

SENATE BILL NO. 204—SENATOR COPENING

FEBRUARY 28, 2011

Referred to Committee on Judiciary

SUMMARY—Enacts certain amendments to the Uniform Common-Interest Ownership Act. (BDR 10-298)

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; enacting certain amendments to the Uniform Common-Interest Ownership Act; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law relating to common-interest communities is based on the Uniform Common-Interest Ownership Act (UCIOA), which was proposed by the Uniform Law Commission (ULC). (Chapter 116 of NRS) This bill enacts certain amendments to the UCIOA which have been proposed by the ULC.

Sections 2, 40 and 41 of this bill prescribe the manner in which an association must provide notice of meetings of units' owners and of the executive board and any other notice required to be given by an association other than notices relating to the foreclosure of a lien on a unit held by the association.

Section 4 of this bill authorizes the executive board or any other interested person to commence an action in the district court for the termination of a common-interest community if: (1) substantially all the units in the common-interest community have been destroyed or are uninhabitable; and (2) the available methods for giving notice of a meeting of units' owners to consider termination are not likely to result in receipt of the notice.

Sections 5 and 6 of this bill reorganize and reenact certain provisions of existing law relating to the indemnification of members of executive boards and the provision of equal space to opposing views in official publications under certain circumstances.

Under existing law, the definitions applicable to laws relating to common-interest communities apply to the declarations and bylaws of associations. (NRS 116.003) **Section 7** of this bill provides that those definitions no longer apply to those declarations and bylaws.

Sections 8-16 of this bill change certain definitions set forth in existing law to conform to the language of the UCIOA.

Existing law provides that other principles of law, including, without limitation, the law of corporations and the law of unincorporated associations, supplement the existing law relating to common-interest communities. (NRS 116.1108) **Section 18**



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of this bill provides that the laws governing other forms of organization supplement the existing law relating to common-interest communities.

Sections 20-22 of this bill adopt the language of certain amendments to the UCIOA relating to the applicability of existing law governing common-interest communities.

Sections 24-31 of this bill adopt the language of certain amendments to the UCIOA relating to the creation, alteration and termination of common-interest communities. **Section 29** grants units' owners the right to use the common elements for the purposes for which they were intended rather than granting an easement to use the common elements for all purposes. **Section 30** amends provisions relating to requirements for amending the declaration of a common-interest community and to the enforcement of certain amendments. **Section 31** amends the requirements for the termination of a common-interest community.

Sections 32-51 of this bill enact certain amendments to the UCIOA which relate to the governance of common-interest communities. **Section 32** requires the association to have an executive board and allows the association to be organized as any form of organization authorized by the law of this State. **Section 33** allows the executive board not to take enforcement action if it determines that: (1) the law does not support such action; (2) the violation is not so material as to be objectionable to a reasonable person or to justify expending the association's resources; or (3) it is not in the best interest of the association to pursue an enforcement action. **Section 34** provides that officers of the association and members of the executive board are subject to the conflict of interest rules which govern officers and directors of nonprofit corporations organized under the law of this State. **Section 36** authorizes a declarant to end the period of declarant's control by giving notice to units' owners and recording an instrument stating that the declarant surrenders all rights to control activities of the association. **Section 38** amends provisions relating to the termination of certain contracts entered into before the election of an executive board by units' owners. **Section 40** provides that the portion of a meeting of the units' owners devoted to comments by units' owners is limited to comments by units' owners regarding any matter affecting the common-interest community or the association. **Section 42** amends requirements for determining whether a quorum is present at a meeting of the executive board to provide that a majority of the votes on the executive board must be present at the time a vote is taken rather than at the beginning of the meeting. **Section 43** authorizes units' owners to vote by absentee ballot at a meeting of the units' owners. **Section 44** provides that a unit's owner is not liable, by reason of being a unit's owner, for injuries or damage arising out of the condition or use of the common elements. **Section 45** requires an association to obtain fidelity insurance and requires the association to maintain property, liability and fidelity insurance subject to reasonable deductibles. **Section 48** amends provisions relating to common expenses caused by a unit's owner, a tenant or an invitee of a unit's owner or tenant. **Section 49** amends provisions relating to liens for certain charges imposed by an association and authorizes a court to appoint a receiver when an association brings an action to foreclose a lien or collect assessments. **Sections 51 and 60** amend provisions relating to the books and records of an association and the inspection of such books and records by units' owners.

Sections 52-58 of this bill enact certain amendments to the UCIOA which relate to the disclosures provided to purchasers of real estate located in a common-interest community and the warranties applicable to real estate located in a common-interest community. **Section 52** exempts the disposition of a unit restricted to nonresidential purposes from the requirement to provide a public offering statement or certificate of resale. **Section 53** amends the information required to be included in the public offering statement provided to an initial purchaser of a unit. **Section 56** provides that a model or description of the physical



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83 characteristics of a common-interest community does not create an express
84 warranty that the community will conform to the model or description if the model
85 or description clearly discloses that it is subject to change.

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

1 **Section 1.** Chapter 116 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 6, inclusive, of this
3 act.

