

SENATE BILL NO. 174—SENATOR COPENING

FEBRUARY 17, 2011

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to common-interest communities. (BDR 10-105)

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; authorizing appeals to the Commission for Common-Interest Communities and Condominium Hotels after certain actions by the Real Estate Division of the Department of Business and Industry; revising provisions concerning the removal or abatement of a public nuisance on the exterior of a unit under certain circumstances; revising provisions relating to elections for members of an executive board; revising provisions concerning the removal of members of an executive board; revising provisions governing meetings of units' owners and meetings of an executive board; revising provisions governing the maintenance and repair of walls within a common-interest community; revising insurance and bond requirements for unit-owners' associations and community managers; revising provisions relating to the maintenance and investment of association funds; revising provisions concerning the assessment of certain common expenses against a unit's owner; revising provisions governing the withdrawal of money from the operating account of an association; revising provisions concerning liens on a unit for certain charges or fees; prohibiting a unit's owner from engaging in certain threatening conduct or retaliatory actions; revising provisions governing the award of punitive damages in certain circumstances; revising provisions governing management agreements and community



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managers; exempting certain associations from the requirement to obtain a state business license; making various other changes relating to common-interest communities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill authorizes a person who is aggrieved by certain written decisions of the Real Estate Division of the Department of Business and Industry to appeal to the Commission for Common-Interest Communities and Condominium Hotels.

Section 3 of this bill revises the circumstances under which the employees or agents of a unit-owners' association may enter the grounds of a unit which is being foreclosed to abate a nuisance.

Existing law authorizes the declaration of a common-interest community to provide for cumulative voting for the purpose of electing members of the executive board of the association. (NRS 116.2107) **Sections 2 and 4** of this bill prohibit such use of cumulative voting. **Section 4** also revises the procedures for the election of members of the executive board when the number of nominations for such membership is equal to or less than the number of members to be elected.

Under existing law, a member of the executive board may be removed from the executive board if the number of votes cast equals at least 35 percent of the total number of voting members of the association and the majority of all votes cast are cast in favor of removal. (NRS 116.31036) **Section 5** of this bill requires the number of votes cast in favor of removal to be at least 35 percent of the total number of voting members of the association and a majority of the votes cast.

Section 6 of this bill revises provisions governing the responsibility to maintain or repair walls within a common-interest community.

Existing law requires notice of a meeting of the executive board to be provided to the units' owners, except in an emergency. (NRS 116.31083) Under **section 8** of this bill, if a meeting of the executive board will consist only of an executive session, the association is not required to provide notice of the meeting to the units' owners. **Section 8** also authorizes an association to comply with the requirement to include an agenda with a notice of an executive board meeting by stating on the notice that the agenda will be sent at the request of a unit's owner to the electronic mail address of the unit's owner.

Existing law requires the minutes of meetings of the units' owners and the executive board to be provided to any unit's owner upon request and at no charge if those minutes are provided in electronic format. **Sections 7 and 8** of this bill require those minutes to be provided at no charge if provided by electronic mail.

Section 9 of this bill authorizes an executive board to meet in executive session: (1) to discuss the alleged misconduct, professional competence, or physical or mental health of an association vendor; and (2) to discuss with the vendor the vendor's alleged misconduct, professional competence or failure to perform under a contract.

Existing law requires an applicant for a certificate as a community manager, or the employer of that applicant, to post a bond in a certain form and amount. (NRS 116A.410) **Sections 10 and 19** of this bill remove this requirement and require an association to provide crime insurance that includes coverage for dishonest acts by certain persons.

Section 11 of this bill: (1) authorizes an association to invest association funds in any instrument or investment authorized by the governing documents or the investment policy established by the executive board; and (2) exempts petty cash and change funds from the requirement to deposit all association funds in certain



financial institutions. **Section 13** of this bill requires the executive board to make available to each unit's owner the policy for the investment of association funds at the same time and in the same manner as the budget is made available to the units' owners.

Section 12 of this bill authorizes an association to assess against a unit the legal fees and costs incurred by an association to enforce a violation of the association's governing documents by the unit's owner, a tenant or an invitee of the unit's owner or tenant. **Section 12** also amends provisions concerning the imposition of interest charges on late assessments to provide that: (1) interest may, but is not required to, accrue; and (2) interest may accrue at a rate less than the rate specified in statute.

Section 14 of this bill authorizes money in the operating account of an association to be withdrawn without the required signatures to make certain electronic transfers of money.

Existing law provides that an association has a lien on a unit for certain charges imposed against a unit's owner. (NRS 116.3116) Existing law also allows an association to charge reasonable fees to cover the costs of collecting past due obligations. (NRS 116.310313) **Section 15** of this bill provides that the association has a lien on a unit for any fees to cover the costs of collecting a past due obligation which are imposed against the unit's owner and that the association has a lien on a unit for any other amounts due the association. **Section 15** also provides that a lien on a unit for any fees to cover the costs of collecting a past due obligation is included within the super-priority lien for assessments for common expenses.

Existing law prohibits a member of the executive board of an association, a community manager and officers, employees and agents of an association from taking, or directing or encouraging, retaliatory action against a unit's owner under certain circumstances. (NRS 116.31183) **Section 16** of this bill prohibits a unit's owner from taking, or directing or encouraging, retaliatory action against a member of the executive board, an officer, employee or agent of an association, or another unit's owner under certain circumstances. **Section 16** also prohibits a unit's owner from making certain threats against a member of the executive board, an officer, agent or employee of the association or another unit's owner.

Section 18 of this bill adds community managers to a prohibition against punitive damages being awarded in certain circumstances.

Section 20 of this bill revises the requirements for management agreements entered into between an association and a community manager, including, without limitation, removing the requirement that the management agreement include provisions for dispute resolution. **Section 20** also requires a community manager to transfer the electronic books, records and papers of a client in a certain manner.

Section 21 of this bill revises the duty of a community manager to deposit, maintain and invest association funds so that such activities must be performed at the client's direction.

Existing law exempts nonprofit corporations from the requirement to obtain a state business license. (NRS 76.020, 76.100) **Sections 22 and 23** of this bill exempt from this requirement associations which are organized as certain other types of nonprofit or cooperative organizations.



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

Section 1. Chapter 116 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any person who is aggrieved by a letter of instruction, advisory opinion, declaratory order or other written decision which the person has received from the Division may file a written notice of appeal with the Division not later than 30 days after receipt of the letter of instruction, advisory opinion, declaratory order or other written decision.

2. If the next regularly scheduled meeting of the Commission is more than 30 days after the date on which the Division receives a notice of appeal pursuant to subsection 1, the Division must schedule a hearing before the Commission for the next regularly scheduled meeting of the Commission. If the next regularly scheduled meeting of the Commission is 30 days or less after the date on which the Division receives a notice of appeal pursuant to subsection 1, the Division must schedule a hearing before the Commission for the regularly scheduled meeting of the Commission which immediately follows the next regularly scheduled meeting.

3. The Commission may continue a hearing scheduled pursuant to subsection 2 upon the written request of the appellant, for good cause shown.

4. The Division shall give the appellant written notice of the date, time and place of the hearing on the appeal at least 30 days before the date of the hearing. The notice must be delivered personally to the appellant or mailed to the appellant by certified mail, return receipt requested, to his or her last known address.

5. The appellant and the Division may be represented by an attorney at any hearing on an appeal pursuant to this section.

6. The Commission shall render a final decision on an appeal pursuant to this section not later than 20 days after the date of the hearing.

7. The Commission shall notify the appellant of its decision in writing by certified mail, return receipt requested, not later than 60 days after the date of the hearing. The written decision must include any changes to the letter of instruction, advisory opinion, declaratory order or other written decision which are ordered by the Commission.

Sec. 2. NRS 116.2107 is hereby amended to read as follows:

116.2107 1. The declaration must allocate to each unit:

(a) In a condominium, a fraction or percentage of undivided interests in the common elements and in the common expenses of



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1 the association (NRS 116.3115) and a portion of the votes in the
2 association;

3 (b) In a cooperative, a proportionate ownership in the
4 association, a fraction or percentage of the common expenses of
5 the association (NRS 116.3115) and a portion of the votes in the
6 association; and

7 (c) In a planned community, a fraction or percentage of the
8 common expenses of the association (NRS 116.3115) and a portion
9 of the votes in the association.

