of this bill prohibits a common-interest community from restricting the parking of certain utility service vehicles, law enforcement vehicles and emergency services vehicles.



Existing law provides that an association may charge certain fees for furnishing certain documents and certificates in connection with the resale of a unit. (NRS 116.4109) **Section 33** of this bill provides that if the association enters into a contract or agreement with any person or entity to furnish such documents or certificates, the contract or agreement must not allow a unit's owner to be charged any fee that exceeds the amount of the fee that the association itself may charge. Additionally, **section 33** provides that an association may not charge a unit's owner, and may not require a unit's owner to pay, any fee related to the resale of a unit that is not specifically authorized, including, without limitation, any transaction fee, transfer fee, asset enhancement fee or other similar fee, except it may charge a fee to transfer the unit to a new owner in the association books and records based on the actual cost incurred.

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)

Section 38 of this bill provides for the issuance of temporary certificates for community managers for a period of 1 year under certain circumstances. In addition, **section 38** requires the posting of bonds by community managers in an amount established by regulation, based on a sliding scale. (NRS 116A.410)

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

Section 1. NRS 111.239 is hereby amended to read as follows:
111.239 1. ~~[Any]~~ *Except as otherwise provided in subsection 2, any* covenant, restriction or condition contained in a deed, contract or other legal instrument which affects the transfer, sale or any other interest in real property that prohibits or unreasonably restricts the owner of the property from using a system for obtaining solar or wind energy on his property is void and unenforceable.

2. *A covenant, restriction or condition contained in the governing documents of a common-interest community or a policy established by a common-interest community specifying the color of such a system is enforceable so long as such a system is manufactured in such color and the specification was:*

(a) *In existence on July 1, 2007; or*

(b) *Contained in the governing documents in effect on the close of escrow of the first sale of a unit in the common-interest community.*

3. For the purposes of this section ~~[, "unreasonably"]~~ :

(a) *"Common-interest community" has the meaning ascribed to it in NRS 116.021.*

(b) *"Governing documents" has the meaning ascribed to it in NRS 116.049.*



(c) *“Unit” has the meaning ascribed to it in NRS 116.093.*

(d) *“Unreasonably restricts the use of a system for obtaining solar or wind energy” means placing a restriction or requirement on the use of such a system which significantly decreases the efficiency or performance of the system and does not allow for the use of an alternative system at a comparable cost and with comparable efficiency and performance.*

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.*

Sec. 4. 1. *The provisions of this chapter do not invalidate or modify the tariffs, rules and standards of a public utility.*

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

3. *As used in this section, “public utility” has the meaning ascribed to it in NRS 704.020.*

Sec. 5. 1. *The executive board of a common-interest community shall not, and the governing documents of a common-interest community must not, restrict, prohibit or otherwise impede the operation of a motorcycle if the motorcycle is operated on any road, street, alley or other surface intended for use by a motor vehicle.*

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

3. *As used in this section, “motorcycle” means every motor vehicle designed to travel on not more than three wheels in contact*



1 *with the ground which is required to be registered pursuant to*
2 *chapter 482 of NRS.*

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

7 **Sec. 6.** *A member of the executive board of a common-*
8 *interest community, a community manager for the common-*
9 *interest community and any other representative of the association*
10 *shall not use a radar gun or other device designed to gauge the*
11 *speed of a vehicle for the purpose of imposing any fine or other*
12 *penalty upon or taking any other action against a unit's owner or*
13 *other person unless:*

14 *1. The radar gun or other device:*

15 *(a) Is, or was at the time of purchase, on the Conforming*
16 *Product List of the International Association of Chiefs of Police;*
17 *and*

18 *(b) Is inspected at least every 3 years to determine whether its*
19 *level of power and structural integrity comply with the minimum*
20 *performance specifications for that model established by the*
21 *United States Department of Transportation; and*

22 *2. The person operating the radar gun or other device has*
23 *successfully completed a course of training in the proper use of*
24 *the radar gun or other device.*

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

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

27 116.1201 1. Except as otherwise provided in this section and
28 NRS 116.1203, this chapter applies to all common-interest
29 communities created within this State.