10 2. The declaration must state the formulas used to establish
11 allocations of interests. Those allocations may not discriminate in
12 favor of units owned by the declarant or an affiliate of the declarant.

13 3. If units may be added to or withdrawn from the common-
14 interest community, the declaration must state the formulas to be
15 used to reallocate the allocated interests among all units included in
16 the common-interest community after the addition or withdrawal.

17 4. The declaration may provide:

18 (a) That different allocations of votes are made to the units on
19 particular matters specified in the declaration; **and**

20 (b) ~~For cumulative voting only for the purpose of electing~~
21 ~~members of the executive board; and~~

22 ~~—(e)—~~ For class voting on specified issues affecting the class if
23 necessary to protect valid interests of the class.

24 ➤ Except as otherwise provided in NRS 116.31032, a declarant may
25 not utilize ~~cumulative or~~ class voting for the purpose of evading
26 any limitation imposed on declarants by this chapter nor may units
27 constitute a class because they are owned by a declarant.

28 5. Except for minor variations because of rounding, the sum of
29 the liabilities for common expenses and, in a condominium, the sum
30 of the undivided interests in the common elements allocated at any
31 time to all the units must each equal one if stated as a fraction or 100
32 percent if stated as a percentage. In the event of discrepancy
33 between an allocated interest and the result derived from application
34 of the pertinent formula, the allocated interest prevails.

35 6. In a condominium, the common elements are not subject to
36 partition, and any purported conveyance, encumbrance, judicial sale
37 or other voluntary or involuntary transfer of an undivided interest in
38 the common elements made without the unit to which that interest is
39 allocated is void.

40 7. In a cooperative, any purported conveyance, encumbrance,
41 judicial sale or other voluntary or involuntary transfer of an
42 ownership interest in the association made without the possessory
43 interest in the unit to which that interest is related is void.



1 **Sec. 3.** NRS 116.310312 is hereby amended to read as
2 follows:

3 116.310312 1. A person who holds a security interest in a
4 unit must provide the association with the person's contact
5 information as soon as reasonably practicable, but not later than 30
6 days after the person:

7 (a) Files an action for recovery of a debt or enforcement of any
8 right secured by the unit pursuant to NRS 40.430; or

9 (b) Records or has recorded on his or her behalf a notice of a
10 breach of obligation secured by the unit and the election to sell or
11 have the unit sold pursuant to NRS 107.080.

12 2. If an action or notice described in subsection 1 has been
13 filed or recorded regarding a unit and the association has provided
14 the unit's owner with notice and an opportunity for a hearing in the
15 manner provided in NRS 116.31031, the association, including its
16 employees, agents and community manager, may, but is not
17 required to, enter the grounds of the unit, whether or not the unit is
18 vacant, to take any of the following actions if the unit's owner
19 refuses or fails to take any action or comply with any requirement
20 imposed on the unit's owner within the time specified by the
21 association as a result of the hearing:

22 (a) Maintain the exterior of the unit in accordance with the
23 standards set forth in the governing documents, including, without
24 limitation, any provisions governing maintenance, standing water or
25 snow removal.

26 (b) Remove or abate a public nuisance on the exterior of the unit
27 which ~~is~~ *adversely affects the use and enjoyment of any nearby*
28 *unit and:*

29 (1) Is visible from any common area of the community or
30 public streets;

31 (2) Threatens the health or safety of the residents of the
32 common-interest community; *or*

33 (3) Results in blighting or deterioration of the unit or
34 surrounding area. ~~is and~~

35 ~~—(4) Adversely affects the use and enjoyment of nearby units.]~~

36 3. If a unit is vacant and the association has provided the unit's
37 owner with notice and an opportunity for a hearing in the manner
38 provided in NRS 116.31031, the association, including its
39 employees, agents and community manager, may enter the grounds
40 of the unit to maintain the exterior of the unit or abate a public
41 nuisance as described in subsection 2 if the unit's owner refuses or
42 fails to do so.

43 4. The association may order that the costs of any maintenance
44 or abatement conducted pursuant to subsection 2 or 3, including,
45 without limitation, reasonable inspection fees, notification and



1 collection costs and interest, be charged against the unit. The
2 association shall keep a record of such costs and interest charged
3 against the unit and has a lien on the unit for any unpaid amount of
4 the charges. The lien may be foreclosed under NRS 116.31162 to
5 116.31168, inclusive.

6 5. A lien described in subsection 4 bears interest from the date
7 that the charges become due at a rate determined pursuant to NRS
8 17.130 until the charges, including all interest due, are paid.

9 6. Except as otherwise provided in this subsection, a lien
10 described in subsection 4 is prior and superior to all liens, claims,
11 encumbrances and titles other than the liens described in paragraphs
12 (a) and (c) of subsection 2 of NRS 116.3116. If the federal
13 regulations of the Federal Home Loan Mortgage Corporation or the
14 Federal National Mortgage Association require a shorter period of
15 priority for the lien, the period during which the lien is prior and
16 superior to other security interests shall be determined in accordance
17 with those federal regulations. Notwithstanding the federal
18 regulations, the period of priority of the lien must not be less than
19 the 6 months immediately preceding the institution of an action to
20 enforce the lien.

21 7. A person who purchases or acquires a unit at a foreclosure
22 sale pursuant to NRS 40.430 or a trustee's sale pursuant to NRS
23 107.080 is bound by the governing documents of the association and
24 shall maintain the exterior of the unit in accordance with the
25 governing documents of the association. Such a unit may only be
26 removed from a common-interest community in accordance with the
27 governing documents pursuant to this chapter.

28 8. Notwithstanding any other provision of law, an association,
29 its directors or members of the executive board, employees, agents
30 or community manager who enter the grounds of a unit pursuant to
31 this section are not liable for trespass.

32 9. As used in this section:

33 (a) "Exterior of the unit" includes, without limitation, all
34 landscaping outside of a unit and the exterior of all property
35 exclusively owned by the unit owner.

36 (b) "Vacant" means a unit:

37 (1) Which reasonably appears to be unoccupied;

38 (2) On which the owner has failed to maintain the exterior to
39 the standards set forth in the governing documents the association;
40 and

41 (3) On which the owner has failed to pay assessments for
42 more than 60 days.

43 **Sec. 4.** NRS 116.31034 is hereby amended to read as follows:

44 116.31034 1. Except as otherwise provided in subsection 5 of
45 NRS 116.212, not later than the termination of any period of



1 declarant's control, the units' owners shall elect an executive board
2 of at least three members, all of whom must be units' owners. The
3 executive board shall elect the officers of the association. Unless
4 the governing documents provide otherwise, the officers of the
5 association are not required to be units' owners. The members of the
6 executive board and the officers of the association shall take office
7 upon election.

8 2. The term of office of a member of the executive board may
9 not exceed 3 years, except for members who are appointed by the
10 declarant. Unless the governing documents provide otherwise, there
11 is no limitation on the number of terms that a person may serve as a
12 member of the executive board.

13 3. The governing documents of the association must provide
14 for terms of office that are staggered in such a manner that, to the
15 extent possible, an equal number of members of the executive board
16 are elected at each election. The provisions of this subsection do not
17 apply to:

18 (a) Members of the executive board who are appointed by the
19 declarant; and

20 (b) Members of the executive board who serve a term of 1 year
21 or less.

22 4. Not less than 30 days before the preparation of a ballot for
23 the election of members of the executive board, the secretary or
24 other officer specified in the bylaws of the association shall cause
25 notice to be given to each unit's owner of the unit's owner's
26 eligibility to serve as a member of the executive board. Each unit's
27 owner who is qualified to serve as a member of the executive board
28 may have his or her name placed on the ballot along with the names
29 of the nominees selected by the members of the executive board or a
30 nominating committee established by the association.

31 5. ~~{Before the secretary or other officer specified in the bylaws~~
32 ~~of the association causes notice to be given to each unit's owner of~~
33 ~~his or her eligibility to serve as a member of the executive board~~
34 ~~pursuant to subsection 4,}~~ *Unless* the executive board ~~{may~~
35 ~~determine that}~~ *determines otherwise*, if, at the closing of the
36 prescribed period for nominations for membership on the executive
37 board, the number of candidates nominated for membership on the
38 executive board is equal to or less than the number of members to be
39 elected to the executive board at the election : ~~{, then the secretary~~
40 ~~or other officer specified in the bylaws of the association will cause~~
41 ~~notice to be given to each unit's owner informing each unit's owner~~
42 ~~that:}~~

43 (a) The association ~~{will}~~ *must* not prepare or mail any ballots to
44 units' owners pursuant to this section ~~{and the}~~ ;



(b) *The* nominated candidates shall be deemed to be duly elected to the executive board ~~unless:~~

~~—(1) A unit's owner who is qualified to serve on the executive board nominates himself or herself for membership on the executive board by submitting a nomination to the executive board within 30 days after the notice provided by this subsection; and~~

~~—(2) The number of units' owners who submit such a nomination causes the number of candidates nominated for membership on the executive board to be greater than the number of members to be elected to the executive board.~~

~~—(b) Each unit's owner who is qualified to serve as a member of the executive board may nominate himself or herself for membership on the executive board by submitting a nomination to the executive board within 30 days after the notice provided by this subsection.]~~ *effective at the beginning of the next regularly scheduled meeting of the executive board; and*

(c) Not less than 10 days before the next regularly scheduled meeting of the executive board, the association must send to each unit's owner notification that the candidates nominated have been elected to the executive board.

6. ~~If the notice described in subsection 5 is given and if, at the closing of the prescribed period for nominations for membership on the executive board described in subsection 5, the number of candidates nominated for membership on the executive board is equal to or less than the number of members to be elected to the executive board, then:~~

~~—(a) The association will not prepare or mail any ballots to units' owners pursuant to this section;~~

~~—(b) The nominated candidates shall be deemed to be duly elected to the executive board not later than 30 days after the date of the closing of the period for nominations described in subsection 5; and~~

~~—(c) The association shall send to each unit's owner notification that the candidates nominated have been elected to the executive board.~~

~~—7.]~~ If, ~~[the notice described in subsection 5 is given and if,]~~ at the closing of the prescribed period for nominations for membership on the executive board, ~~[described in subsection 5,]~~ the number of candidates nominated for membership on the executive board is greater than the number of members to be elected to the executive board, then the association ~~[shall:]~~ *must:*

(a) Prepare and mail ballots to the units' owners pursuant to this section; and

(b) Conduct an election for membership on the executive board pursuant to this section.



~~[8-]~~ 7. Each person who is nominated as a candidate for a member of the executive board pursuant to subsection 4 ~~[or 5]~~ must:

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

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

↳ The candidate must make all disclosures required pursuant to this subsection in writing to the association with his or her candidacy information. Except as otherwise provided in this subsection, the association shall distribute the disclosures, on behalf of the candidate, to each member of the association with the ballot or, in the event ballots are not prepared and mailed pursuant to subsection ~~[6-]~~ 5, in the next regular mailing of the association. The association is not obligated to distribute any disclosure pursuant to this subsection if the disclosure contains information that is believed to be defamatory, libelous or profane.

~~[9-]~~ 8. Unless a person is appointed by the declarant:

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

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

(1) That master association; or

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

~~[10-]~~ 9. An officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, a member or manager of a limited-liability company that owns a unit, and a fiduciary of an estate that owns a unit may be an officer of the association or a member of the executive board. In all events where the person serving or offering to serve as an officer of the association or a member of the executive board is not the record owner, the person shall file proof in the records of the association that:



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

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

10. Notwithstanding any provision of the declaration or bylaws to the contrary, cumulative voting may not be used by units' owners for the purpose of electing members of the executive board.

11. Except as otherwise provided in subsection ~~6~~ 5 or NRS 116.31105, the election of any member of the executive board must be conducted by secret written ballot in the following manner:

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

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

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

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

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

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

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



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1 writing by the unit's owner a candidate informational statement. The
2 candidate informational statement:

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

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

6 (c) May be sent with the secret ballot mailed pursuant to
7 subsection 11 or in a separate mailing.

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

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

22 **Sec. 5.** NRS 116.31036 is hereby amended to read as follows:

23 116.31036 1. Notwithstanding any provision of the
24 declaration or bylaws to the contrary, any member of the executive
25 board, other than a member appointed by the declarant, may be
26 removed from the executive board, with or without cause, if at a
27 removal election held pursuant to this section ~~[-~~:

28 ~~—(a) The~~ , the number of votes cast *in favor of removal*
29 constitutes ~~[at]~~ :

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

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

34 2. *A removal election may be called by units' owners*
35 *constituting at least 10 percent, or any lower percentage specified*
36 *in the bylaws, of the total number of voting members of the*
37 *association. To call a removal election, the units' owners must*
38 *submit a written petition which is signed by the required*
39 *percentage of the total number of voting members of the*
40 *association pursuant to this subsection and which is mailed,*
41 *return receipt requested, or served by a process server to the*
42 *executive board or the community manager for the association. If*
43 *a removal election is called pursuant to this subsection and:*

44 (a) *The voting rights of the units' owners will be exercised*
45 *through the use of secret written ballots pursuant to this section:*



1 (1) *The secret written ballots for the removal election must*
2 *be sent in the manner required by this section not less than 15*
3 *days or more than 60 days after the date on which the petition is*
4 *received; and*

5 (2) *The executive board must set the date for the meeting to*
6 *open and count the secret written ballots so that the meeting is*
7 *held not more than 15 days after the deadline for returning the*
8 *secret written ballots and not later than 120 days after the date on*
9 *which the petition was received.*

10 (b) *The voting rights of the owners of time shares will be*
11 *exercised by delegates or representatives as set forth in NRS*
12 *116.31105, the executive board must set the date for the removal*
13 *election so that the removal election is held not less than 15 days*
14 *or more than 120 days after the date on which the petition is*
15 *received.*

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

20 3. Except as otherwise provided in NRS 116.31105, the
21 removal of any member of the executive board must be conducted
22 by secret written ballot in the following manner:

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

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

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

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

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

43 ~~3.1~~ 4. If a member of an executive board is named as a
44 respondent or sued for liability for actions undertaken in his or her
45 role as a member of the board, the association shall indemnify the



1 member for his or her losses or claims, and undertake all costs of
2 defense, unless it is proven that the member acted with willful or
3 wanton misfeasance or with gross negligence. After such proof, the
4 association is no longer liable for the cost of defense, and may
5 recover costs already expended from the member of the executive
6 board who so acted. ~~[Members of the executive board are not~~
7 ~~personally liable to the victims of crimes occurring on the property.~~
8 ~~Punitive damages may not be recovered against:~~

9 ~~—(a) The association;~~

10 ~~—(b) The members of the executive board for acts or omissions~~
11 ~~that occur in their official capacity as members of the executive~~
12 ~~board; or~~

13 ~~—(c) The officers of the association for acts or omissions that~~
14 ~~occur in their capacity as officers of the association.~~

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

19 **Sec. 6.** NRS 116.31073 is hereby amended to read as follows:

20 116.31073 1. Except as otherwise provided in subsection 2
21 and NRS 116.31135, ~~[the association is responsible]~~ *unless a*
22 *governmental entity has accepted responsibility* for the
23 maintenance, repair, restoration and replacement of ~~[any security]~~ *a*
24 wall which is located within ~~[the]~~ *a* common-interest community [-

25 ~~—2. The provisions of this section do not apply if the governing~~
26 ~~documents provide that a unit's owner or an entity other than the~~
27 ~~association] or any part thereof, the unit's owner or any other~~
28 *person specified in the governing documents of the common-*
29 *interest community* is responsible for the maintenance, repair,
30 restoration and replacement of the ~~[security]~~ wall.