30 2. This chapter does not apply to:

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

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

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

36 (3) Shall comply with the provisions of:

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

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

41 (4) Shall comply with the provisions of NRS 116.4101 to
42 116.412, inclusive, as required by the regulations adopted by the
43 Commission pursuant to paragraph (b) of subsection 5; and

44 (5) Shall not enforce any restrictions concerning the use of
45 units by the units' owners, unless the limited-purpose association is



1 created for a rural agricultural residential common-interest
2 community.

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

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

17 (d) A common-interest community that was created before
18 January 1, 1992, is located in a county whose population is less than
19 50,000, and has less than 50 percent of the units within the
20 community put to residential use, unless a majority of the units'
21 owners otherwise elect in writing.

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

24 3. The provisions of this chapter do not:

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

28 (b) Require a common-interest community created before
29 January 1, 1992, to comply with the provisions of NRS 116.2101 to
30 116.2122, inclusive;

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

34 (d) Prohibit a common-interest community created before
35 January 1, 1992, or a common-interest community described in NRS
36 116.31105 from providing for a representative form of government
37 ~~for~~, *except that, in the election or removal of a member of the*
38 *executive board, the voting rights of the units' owners may not be*
39 *exercised by delegates or representatives;*

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

43 (f) *Prohibit a master association which governs a planned*
44 *community containing both units that are restricted exclusively to*
45 *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



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1 created for a rural agricultural residential common-interest
2 community.

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

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

17 (d) A common-interest community that was created before
18 January 1, 1992, is located in a county whose population is less than
19 50,000, and has less than 50 percent of the units within the
20 community put to residential use, unless a majority of the units'
21 owners otherwise elect in writing.

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

24 3. The provisions of this chapter do not:

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

28 (b) Require a common-interest community created before
29 January 1, 1992, to comply with the provisions of NRS 116.2101 to
30 116.2122, inclusive;

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

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

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

44 (f) *Prohibit a master association which governs a planned*
45 *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.



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(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



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

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

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

24 (a) Not less than 30 days before the violation, the *unit's owner*
25 *and, if different, the* person against whom the fine will be imposed
26 had been provided with written notice of the applicable provisions
27 of the governing documents that form the basis of the violation; and

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

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

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

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

40 3. The executive board must schedule the date, time and
41 location for the hearing on the violation so that the *unit's owner*
42 *and, if different, the* person against whom the fine will be imposed
43 is provided with a reasonable opportunity to prepare for the hearing
44 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~~ 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.

~~9-1~~ *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.



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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



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1 past due assessments or construction penalties that are required to be
2 paid to the association.

3 ➔ The candidate must make all disclosures required pursuant to this
4 subsection in writing to the association with his candidacy
5 information. ~~[The]~~ *Except as otherwise provided in this subsection,*
6 *the* association shall distribute the disclosures , *on behalf of the*
7 *candidate,* to each member of the association with the ballot in the
8 manner established in the bylaws of the association. *The association*
9 *is not obligated to distribute any disclosure pursuant to this*
10 *subsection if the disclosure contains information that is believed to*
11 *be defamatory, libelous or profane.*

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

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

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

21 (1) That master association; or

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

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

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

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

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



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(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



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

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

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

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

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

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

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

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

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

44 116.31038 In addition to any applicable requirement set forth
45 in NRS 116.310395, within 30 days after units' owners other than



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1 the declarant may elect a majority of the members of the executive
2 board, the declarant shall deliver to the association all property of
3 the units' owners and of the association held by or controlled by
4 him, including:

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

12 2. An accounting for money of the association and audited
13 financial statements for each fiscal year and any ancillary period
14 from the date of ~~inception~~ *the last audit* of the association to the
15 date the period of the declarant's control ends. The financial
16 statements must fairly and accurately report the association's
17 financial position. *The declarant shall pay the costs of the ancillary*
18 *audit. The ancillary audit must be delivered within 210 days after*
19 *the date the period of the declarant's control ends.*

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

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

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

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

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

43 6. A copy of any plans and specifications used in the
44 construction of the improvements in the common-interest



1 community which were completed within 2 years before the
2 declaration was recorded.