31 ~~[3. For the purpose of carrying out the]~~

32 **2.** *Any* maintenance, repair, restoration ~~[and]~~ *or* replacement of
33 a ~~[security]~~ wall ~~[pursuant to this section:~~

34 ~~—(a) The association, the members of its executive board and its~~
35 ~~officers, employees, agents and community manager may enter the~~
36 ~~grounds of a unit after providing written notice and, notwithstanding~~
37 ~~any other provision of law, are not liable for trespass.~~

38 ~~—(b) Any such maintenance, repair, restoration and replacement~~
39 ~~of a security wall must be performed:~~

40 ~~—(1) During normal business hours;~~

41 ~~—(2) Within a reasonable length of time; and~~

42 ~~—(3) In a manner that does not adversely affect access to a unit~~
43 ~~or the legal rights of] that is performed because of any damage~~
44 *caused by the willful or negligent act of* a unit's owner ~~[to enjoy~~
45 ~~the use of his or her unit.~~



~~—(c) Notwithstanding any other provision of law, the executive board is prohibited from imposing an assessment without obtaining prior approval of the units' owners unless the total amount of the assessment is less than 5 percent of the annual budget of the association.~~

~~4. As used in this section, "security wall" means any wall composed of stone, brick, concrete, concrete blocks, masonry or similar building material, including, without limitation, ornamental iron or other fencing material, together with footings, pilasters, outriggers, grillwork, gates and other appurtenances, constructed around the perimeter of a residential subdivision with respect to which a final map has been recorded pursuant to NRS 278.360 to 278.460, inclusive, to protect the several tracts in the subdivision and their occupants from vandalism.] , a tenant or an invitee of the unit's owner or tenant is the responsibility of the unit's owner.~~

Sec. 7. NRS 116.3108 is hereby amended to read as follows:

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

2. Special meetings of the units' owners may be called by the president, by a majority of the executive board or by units' owners constituting at least 10 percent, or any lower percentage specified in the bylaws, of the total number of voting members of the association. ~~[The same number of units' owners may also call a removal election pursuant to NRS 116.31036.]~~ To call a special meeting , ~~[for 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]~~ *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 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.~~

~~→} , the request for a special meeting is received from the president or the vote of the majority of the executive board to call a special meeting, whichever is applicable.~~ The association shall

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

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

(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request, ~~{in}~~ by electronic ~~{format}~~ mail at no charge to the unit's owner or, if the association is unable to provide the copy or summary ~~{in}~~ by electronic ~~{format,}~~ mail, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

(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



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1 emergency, the units' owners may take action on an item which is
2 not listed on the agenda as an item on which action may be taken.

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

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

15 6. The secretary or other officer specified in the bylaws shall
16 cause minutes to be recorded or otherwise taken at each meeting of
17 the units' owners. Not more than 30 days after each such meeting,
18 the secretary or other officer specified in the bylaws shall cause the
19 minutes or a summary of the minutes of the meeting to be made
20 available to the units' owners. Except as otherwise provided in this
21 subsection, a copy of the minutes or a summary of the minutes must
22 be provided to any unit's owner upon request, ~~in~~ by electronic
23 ~~format~~ mail at no charge to the unit's owner or, if the association
24 is unable to provide the copy or summary ~~in~~ electronic ~~format,~~
25 mail, in paper format at a cost not to exceed 25 cents per page for
26 the first 10 pages, and 10 cents per page thereafter.

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

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

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

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

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

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

43 10. A unit's owner may record on audiotape or any other
44 means of sound reproduction a meeting of the units' owners if the
45 unit's owner, before recording the meeting, provides notice of his or



her 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. 8. 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 quarter, and not less than once every 100 days and must be held at a time other than during standard business hours at least twice annually.

2. Except *as otherwise provided in subsection 3 or* 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. *If a meeting of the executive board will consist only of the executive board meeting in executive session, the secretary or other officer specified in the bylaws of the association is not required to cause notice of the meeting to be given to the units' owners.*

4. 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



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

4 ~~[4.]~~ 5. The notice of a meeting of the executive board must
5 state the time and place of the meeting and include a copy of the
6 agenda for the meeting , ~~[or]~~ the date on which and the locations
7 where copies of the agenda may be conveniently obtained by the
8 units' owners ~~[.]~~ *or, if the association offers to send notice of a*
9 *meeting of the executive board by electronic mail, a statement that*
10 *an agenda will be sent by electronic mail at the request of a unit's*
11 *owner to an electronic mail address designated in writing by the*
12 *unit's owner.* The notice must include notification of the right of a
13 unit's owner to:

14 (a) Have a copy of the audio recording, the minutes or a
15 summary of the minutes of the meeting provided to the unit's owner
16 upon request, ~~[in]~~ *by* electronic ~~[format]~~ *mail* at no charge to the
17 unit's owner or, if the association is unable to provide the copy or
18 summary ~~[in]~~ *by* electronic ~~[format.]~~ *mail*, in paper format at a cost
19 not to exceed 25 cents per page for the first 10 pages, and 10 cents
20 per page thereafter.

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

23 ~~[5.]~~ 6. The agenda of the meeting of the executive board must
24 comply with the provisions of subsection 4 of NRS 116.3108. A
25 period required to be devoted to comments by the units' owners and
26 discussion of those comments must be scheduled for both the
27 beginning and the end of each meeting. During the period devoted
28 to comments by the units' owners and discussion of those comments
29 at the beginning of each meeting, comments by the units' owners
30 and discussion of those comments must be limited to items listed on
31 the agenda. In an emergency, the executive board may take action
32 on an item which is not listed on the agenda as an item on which
33 action may be taken.

34 ~~[6.]~~ 7. At least once every quarter, and not less than once
35 every 100 days, unless the declaration or bylaws of the association
36 impose more stringent standards, the executive board shall review,
37 at a minimum, the following financial information at one of its
38 meetings:

- 39 (a) A current year-to-date financial statement of the association;
40 (b) A current year-to-date schedule of revenues and expenses for
41 the operating account and the reserve account, compared to the
42 budget for those accounts;
43 (c) A current reconciliation of the operating account of the
44 association;



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

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

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

~~[7-]~~ 8. The secretary or other officer specified in the bylaws shall cause each meeting of the executive board to be audio recorded and the minutes to be recorded or otherwise taken at each meeting of the executive board, but if the executive board is meeting in executive session, the meeting must not be audio recorded. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the audio recording of the meeting, the minutes of the meeting and a summary of the minutes of the meeting to be made available to the units' owners. Except as otherwise provided in this subsection, a copy of the audio recording, the minutes or a summary of the minutes must be provided to any unit's owner upon request, ~~[in]~~ by electronic ~~[format]~~ mail at no charge to the unit's owner or, if the association is unable to provide the copy or summary ~~[in]~~ by electronic ~~[format,]~~ mail, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

~~[8-]~~ 9. Except as otherwise provided in subsection ~~[9-]~~ 10 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 the unit's owner requests that the minutes reflect his or her remarks or, if the unit's owner has prepared written remarks, a copy of his or her prepared remarks if the unit's owner submits a copy for inclusion.

~~[9-]~~ 10. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of its meetings.

~~[10-]~~ 11. The association shall maintain the minutes of each meeting of the executive board until the common-interest community is terminated.



~~11.1~~ 12. 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 or her intent to record the meeting to the members of the executive board and the other units' owners who are in attendance at the meeting.

~~11.2~~ 13. 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. 9. NRS 116.31085 is hereby amended to read as follows:

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

2. An executive board may not meet in executive session to open or consider bids for an association project as defined in NRS 116.31086, or to enter into, renew, modify, terminate or take any other action regarding a contract.

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

(a) Consult with the attorney for the association on matters relating to proposed or pending litigation if the contents of the discussion would otherwise be governed by the privilege set forth in NRS 49.035 to 49.115, inclusive.

(b) Discuss the character, alleged misconduct, professional competence, or physical or mental health of a community manager, ~~or~~ an employee of the association ~~or~~ *or a vendor who has entered into a contract with the association.*

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

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

(e) Discuss with a vendor of the association the vendor's alleged misconduct, professional competence or failure to perform under a contract.



1 4. An executive board shall meet in executive session to hold a
2 hearing on an alleged violation of the governing documents unless
3 the person who may be sanctioned for the alleged violation requests
4 in writing that an open hearing be conducted by the executive board.
5 If the person who may be sanctioned for the alleged violation
6 requests in writing that an open hearing be conducted, the person:

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

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

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

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

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

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

33 **Sec. 10.** NRS 116.3113 is hereby amended to read as follows:

34 116.3113 1. Commencing not later than the time of the first
35 conveyance of a unit to a person other than a declarant, the
36 association shall maintain, to the extent reasonably available, ~~both~~
37 ~~of~~ **all** the following:

38 (a) Property insurance on the common elements and, in a
39 planned community, also on property that must become common
40 elements, insuring against all risks of direct physical loss commonly
41 insured against or, in the case of a converted building, against fire
42 and extended coverage perils. The total amount of insurance after
43 application of any deductibles must be not less than 80 percent of
44 the actual cash value of the insured property at the time the
45 insurance is purchased and at each renewal date, exclusive of land,



1 excavations, foundations and other items normally excluded from
2 property policies.

3 (b) Liability insurance, including insurance for medical
4 payments, in an amount determined by the executive board but not
5 less than any amount specified in the declaration, covering all
6 occurrences commonly insured against for death, bodily injury, and
7 property damage arising out of or in connection with the use,
8 ownership, or maintenance of the common elements and, in
9 cooperatives, also of all units.

10 (c) *Crime insurance which includes coverage for dishonest*
11 *acts by members of the executive board and the officers,*
12 *employees, agents, directors and volunteers of the association and*
13 *which extends coverage to any business entity that acts as the*
14 *community manager of the association and the employees of that*
15 *entity. Such insurance may not contain a conviction requirement,*
16 *and the minimum amount of the policy must be not less than an*
17 *amount equal to 3 months of aggregate assessments on all units*
18 *plus reserve funds.*

19 2. In the case of a building that is part of a cooperative or that
20 contains units having horizontal boundaries described in the
21 declaration, the insurance maintained under paragraph (a) of
22 subsection 1, to the extent reasonably available, must include the
23 units, but need not include improvements and betterments installed
24 by units' owners.

25 3. If the insurance described in subsections 1 , ~~and~~ 2 and 3 is
26 not reasonably available, the association promptly shall cause notice
27 of that fact to be hand-delivered or sent prepaid by United States
28 mail to all units' owners. The declaration may require the
29 association to carry any other insurance, and the association in any
30 event may carry any other insurance it considers appropriate to
31 protect the association or the units' owners.

32 4. An insurance policy issued to the association does not
33 prevent a unit's owner from obtaining insurance for the unit's
34 owner's own benefit.

35 **Sec. 11.** NRS 116.311395 is hereby amended to read as
36 follows:

37 116.311395 1. Except as otherwise provided in ~~subsection~~
38 ~~2.] subsections 2 and 3,~~ an association ~~[a member of the executive~~
39 ~~board, or a community manager]~~ shall deposit ~~[or invest]~~ and
40 *maintain* all funds of the association ~~[at]~~ *in* a financial institution
41 *whose accounts are insured by the Federal Deposit Insurance*
42 *Corporation, the National Credit Union Share Insurance Fund or*
43 *the Securities Investor Protection Corporation and* which:

44 (a) Is located in this State;

45 (b) Is qualified to conduct business in this State; or



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(c) Has consented to be subject to the jurisdiction, including the power to subpoena, of the courts of this State and the Division.

2. ~~{Except as otherwise provided by the governing documents, in addition to the requirements of}~~ *Funds held by the association as petty cash, imprest funds or change funds are not required to be deposited or maintained in accordance with subsection 1. The amount of petty cash, imprest funds and change funds held by the association must be set forth in the policy established by the executive board for the investment of the funds of the association.*

3. *Funds deposited or maintained by an association pursuant to subsection 1* ~~{, an association shall deposit, maintain and invest all funds of the association:}~~ *may be invested in:*

(a) ~~{H}~~ *Certificates of deposit issued by* a financial institution whose accounts are insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or the Securities Investor Protection Corporation;

(b) ~~{With a private insurer approved pursuant to NRS 678.755; or~~

~~{(c) In a}~~ A government security backed by the full faith and credit of the Government of the United States ~~{~~

~~{3.}~~ ; or

(c) *Any other instrument or investment authorized by the governing documents or the policy established by the executive board for the investment of the funds of the association.*

4. The Commission shall adopt regulations prescribing the contents of the declaration to be executed and signed by a financial institution located outside of this State to submit to consent to the jurisdiction of the courts of this State and the Division.

Sec. 12. 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



1 major components of the common elements and any other portion of
2 the common-interest community that the association is obligated to
3 maintain, repair, replace or restore. The reserves may be used only
4 for those purposes, including, without limitation, repairing,
5 replacing and restoring roofs, roads and sidewalks, and must not be
6 used for daily maintenance. The association may comply with the
7 provisions of this paragraph through a funding plan that is designed
8 to allocate the costs for the repair, replacement and restoration of the
9 major components of the common elements and any other portion of
10 the common-interest community that the association is obligated to
11 maintain, repair, replace or restore over a period of years if the
12 funding plan is designed in an actuarially sound manner which will
13 ensure that sufficient money is available when the repair,
14 replacement and restoration of the major components of the
15 common elements or any other portion of the common-interest
16 community that the association is obligated to maintain, repair,
17 replace or restore are necessary. Notwithstanding any provision of
18 the governing documents to the contrary, to establish adequate
19 reserves pursuant to this paragraph, including, without limitation, to
20 establish or carry out a funding plan, the executive board may,
21 without seeking or obtaining the approval of the units' owners,
22 impose any necessary and reasonable assessments against the units
23 in the common-interest community. Any such assessments imposed
24 by the executive board must be based on the study of the reserves of
25 the association conducted pursuant to NRS 116.31152.

26 3. Any assessment for common expenses or installment thereof
27 that is 60 days or more past due ~~bears~~ *may bear* interest at a rate
28 ~~equal to~~ *which may not exceed* the prime rate at the largest bank
29 in Nevada as ascertained by the Commissioner of Financial
30 Institutions on January 1 or July 1, as the case may be, immediately
31 preceding the date the assessment becomes past due, plus 2 percent.
32 The rate must be adjusted accordingly on each January 1 and July 1
33 thereafter until the balance is satisfied.

34 4. Except as otherwise provided in the governing documents:

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

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

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



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

~~If any common expense is caused by the misconduct of any unit's owner, the~~ The association may assess ~~that~~ a common expense exclusively against ~~his or her~~ an individual unit ~~if the common expense:~~

(a) Is caused by the misconduct of a unit's owner, a tenant or an invitee of a unit's owner or tenant; or

(b) Is for the legal fees and costs incurred by the association to enforce a violation of the governing documents.

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

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

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

Sec. 13. NRS 116.31151 is hereby amended to read as follows:

116.31151 1. Except as otherwise provided in subsection 2 and unless the declaration of a common-interest community imposes more stringent standards, the executive board shall, not less than 30 days or more than 60 days before the beginning of the fiscal year of the association, prepare and distribute to each unit's owner a copy of:

(a) The budget for the daily operation of the association. The budget must include, without limitation, the estimated annual revenue and expenditures of the association and any contributions to be made to the reserve account of the association.

(b) The budget to provide adequate funding for the reserves required by paragraph (b) of subsection 2 of NRS 116.3115. The budget must include, without limitation:

(1) The current estimated replacement cost, estimated remaining life and estimated useful life of each major component of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;



(2) As of the end of the fiscal year for which the budget is prepared, the current estimate of the amount of cash reserves that are ~~necessary,~~ *required to adequately fund the reserves*, and the current amount of accumulated cash reserves that are set aside, to repair, replace or restore the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;

(3) A statement as to whether the executive board has determined or anticipates that the levy of one or more ~~special~~ *reserve* assessments will be necessary to repair, replace or restore any major component of the common elements or any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore or to provide adequate funding for the reserves designated for that purpose; and

(4) A general statement describing the procedures used for the estimation and accumulation of cash reserves pursuant to subparagraph (2), including, without limitation, the qualifications of the person responsible for the preparation of the study of the reserves required by NRS 116.31152.

2. In lieu of distributing copies of the budgets of the association required by subsection 1, the executive board may distribute to each unit's owner a summary of those budgets, accompanied by a written notice that:

(a) The budgets are available for review at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties but not to exceed 60 miles from the physical location of the common-interest community; and

(b) Copies of the budgets will be provided upon request.

3. Within 60 days after adoption of any proposed budget for the common-interest community, the executive board shall provide a summary of the proposed budget to each unit's owner and shall set a date for a meeting of the units' owners to consider ratification of the proposed budget not less than 14 days or more than 30 days after the mailing of the summaries. Unless at that meeting a majority of all units' owners, or any larger vote specified in the declaration, reject the proposed budget, the proposed budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the units' owners must be continued until such time as the units' owners ratify a subsequent budget proposed by the executive board.