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

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

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

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

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

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

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

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

27 116.310395 1. At the time of each close of escrow of a unit
28 in a converted building, the declarant shall deliver to the association
29 the amount of the converted building reserve deficit allocated to that
30 unit.

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

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

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

39 116.3108 1. A meeting of the units' owners must be held at
40 least once each year. If the governing documents do not designate
41 an annual meeting date of the units' owners, a meeting of the units'
42 owners must be held 1 year after the date of the last meeting of the
43 units' owners. If the units' owners have not held a meeting for 1
44 year, a meeting of the units' owners must be held on the following
45 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.



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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.



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

3 116.31105 1. ~~HH~~ *Except as otherwise provided in*
4 *subsection 8, if* the declaration so provides, in a common-interest
5 community that consists of at least 1,000 units, the voting rights of
6 the units' owners in the association for that common-interest
7 community may be exercised by delegates or representatives except
8 that, in the election or removal of a member of the executive board,
9 the voting rights of the units' owners may not be exercised by
10 delegates or representatives.

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

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

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

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

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

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

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



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(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.

Sec. 23. NRS 116.31144 is hereby amended to read as follows:

116.31144 1. Except as otherwise provided in ~~subsection 2,~~ *this section*, the executive board shall:

(a) If the annual budget of the association is less than \$75,000, cause the financial statement of the association to be ~~audited~~ *reviewed* by an independent certified public accountant at least once every 4 fiscal years.

(b) If the annual budget of the association is \$75,000 or more but less than \$150,000, cause the financial statement of the association to be ~~audited~~ *reviewed* by an independent certified public

~~accountant at least once every 4 fiscal years; and~~

~~(2) Reviewed~~ *reviewed* by an independent certified public accountant every fiscal year. ~~{for which an audit is not conducted.}~~



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(c) If the annual budget of the association is \$150,000 or more, cause the financial statement of the association to be audited by an independent certified public accountant every fiscal year.

2. For any fiscal year for which an audit of the financial statement of the association will not be conducted pursuant to subsection 1, the executive board shall cause the financial statement for that fiscal year to be audited by an independent certified public accountant if, within 180 days before the end of the fiscal year, 15 percent of the total number of voting members of the association submit a written request for such an audit.

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

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

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

(c) The requirement that an audit or review of the financial statements of an association be completed within 210 days after the end of the fiscal year.

Sec. 24. NRS 116.3115 is hereby amended to read as follows:

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

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

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

(b) The association shall establish adequate reserves, funded on a reasonable basis, for the repair, replacement and restoration of the major components of the common elements. The reserves may be used only for those purposes, including, without limitation, repairing, replacing and restoring roofs, roads and sidewalks, and must not be used for daily maintenance. The association may comply with the provisions of this paragraph through a funding plan that is designed to allocate the costs for the repair, replacement and restoration of the major components of the common elements over a



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1 period of years if the funding plan is designed in an actuarially
2 sound manner which will ensure that sufficient money is available
3 when the repair, replacement and restoration of the major
4 components of the common elements are necessary.
5 *Notwithstanding any provision of the governing documents to the*
6 *contrary, to establish adequate reserves pursuant to this*
7 *paragraph, including, without limitation, to establish or carry out*
8 *a funding plan, the executive board may, without seeking or*
9 *obtaining the approval of the units' owners, impose any necessary*
10 *and reasonable assessments against the units in the common-*
11 *interest community.*

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

15 4. To the extent required by the declaration:

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

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

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

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

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

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

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

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

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



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

3 116.31153 *1. Money in the reserve account of an association*
4 *required by paragraph (b) of subsection 2 of NRS 116.3115 may not*
5 *be withdrawn without the signatures of at least two members of the*
6 *executive board or the signatures of at least one member of the*
7 *executive board and one officer of the association who is not a*
8 *member of the executive board.*

9 *2. Except as otherwise provided in subsection 3, money in the*
10 *operating account of an association may not be withdrawn without*
11 *the signatures of at least one member of the executive board or*
12 *one officer of the association and a member of the executive*
13 *board, an officer of the association or the community manager.*

14 *3. Money in the operating account of an association may be*
15 *withdrawn without the signatures required pursuant to subsection*
16 *2 to:*

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

19 *(b) Make automatic payments for utilities.*

20 **Sec. 27.** (Deleted by amendment.)