4. The executive board shall, at the same time and in the same manner that the executive board makes the budget available to a



unit's owner pursuant to this section, make available to each unit's owner ~~the~~ :

(a) *The policy established by the executive board for the ~~association~~ investment of the funds of the association; and*

(b) *The policy established by the executive board concerning the collection of any fees, fines, assessments or costs imposed against a unit's owner pursuant to this chapter. The policy must include, without limitation:*

~~(a)~~ (1) The responsibility of the unit's owner to pay any such fees, fines, assessments or costs in a timely manner; and

~~(b)~~ (2) The association's rights concerning the collection of such fees, fines, assessments or costs if the unit's owner fails to pay the fees, fines, assessments or costs in a timely manner.

Sec. 14. NRS 116.31153 is hereby amended to read as follows:

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

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

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

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

(b) Make automatic payments for utilities ~~or~~;

(c) *Make an electronic transfer of money to a state agency pursuant to NRS 353.1467;*

(d) *Make an electronic transfer of money to the United States Government, or any agency thereof, pursuant to any federal law requiring transfers of money to be made by an electronic means authorized by the United States Government or the agency thereof; or*

(e) *Make an electronic transfer of money to make a payment to a vendor or community manager for goods or services provided by the vendor or community manager pursuant to a written agreement which requires the vendor or community manager to provide goods or services to the association during a period*



1 *specified in the written agreement between the vendor or*
2 *community manager and the association, if:*

3 (1) *The electronic transfer of money is made pursuant to a*
4 *written agreement entered into between the association and the*
5 *financial institution where the operating account of the*
6 *association is maintained;*

7 (2) *The executive board has expressly authorized the*
8 *electronic transfer of money; and*

9 (3) *The association has established internal accounting*
10 *controls to safeguard the assets of the association which comply*
11 *with generally accepted accounting principles.*

12 4. *As used in this section, "electronic transfer of money" has*
13 *the meaning ascribed to it in NRS 353.1467.*

14 **Sec. 15.** NRS 116.3116 is hereby amended to read as follows:

15 116.3116 1. The association has a **statutory** lien on a unit for
16 any construction penalty that is imposed against the unit's owner
17 pursuant to NRS 116.310305, any assessment ~~[levied against]~~
18 **attributable to** that unit or any fines imposed against the unit's
19 owner from the time the construction penalty, assessment or fine
20 becomes due. Unless the declaration otherwise provides, **reasonable**
21 **attorney's fees and other fees to cover the cost of collecting a past**
22 **due obligation which are imposed pursuant to NRS 116.310313,**
23 any ~~[penalties.]~~ fees, charges, late charges, fines and interest
24 charged pursuant to paragraphs (j) to (n), inclusive, of subsection 1
25 of NRS 116.3102 , **and any other amounts due the association**
26 **pursuant to the governing documents, this chapter or the decision**
27 **of an arbitrator, mediator, court or administrative body** are
28 enforceable **in the same manner** as **unpaid** assessments under this
29 section. If an assessment is payable in installments, the full amount
30 of the assessment is a lien from the time the first installment thereof
31 becomes due.

32 2. A lien under this section is prior to all other liens and
33 encumbrances on a unit except:

34 (a) Liens and encumbrances recorded before the recordation of
35 the declaration and, in a cooperative, liens and encumbrances which
36 the association creates, assumes or takes subject to;

37 (b) A first security interest on the unit recorded before the date
38 on which the assessment sought to be enforced became delinquent
39 or, in a cooperative, the first security interest encumbering only the
40 unit's owner's interest and perfected before the date on which the
41 assessment sought to be enforced became delinquent; and

42 (c) Liens for real estate taxes and other governmental
43 assessments or charges against the unit or cooperative.

44 ➔ The lien is also prior to all security interests described in
45 paragraph (b) to the extent of any charges incurred by the



1 association on a unit pursuant to NRS 116.310312 , ~~and~~ to the
2 extent of the assessments for common expenses based on the
3 periodic budget adopted by the association pursuant to NRS
4 116.3115 which would have become due in the absence of
5 acceleration during the 9 months immediately preceding institution
6 of an action to enforce the lien ~~and~~ *and to the extent of any*
7 *reasonable attorney's fees and other fees to cover the cost of*
8 *collecting a past due obligation which are imposed pursuant to*
9 *NRS 116.310313*, unless federal regulations adopted by the Federal
10 Home Loan Mortgage Corporation or the Federal National
11 Mortgage Association require a shorter period of priority for the
12 lien. If federal regulations adopted by the Federal Home Loan
13 Mortgage Corporation or the Federal National Mortgage
14 Association require a shorter period of priority for the lien, the
15 period during which the lien is prior to all security interests
16 described in paragraph (b) must be determined in accordance with
17 those federal regulations, except that notwithstanding the provisions
18 of the federal regulations, the period of priority for the lien must not
19 be less than the 6 months immediately preceding institution of an
20 action to enforce the lien. This subsection does not affect the
21 priority of mechanics' or materialmen's liens, or the priority of liens
22 for other assessments made by the association.

23 3. Unless the declaration otherwise provides, if two or more
24 associations have liens for assessments created at any time on the
25 same property, those liens have equal priority.

26 4. Recording of the declaration constitutes record notice and
27 perfection of the lien. No further recordation of any claim of lien for
28 assessment under this section is required.

29 5. A lien for unpaid assessments is extinguished unless
30 proceedings to enforce the lien are instituted within 3 years after the
31 full amount of the assessments becomes due.

32 6. This section does not prohibit actions *against a unit's owner*
33 to recover sums for which subsection 1 creates a lien or prohibit an
34 association from taking a deed in lieu of foreclosure.

35 7. A judgment or decree in any action brought under this
36 section must include costs and reasonable attorney's fees for the
37 prevailing party.

38 8. The association, upon written request, shall furnish to a
39 unit's owner a statement setting forth the amount of unpaid
40 assessments against the unit. If the interest of the unit's owner is real
41 estate or if a lien for the unpaid assessments may be foreclosed
42 under NRS 116.31162 to 116.31168, inclusive, the statement must
43 be in recordable form. The statement must be furnished within 10
44 business days after receipt of the request and is binding on the
45 association, the executive board and every unit's owner.



9. In a cooperative, upon nonpayment of an assessment on a unit, the unit's owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and:

(a) In a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, the association's lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

(b) In a cooperative where the owner's interest in a unit is personal property under NRS 116.1105, the association's lien:

(1) May be foreclosed as a security interest under NRS 104.9101 to 104.9709, inclusive; or

(2) If the declaration so provides, may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

Sec. 16. NRS 116.31183 is hereby amended to read as follows:

116.31183 1. An executive board, a member of an executive board, a community manager or an officer, employee or agent of an association shall not take, or direct or encourage another person to take, any retaliatory action against a unit's owner because the unit's owner has:

(a) Complained in good faith about any alleged violation of any provision of this chapter or the governing documents of the association;

(b) Recommended the selection or replacement of an attorney, community manager or vendor; or

(c) Requested in good faith to review the books, records or other papers of the association.

2. *A unit's owner, a tenant or an invitee of a unit's owner or tenant shall not knowingly threaten:*

(a) To cause bodily injury to a member of the executive board, an officer, employee or agent of the association, or another unit's owner;

(b) To cause physical damage to the property of a member of the executive board or an officer, employee or agent of the association;

(c) To subject a member of the executive board, an officer, employee or agent of the association, or another unit's owner to physical confinement or constraint; or

(d) To do any act which is intended to substantially harm a member of the executive board, an officer, employee or agent of the association, or another unit's owner with respect to his or her physical or mental health or safety,

↳ if the person by words or conduct places the person receiving the threat in reasonable fear that the threat will be carried out.



1 3. A unit's owner shall not take, or direct or encourage
2 another person to take, any retaliatory action against a member of
3 the executive board, an officer, employee or agent of the
4 association, or another unit's owner because the member of the
5 executive board, the officer, employee or agent, or the unit's
6 owner has:

7 (a) Performed his or her duties under the governing
8 documents or the provisions of this chapter; or

9 (b) Exercised his or her rights under the governing documents
10 or the provisions of this chapter.

11 4. In addition to any other remedy provided by law, upon a
12 violation of this section, a ~~[unit's owner]~~ person aggrieved by the
13 violation may bring a separate action to recover:

14 (a) Compensatory damages; and

15 (b) Attorney's fees and costs of bringing the separate action.

16 **Sec. 17.** NRS 116.4106 is hereby amended to read as follows:

17 116.4106 1. The public offering statement of a common-
18 interest community containing any converted building must contain,
19 in addition to the information required by NRS 116.4103 and
20 116.41035:

21 (a) A statement by the declarant, based on a report prepared by
22 an independent registered architect or licensed professional
23 engineer, describing the present condition of all structural
24 components and mechanical and electrical installations material to
25 the use and enjoyment of the building;

26 (b) A list of any outstanding notices of uncured violations of
27 building codes or other municipal regulations, together with the
28 estimated cost of curing those violations; and

29 (c) The budget to maintain the reserves required pursuant to
30 paragraph (b) of subsection 2 of NRS 116.3115 which must include,
31 without limitation:

32 (1) The current estimated replacement cost, estimated
33 remaining life and estimated useful life of each major component of
34 the common elements;

35 (2) As of the end of the fiscal year for which the budget was
36 prepared, the current estimate of the amount of cash reserves that
37 are necessary to repair, replace and restore the major components of
38 the common elements and the current amount of accumulated cash
39 reserves that are set aside for such repairs, replacements and
40 restorations;

41 (3) A statement as to whether the declarant has determined or
42 anticipates that the levy of one or more ~~[special]~~ reserve
43 assessments will be required within the next 10 years to repair,
44 replace and restore any major component of the common elements
45 or to provide adequate reserves for that purpose;



(4) A general statement describing the procedures used for the estimation and accumulation of cash reserves described in subparagraph (2), including, without limitation, the qualifications of the person responsible for the preparation of the study of reserves required pursuant to NRS 116.31152; and

(5) The funding plan that is designed to allocate the costs for the repair, replacement and restoration of the major components of the common elements over a period of years.

2. This section applies only to a common-interest community comprised of a converted building or buildings containing more than 12 units that may be occupied for residential use.

Sec. 18. NRS 116.4117 is hereby amended to read as follows:

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

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

(a) By the association against:

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

(b) By a unit's owner against:

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

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

3. *Members of the executive board are not personally liable to the victims of crimes occurring on the property.*

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

~~[4.]~~ *Punitive damages may not be recovered against:*

(a) *The association;*

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



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

3 (d) *The community manager of an association for acts or*
4 *omissions that occur in his or her capacity as the community*
5 *manager of the association.*

6 5. The court may award reasonable attorney's fees to the
7 prevailing party.

8 ~~5.1~~ 6. The civil remedy provided by this section is in addition
9 to, and not exclusive of, any other available remedy or penalty.

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

14 **Sec. 19.** NRS 116A.410 is hereby amended to read as follows:

15 116A.410 1. The Commission shall by regulation provide for
16 the issuance by the Division of certificates. The regulations:

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

21 (1) Provide for the issuance of a temporary certificate for a
22 1-year period to a person who:

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

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

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

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

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

37 (II) Has management experience determined to be
38 sufficient by the executive board of the association or its agent
39 making the offer in sub-subparagraph (I). The executive board or its
40 agent must have sole discretion to make the determination required
41 in this sub-subparagraph.

42 (3) Require a temporary certificate described in subparagraph
43 (2) to expire before the end of the 1-year period if the certificate
44 holder ceases to be employed by the association, or its agent, which
45 offered the person employment as described in subparagraph (2).



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

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

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

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

(6) Provide that a temporary certificate described in subparagraph (1) or (2) and a certificate described in subparagraph (5):

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

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

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

~~—(c)]~~ May require applicants to pass an examination in order to obtain a certificate 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.

~~[(d)]~~ (c) Must establish a procedure for a person who was previously issued a certificate and who no longer holds a certificate to reapply for and obtain a new certificate without undergoing any period of supervision under another community manager, regardless of the length of time that has passed since the person last acted as a community manager.

~~[(e)]~~ (d) May require an investigation of an applicant's background. If the regulations require such an investigation, the



1 Commission shall by regulation establish fees to pay the costs of the
2 investigation.

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

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

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

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

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

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

26 **Sec. 20.** NRS 116A.620 is hereby amended to read as follows:

27 116A.620 1. Any management agreement must:

28 (a) Be in writing and signed by all parties;

29 (b) Be entered into between the client and the community
30 manager or the employer of the community manager if the
31 community manager is acting on behalf of a corporation,
32 partnership, limited partnership, limited-liability partnership,
33 limited-liability company or other entity;

34 (c) State the term of the management agreement;

35 (d) State the basic consideration for the services to be provided
36 and the payment schedule;

37 (e) Include a complete schedule of all fees, costs, expenses and
38 charges to be imposed by the community manager, whether direct or
39 indirect, including, without limitation:

40 (1) The costs for any new ~~client~~ *association* or start-up
41 costs;

42 (2) The fees for special or nonroutine services, such as the
43 mailing of collection letters, the recording of liens and foreclosing
44 of property;

45 (3) Reimbursable expenses;



(4) The fees for the sale or resale of a unit or for setting up the account of a new member; and

(5) The portion of fees that are to be retained by the client and the portion to be retained by the community manager;

(f) State the identity and the legal status of the contracting parties;

(g) State any limitations on the liability of each contracting party ~~{ }~~ , *including, without limitation, any provisions for indemnification of the community manager;*

(h) Include a statement of the scope of work of the community manager;

(i) State the spending limits of the community manager;

(j) Include provisions relating to the grounds and procedures for termination of the community manager;

(k) Identify the types and amounts of insurance coverage to be carried by each contracting party, including, without limitation:

(1) A ~~{requirement that}~~ *statement as to whether* the community manager ~~{for his or her employer shall}~~ *will* maintain insurance covering liability for errors ~~{or}~~ *and* omissions ~~{ }~~ *or* professional liability ; ~~{for a surety bond to compensate for losses actionable pursuant to this chapter in an amount of \$1,000,000 or more;}~~

(2) An indication of which contracting party will maintain fidelity bond coverage; ~~{and}~~

(3) A statement as to whether the client will maintain directors and officers liability coverage for the executive board; *and*

(4) A statement as to whether each contracting party must be named as an additional insured under any required insurance;

~~(l) {Include provisions for dispute resolution;~~

~~—(m)}~~ Acknowledge that all records and books of the client are the property of the client, except any proprietary information and software belonging to the community manager;

~~{(n)}~~ *(m)* State the physical location, including the street address, of the records of the client, which must be within 60 miles from the physical location of the common-interest community;

~~{(o)}~~ *(n)* State the frequency and extent of regular inspections of the common-interest community; and

~~{(p)}~~ *(o)* State the extent, if any, of the authority of the community manager to sign checks on behalf of the client in an operating account.

2. In addition to any other requirements under this section, a management agreement may:

(a) Provide for mandatory binding arbitration; ~~{or}~~



(b) *Provide for indemnification of the community manager in accordance with and subject to the appropriate provisions of title 7 of NRS; and*

(c) Allow the provisions of the management agreement to apply month to month following the end of the term of the management agreement, but the management agreement may not contain an automatic renewal provision.

3. Not later than 10 days after the effective date of a management agreement, the community manager shall provide each member of the executive board evidence of the existence of the required insurance, including, without limitation:

(a) The names and addresses of all insurance companies;

(b) The total amount of coverage; and

(c) The amount of any deductible.

4. After signing a management agreement, the community manager shall provide a copy of the management agreement to each member of the executive board. Within 30 days after an election or appointment of a new member to the executive board, the community manager shall provide the new member with a copy of the management agreement.

5. Any changes to a management agreement must be initialed by the contracting parties. If there are any changes after the execution of a management agreement, those changes must be in writing and signed by the contracting parties.