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

23 116.31175 *1. Except as otherwise provided in this*
24 *subsection, the executive board of an association shall, upon the*
25 *written request of a unit's owner, make available the books, records*
26 *and other papers of the association for review during the regular*
27 *working hours of the association, including, without limitation, all*
28 *contracts to which the association is a party and all records filed*
29 *with a court relating to a civil or criminal action to which the*
30 *association is a party. The provisions of this subsection do not apply*
31 *to:*

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

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

37 *(c) A contract between the association and an attorney ~~[-]~~; and*

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

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

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



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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



1 *concerning an issue of official interest, the official publication*
2 *must, upon request and without charge, provide equal space to*
3 *opposing views and opinions of a unit's owner, tenant or resident*
4 *of the common-interest community.*

5 8. *The association and its officers, employees and agents are*
6 *immune from criminal or civil liability for any act or omission*
7 *which arises out of the publication or disclosure of any*
8 *information related to any person and which occurs in the course*
9 *of carrying out any duties required pursuant to subsection 6 or 7.*

10 9. *As used in this section:*

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

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

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

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

18 (1) *An official website;*

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

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

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

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

29 116.31187 1. Except as otherwise provided in this section, a
30 member of an executive board or an officer of an association shall
31 not:

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

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

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

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

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



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

Sec. 30. NRS 116.335 is hereby amended to read as follows:

116.335 1. ~~[Except as otherwise provided in]~~ *Unless, at the time a unit's owner purchased his unit,* the declaration ~~[]~~ *prohibited the unit's owner from renting or leasing his unit, the association may not prohibit the unit's owner from renting or leasing his unit.*

2. *Unless, at the time a unit's owner purchased his unit, the declaration required the unit's owner to secure or obtain any approval from the association in order to rent or lease his unit,* an association may not require ~~[a]~~ *the* unit's owner to secure or obtain any approval from the association in order to rent or lease his unit.

~~[2]~~ 3. The provisions of this section do not prohibit an association from enforcing any provisions which govern the renting or leasing of units and which are contained in this chapter or in any other applicable federal, state or local laws or regulations.

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*



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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.

Sec. 32. NRS 116.350 is hereby amended to read as follows:

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

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

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

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

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

(2) *If the person is:*

(I) *A unit's owner;*

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



1 (III) *Bringing the vehicle to his unit pursuant to his*
2 *employment with the entity which owns the vehicle and which*
3 *requires the person to park the vehicle overnight at his residence*
4 *for the purpose of responding to requests for public utility*
5 *services; or*

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

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

9 (2) *If the person is:*

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

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

12 (III) *Bringing the vehicle to his unit pursuant to his*
13 *employment with the entity which owns the vehicle and which*
14 *requires the person to park the vehicle overnight at his residence*
15 *for the purpose of responding to requests for law enforcement*
16 *services or emergency services.*

17 4. *As used in this section:*

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

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

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

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

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

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

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

30 (d) *"Utility service vehicle" means any commercial motor*
31 *vehicle:*

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

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

41 **Sec. 33.** NRS 116.4109 is hereby amended to read as follows:

42 116.4109 1. Except in the case of a sale in which delivery of
43 a public offering statement is required, or unless exempt under
44 subsection 2 of NRS 116.4101, a unit's owner or his authorized
45 agent shall , *at the expense of the unit's owner,* furnish to a



1 purchaser a resale package ~~[containing]~~ *which is purchased directly*
2 *from the association and which contains* all of the following:

3 (a) A copy of the declaration, other than any plats and plans, the
4 bylaws, the rules or regulations of the association and the
5 information statement required by NRS 116.41095;

6 (b) A statement setting forth the amount of the monthly
7 assessment for common expenses and any unpaid assessment of any
8 kind currently due from the selling unit's owner;

9 (c) A copy of the current operating budget of the association and
10 current year-to-date financial statement for the association, which
11 must include a summary of the reserves of the association required
12 by NRS 116.31152 and which must include, without limitation, a
13 summary of the information described in ~~[paragraphs (a) to (e);~~
14 ~~inclusive, of]~~ subsection 3 of NRS 116.31152; and

15 (d) A statement of any unsatisfied judgments or pending legal
16 actions against the association and the status of any pending legal
17 actions relating to the common-interest community of which the
18 unit's owner has actual knowledge.

19 2. The purchaser may, by written notice, cancel the contract of
20 purchase until midnight of the fifth calendar day following the date
21 of receipt of the resale package described in subsection 1, and the
22 contract for purchase must contain a provision to that effect. If the
23 purchaser elects to cancel a contract pursuant to this subsection, he
24 must hand deliver the notice of cancellation to the unit's owner or
25 his authorized agent or mail the notice of cancellation by prepaid
26 United States mail to the unit's owner or his authorized agent.
27 Cancellation is without penalty, and all payments made by the
28 purchaser before cancellation must be refunded promptly. If the
29 purchaser has accepted a conveyance of the unit, the purchaser is
30 not entitled to:

31 (a) Cancel the contract pursuant to this subsection; or

32 (b) Damages, rescission or other relief based solely on the
33 ground that the unit's owner or his authorized agent failed to furnish
34 the resale package, or any portion thereof, as required by this
35 section.

36 3. Within 10 days after receipt of a written request by a unit's
37 owner or his authorized agent, the association shall furnish all of the
38 following to the unit's owner or his authorized agent for inclusion in
39 the resale package:

40 (a) Copies of the documents required pursuant to paragraphs (a)
41 and (c) of subsection 1; and

42 (b) A certificate containing the information necessary to enable
43 the unit's owner to comply with paragraphs (b) and (d) of
44 subsection 1.



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4. If the association furnishes the documents and certificate pursuant to subsection 3:

(a) The unit's owner or his authorized agent shall include the documents and certificate in the resale package provided to the purchaser, and neither the unit's owner nor his authorized agent is liable to the purchaser for any erroneous information provided by the association and included in the documents and certificate.

(b) The association may charge the unit's owner a reasonable fee to cover the cost of preparing the certificate furnished pursuant to subsection 3. Such a fee must be based on the actual cost the association incurs to fulfill the requirements of this section in preparing the certificate. The Commission shall adopt regulations establishing the maximum amount of the fee that an association may charge for preparing the certificate.

(c) The association may charge the unit's owner a reasonable fee, not to exceed 25 cents per page, to cover the cost of copying the other documents furnished pursuant to subsection 3.

(d) Except for the fees allowed pursuant to paragraphs (b) and (c), the association may not charge the unit's owner any other fees for preparing or furnishing the documents and certificate pursuant to subsection 3.

5. *If the association enters into a contract or agreement with any person or entity to furnish the documents and certificate pursuant to subsection 3:*

(a) The contract or agreement must not allow a unit's owner to be charged any fee that exceeds the amount of the fee that the association may charge pursuant to subsection 4; and

(b) The person or entity shall not charge or attempt to charge any such fee.

6. Neither a purchaser nor the purchaser's interest in a unit is liable for any unpaid assessment or fee greater than the amount set forth in the documents and certificate prepared by the association. If the association fails to furnish the documents and certificate within the 10 days allowed by this section, the seller is not liable for the delinquent assessment.