6. Except as otherwise provided in the management agreement, upon the termination or assignment of a management agreement, the community manager shall, within 30 days after the termination or assignment, transfer possession of all books, records and other papers of the client to the succeeding community manager, or to the client if there is no succeeding community manager, regardless of any unpaid fees or charges to the community manager or management company. *If any books, records or other papers of the client are in an electronic format, the community manager must transfer possession of the books, records or other papers in a shareable format which:*

(a) *Does not require a person seeking access to the books, records or other papers to enter a password to obtain such access; and*

(b) *Allows the client to immediately save, print and use the books, records or other papers.*

7. Notwithstanding any provision in a management agreement to the contrary, a management agreement may be terminated by the client without penalty upon 30 days' notice following a violation by the community manager of any provision of this chapter or chapter 116 of NRS.



Sec. 21. NRS 116A.630 is hereby amended to read as follows:

116A.630 In addition to any additional standards of practice for community managers adopted by the Commission by regulation pursuant to NRS 116A.400, a community manager shall:

1. Except as otherwise provided by specific statute, at all times:

(a) Act as a fiduciary in any client relationship; and

(b) Exercise ordinary and reasonable care in the performance of duties.

2. Comply with all applicable:

(a) Federal, state and local laws, regulations and ordinances; and

(b) Lawful provisions of the governing documents of each client.

3. Keep informed of new developments in the management of a common-interest community through continuing education, including, without limitation, new developments in law, insurance coverage and accounting principles.

4. Advise a client to obtain advice from an independent expert relating to matters that are beyond the expertise of the community manager.

5. Under the direction of a client, uniformly enforce the provisions of the governing documents of the association.

6. At all times ensure that:

(a) The financial transactions of a client are current, accurate and properly documented; and

(b) There are established policies and procedures that are designed to provide reasonable assurances in the reliability of the financial reporting, including, without limitation:

(1) Proper maintenance of accounting records;

(2) Documentation of the authorization for any purchase orders, expenditures or disbursements;

(3) Verification of the integrity of the data used in business decisions;

(4) Facilitation of fraud detection and prevention; and

(5) Compliance with all applicable laws and regulations governing financial records.

7. Prepare or cause to be prepared interim and annual financial statements that will allow the Division, the executive board, the units' owners and the accountant or auditor to determine whether the financial position of an association is fairly presented in accordance with all applicable laws and regulations.

8. Cause to be prepared, if required by the Division, a financial audit performed by an independent certified public accountant of the records of the community manager pertaining to the common-interest community, which must be made available to the Division.



* S B 1 7 4 *

9. Make the financial records of an association available for inspection by the Division in accordance with the applicable laws and regulations.

10. Cooperate with the Division in resolving complaints filed with the Division.

11. Upon written request, make the financial records of an association available to the units' owners electronically or during regular business hours required for inspection at a reasonably convenient location, which must be within 60 miles from the physical location of the common-interest community, and provide copies of such records in accordance with the applicable laws and regulations. As used in this subsection, "regular business hours" means Monday through Friday, 9 a.m. to 5 p.m., excluding legal holidays.

12. ~~[Maintain] At the direction of the client, deposit, maintain~~ and invest association funds in ~~[a financial institution whose accounts are insured by the Federal Deposit Insurance Corporation, National Credit Union Share Insurance Fund, Securities Investor Protection Corporation, or a private insurer approved pursuant to NRS 678.755, or in government securities that are backed by the full faith and credit of the United States Government.]~~ *accordance with NRS 116.311395.*

13. Except as required under collection agreements, maintain the various funds of the client in separate financial accounts in the name of the client and ensure that the association is authorized to have direct access to those accounts.

14. Provide notice to each unit's owner that the executive board is aware of all legal requirements pursuant to the applicable laws and regulations.

15. Maintain internal accounting controls, including, without limitation, segregation of incompatible accounting functions.

16. Ensure that the executive board develops and approves written investment policies and procedures.

17. Recommend in writing to each client that the client register with the Division, maintain its registration and file all papers with the Division and the Secretary of State as required by law.

18. Comply with the directions of a client, unless the directions conflict with the governing documents of the client or the applicable laws or regulations of this State.

19. Recommend in writing to each client that the client be in compliance with all applicable federal, state and local laws, regulations and ordinances and the governing documents of the client.

20. Obtain, when practicable, at least three qualified bids for any capital improvement project for the client.



21. Develop written collection policies, approved by the executive board, to comply with all applicable federal, state and local laws, regulations and ordinances relating to the collection of debt. The collection policies must require:

(a) That the executive board approve all write-offs of debt; and

(b) That the community manager provide timely updates and reports as necessary.

Sec. 22. NRS 76.020 is hereby amended to read as follows:

76.020 1. Except as otherwise provided in subsection 2, "business" means:

(a) Any person, except a natural person, that performs a service or engages in a trade for profit;

(b) Any natural person who performs a service or engages in a trade for profit if the person is required to file with the Internal Revenue Service a Schedule C (Form 1040), Profit or Loss From Business Form, or its equivalent or successor form, a Schedule E (Form 1040), Supplemental Income and Loss Form, or its equivalent or successor form, or a Schedule F (Form 1040), Profit or Loss From Farming Form, or its equivalent or successor form, for that activity; or

(c) Any entity organized pursuant to this title, including, without limitation, those entities required to file with the Secretary of State, whether or not the entity performs a service or engages in a business for profit.

2. The term does not include:

(a) A governmental entity.

(b) A nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c).

(c) A person who operates a business from his or her home and whose net earnings from that business are not more than $66 \frac{2}{3}$ percent of the average annual wage, as computed for the preceding calendar year pursuant to chapter 612 of NRS and rounded to the nearest hundred dollars.

(d) A natural person whose sole business is the rental of four or fewer dwelling units to others.

(e) A business whose primary purpose is to create or produce motion pictures. As used in this paragraph, "motion pictures" has the meaning ascribed to it in NRS 231.020.

(f) A business organized pursuant to chapter 82 or 84 of NRS ~~or a unit-owners' association, as that term is defined in NRS 116.011 or 116B.030, that is organized pursuant to chapter 81 of NRS.~~



Sec. 23. NRS 76.100 is hereby amended to read as follows:

76.100 1. A person shall not conduct a business in this State unless and until the person obtains a state business license issued by the Secretary of State. If the person is:

(a) An entity required to file an initial or annual list with the Secretary of State pursuant to this title, the person must obtain the state business license at the time of filing the initial or annual list.

(b) Not an entity required to file an initial or annual list with the Secretary of State pursuant to this title, the person must obtain the state business license before conducting a business in this State.

2. An application for a state business license must:

(a) Be made upon a form prescribed by the Secretary of State;

(b) Set forth the name under which the applicant transacts or intends to transact business, or if the applicant is an entity organized pursuant to this title and on file with the Secretary of State, the exact name on file with the Secretary of State, the entity number as assigned by the Secretary of State, if known, and the location in this State of the place or places of business;

(c) Be accompanied by a fee in the amount of \$100; and

(d) Include any other information that the Secretary of State deems necessary.

➤ If the applicant is an entity organized pursuant to this title and on file with the Secretary of State and the applicant has no location in this State of its place of business, the address of its registered agent shall be deemed to be the location in this State of its place of business.

3. The application must be signed pursuant to NRS 239.330 by:

(a) The owner of a business that is owned by a natural person.

(b) A member or partner of an association or partnership.

(c) A general partner of a limited partnership.

(d) A managing partner of a limited-liability partnership.

(e) A manager or managing member of a limited-liability company.

(f) An officer of a corporation or some other person specifically authorized by the corporation to sign the application.

4. If the application for a state business license is defective in any respect or the fee required by this section is not paid, the Secretary of State may return the application for correction or payment.

5. The state business license required to be obtained pursuant to this section is in addition to any license to conduct business that must be obtained from the local jurisdiction in which the business is being conducted.



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1 6. For the purposes of this chapter, a person shall be deemed to
2 conduct a business in this State if a business for which the person is
3 responsible:

4 (a) Is organized pursuant to this title, other than a business
5 organized pursuant to chapter 82 or 84 of NRS ~~§~~ *or a unit-owners'*
6 *association, as that term is defined in NRS 116.011 or 116B.030,*
7 *that is organized pursuant to chapter 81 of NRS.*

8 (b) Has an office or other base of operations in this State;

9 (c) Has a registered agent in this State; or

10 (d) Pays wages or other remuneration to a natural person who
11 performs in this State any of the duties for which he or she is paid.

12 7. As used in this section, “registered agent” has the meaning
13 ascribed to it in NRS 77.230.