~~16-1~~ 7. Upon the request of a unit's owner or his authorized agent, or upon the request of a purchaser to whom the unit's owner has provided a resale package pursuant to this section or his authorized agent, the association shall make the entire study of the reserves of the association which is required by NRS 116.31152 reasonably available for the unit's owner, purchaser or authorized agent to inspect, examine, photocopy and audit. The study must be made available at the business office of the association or some other suitable location within the county where the common-interest



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community is situated or, if it is situated in more than one county, within one of those counties.

8. The association may not charge a unit's owner, and may not require a unit's owner to pay, any fee related to the resale of a unit that is not specifically authorized pursuant to this section, including, without limitation, any transaction fee, transfer fee, asset enhancement fee or other similar fee, except the association may charge the unit's owner a reasonable fee to cover the cost of recording in the books and records of the association the transfer of the ownership of the unit. Such a fee must be based on the actual cost the association incurs to record the transfer of the ownership of the unit. The Commission shall adopt regulations establishing the maximum amount of the fee that an association may charge for transferring the ownership of a unit.

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



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1 reservation of a unit. Each bond must be in a principal sum equal to
2 the amount of the deposit. The bond must be held until:

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

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

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

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

26 116.750 1. In carrying out the provisions of NRS 116.745 to
27 116.795, inclusive, the Division and the Ombudsman have
28 jurisdiction to investigate and the Commission and each hearing
29 panel has jurisdiction to take appropriate action against any person
30 who commits a violation, including, without limitation:

- 31 (a) Any association and any officer, employee or agent of an
32 association.
- 33 (b) Any member of an executive board.
- 34 (c) Any community manager who holds a certificate and any
35 other community manager.
- 36 (d) Any person who ~~holds a permit to conduct a study of the~~
37 ~~reserves of an association issued~~ *is registered as a reserve study*
38 *specialist, or who conducts a study of reserves*, pursuant to chapter
39 116A of NRS.
- 40 (e) Any declarant or affiliate of a declarant.
- 41 (f) Any unit's owner.
- 42 (g) Any tenant of a unit's owner if the tenant has entered into an
43 agreement with the unit's owner to abide by the governing
44 documents of the association and the provisions of this chapter and
45 any regulations adopted pursuant thereto.



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

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

(a) Must establish the qualifications for the issuance of such a certificate, including, without limitation, the education and experience required to obtain such a certificate. **The regulations must include, without limitation, provisions that:**

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

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

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

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



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

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

6 (II) *Has management experience determined to be*
7 *sufficient by the executive board of the association or its agent*
8 *making the offer in sub-subparagraph (I). The executive board or*
9 *its agent must have sole discretion to make the determination*
10 *required in this sub-subparagraph.*

11 (3) *Require a temporary certificate described in*
12 *subparagraph (2) to expire before the end of the 1-year period if*
13 *the certificate holder ceases to be employed by the association or*
14 *its agent which offered him employment as described in*
15 *subparagraph (2).*

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

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

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

25 (II) *Has not been the subject of any disciplinary action*
26 *pursuant to this chapter, chapter 116 of NRS or any regulations*
27 *adopted pursuant thereto.*

28 (6) *Provide that a temporary certificate described in*
29 *subparagraph (1) or (2), and a certificate described in*
30 *subparagraph (5):*

31 (I) *Must authorize the person who is issued a temporary*
32 *certificate described in subparagraph (1) or (2) or certificate*
33 *described in subparagraph (5) to act in all respects as a*
34 *community manager and exercise all powers available to any*
35 *other community manager without regard to experience; and*

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

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



(c) May require applicants to pass an examination in order to obtain a certificate ~~It~~ *other than a temporary certificate described in paragraph (a).* If the regulations require such an examination, the Commission shall by regulation establish fees to pay the costs of the examination, including any costs which are necessary for the administration of the examination.

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

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

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

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

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

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

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

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



1 116B of NRS and the standards of practice adopted by the
2 Commission.

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

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

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

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

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

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

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

26 116A.430 1. The Commission shall by regulation provide for
27 the ~~[issuance]~~ *registration* by the Division of ~~[permits to]~~ reserve
28 study specialists. The regulations:

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

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

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

40 (d) Must establish the grounds for initiating disciplinary action
41 against a person ~~[to whom a permit has been issued,]~~ *who has*
42 *registered*, including, without limitation, the grounds for placing
43 conditions, limitations or restrictions on ~~[a permit]~~ *registration* and
44 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 ; ~~{or permit;}~~ or

(b) A separate form prescribed by the Division.

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

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

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

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

Sec. 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 , ~~{or permit;}~~ the Division shall deem the *registration or* certificate ~~{or permit}~~ to be suspended at the end of the 30th day after the date the court order was issued unless the Division receives a letter issued to the *person who is registered or the* holder of the certificate ~~{or permit}~~ by the district attorney or other public agency



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1 pursuant to NRS 425.550 stating that the *person who is registered*
2 *or the* holder of the certificate ~~for permit~~ has complied with a
3 subpoena or warrant or has satisfied the arrearage pursuant to
4 NRS 425.560.

5 2. The Division shall reinstate a *registration or* certificate ~~for~~
6 ~~permit~~ that has been suspended by a district court pursuant to NRS
7 425.540 if the Division receives a letter issued by the district
8 attorney or other public agency pursuant to NRS 425.550 to the
9 *person who is registered or the* holder of the certificate ~~for permit~~
10 that he has complied with the subpoena or warrant or has satisfied
11 the arrearage pursuant to NRS 425.560.

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

13 116A.460 The expiration or revocation of a *registration or*
14 certificate ~~for permit~~ by operation of law or by order or decision of
15 any agency or court of competent jurisdiction, or the voluntary
16 surrender of such a *registration or* certificate ~~for permit~~ by the
17 *person who is registered or the* holder of the certificate ~~for permit~~
18 does not:

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

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

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

31 116A.900 1. In addition to any other remedy or penalty, the
32 Commission may impose an administrative fine against any person
33 who knowingly:

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

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

42 2. If the Commission imposes an administrative fine against a
43 person pursuant to this section, the amount of the administrative fine
44 may not exceed the amount of any gain or economic benefit that the



1 person derived from the violation or \$5,000, whichever amount is
2 greater.

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

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

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

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

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

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

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

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

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

23 (b) The person is acting in accordance with the exemption while
24 engage in those activities.

25 **Sec. 45.** NRS 278.0208 is hereby amended to read as follows:

26 278.0208 1. A governing body shall not adopt an ordinance,
27 regulation or plan or take any other action that prohibits or
28 unreasonably restricts the owner of real property from using a
29 system for obtaining solar or wind energy on his property.

30 2. ~~[Any]~~ *Except as otherwise provided in subsection 3, any*
31 *covenant, restriction or condition contained in a deed, contract or*
32 *other legal instrument which affects the transfer, sale or any other*
33 *interest in real property that prohibits or unreasonably restricts the*
34 *owner of the property from using a system for obtaining solar or*
35 *wind energy on his property is void and unenforceable.*

36 3. *A covenant, restriction or condition contained in the*
37 *governing documents of a common-interest community or a policy*
38 *established by a common-interest community specifying the color*
39 *of such a system is enforceable so long as such a system is*
40 *manufactured in such color and the specification was:*

41 *(a) In existence on July 1, 2009; or*

42 *(b) Contained in the governing documents in effect on the*
43 *close of escrow of the first sale of a unit in the common-interest*
44 *community.*

45 4. For the purposes of this section ~~[, "unreasonably"]~~ :



(a) *“Common-interest community” has the meaning ascribed to it in NRS 116.021.*

(b) *“Governing documents” has the meaning ascribed to it in NRS 116.049.*

(c) *“Unit” has the meaning ascribed to it in NRS 116.093.*

(d) *“Unreasonably”* restricting the use of a system for obtaining solar or wind energy” means placing a restriction or requirement on the use of such a system which significantly decreases the efficiency or performance of the system and does not allow for the use of an alternative system at a comparable cost and with comparable efficiency and performance.

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.