4 **Sec. 2.** *1. Except as otherwise provided in subsection 3, an*
5 *association shall deliver any notice required to be given by the*
6 *association under this chapter to any mailing or electronic mail*
7 *address a unit's owner designates. Except as otherwise provided in*
8 *subsection 3, if a unit's owner has not designated a mailing or*
9 *electronic mail address to which a notice must be delivered, the*
10 *association may deliver notices by:*

11 *(a) Hand delivery to each unit's owner;*

12 *(b) Hand delivery, United States mail, postage paid, or*
13 *commercially reasonable delivery service to the mailing address of*
14 *each unit;*

15 *(c) Electronic means, if the unit's owner has given the*
16 *association an electronic mail address; or*

17 *(d) Any other method reasonably calculated to provide notice*
18 *to the unit's owner.*

19 **2.** *The ineffectiveness of a good faith effort to deliver notice*
20 *by an authorized means does not invalidate action taken at or*
21 *without a meeting.*

22 **3.** *The provisions of this section do not apply:*

23 *(a) To a notice required to be given pursuant to NRS 116.3116*
24 *to 116.31168, inclusive; or*

25 *(b) If any other provision of this chapter specifies the manner*
26 *in which a notice must be given by an association.*

27 **Sec. 3.** *This chapter modifies, limits and supersedes the*
28 *federal Electronic Signatures in Global and National Commerce*
29 *Act, 15 U.S.C. §§ 7001 et seq., but does not modify, limit or*
30 *supersede Section 101(c) of that Act, 15 U.S.C. § 7001(c), or*
31 *authorize electronic delivery of any of the notices described in*
32 *Section 103(b) of that Act, 15 U.S.C. § 7003(b).*

33 **Sec. 4.** *If substantially all the units in a common-interest*
34 *community have been destroyed or are uninhabitable and the*
35 *available methods for giving notice under NRS 116.3108 of a*
36 *meeting of units' owners to consider termination under NRS*
37 *116.2118 will not likely result in receipt of the notice, the executive*
38 *board or any other interested person may commence an action in*



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1 *the district court of the county in which the common-interest*
2 *community is located seeking to terminate the common-interest*
3 *community. During the pendency of the action, the court may*
4 *issue whatever orders it considers appropriate, including, without*
5 *limitation, an order for the appointment of a receiver. After a*
6 *hearing, the court may terminate the common-interest community*
7 *or reduce its size and may issue any other order the court*
8 *considers to be in the best interest of the units' owners and*
9 *persons holding an interest in the common-interest community.*

10 **Sec. 5.** *If a member of an executive board is named as a*
11 *respondent or sued for liability for actions undertaken in his or*
12 *her role as a member of the board, the association shall indemnify*
13 *the member for his or her losses or claims, and undertake all costs*
14 *of defense, unless it is proven that the member acted with willful*
15 *or wanton misfeasance or with gross negligence. After such proof,*
16 *the association is no longer liable for the cost of defense, and may*
17 *recover costs already expended from the member of the executive*
18 *board who so acted.*

19 **Sec. 6. 1.** *If an official publication contains or will contain*
20 *any mention of a candidate or ballot question, the official*
21 *publication must, upon request and without charge, provide equal*
22 *space to the candidate or a representative of an organization*
23 *which supports the passage or defeat of the ballot question.*

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

31 **3.** *The association and its officers, employees and agents are*
32 *immune from criminal or civil liability for any act or omission*
33 *which arises out of the publication or disclosure of any*
34 *information related to any person and which occurs in the course*
35 *of carrying out any duties required pursuant to subsection 1 or 2.*

36 **4.** *As used in this section:*

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

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

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

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

44 **(1)** *An official website;*



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

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

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

Sec. 7. NRS 116.003 is hereby amended to read as follows:

116.003 As used in this chapter , ~~[and in the declaration and bylaws of an association,]~~ unless the context otherwise requires, the words and terms defined in NRS 116.005 to 116.095, inclusive, have the meanings ascribed to them in those sections.

Sec. 8. NRS 116.007 is hereby amended to read as follows:

116.007 ~~[1-]~~ "Affiliate of a declarant" means any person who controls, is controlled by or is under common control with a declarant.

~~[2-]~~ *For purposes of this section:*

1. A person ~~["controls"]~~ *controls* a declarant if the person:

(a) Is a general partner, officer, director or employer of the declarant;

(b) Directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote or holds proxies representing, more than 20 percent of the voting interest in the declarant;

(c) Controls in any manner the election of a majority of the directors of the declarant; or

(d) Has contributed more than 20 percent of the capital of the declarant.

~~[3-]~~ **2.** A person ~~["is"]~~ *is* controlled ~~["by"]~~ *by* a declarant if the declarant:

(a) Is a general partner, officer, director or employer of the person;

(b) Directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote or holds proxies representing, more than 20 percent of the voting interest in the person;

(c) Controls in any manner the election of a majority of the directors of the person; or

(d) Has contributed more than 20 percent of the capital of the person.

~~[4-]~~ **3.** Control does not exist if the powers described in this section are held solely as security for an obligation and are not exercised.



Sec. 9. NRS 116.009 is hereby amended to read as follows:

116.009 "Allocated interests" means the following interests allocated to each unit:

1. In a condominium, the undivided interest in the common elements, the liability for common expenses, and votes in the association;

2. In a cooperative, the liability for common expenses , ~~and~~ the ownership *interest* and votes in the association; and

3. In a planned community, the liability for common expenses and votes in the association.

Sec. 10. NRS 116.017 is hereby amended to read as follows:

116.017 "Common elements" means:

1. In ~~the~~ *the case of:*

(a) A condominium or cooperative, all portions of the common-interest community other than the units, including easements in favor of units or the common elements over other units . ~~;~~ ~~and~~

~~2. In a~~

(b) A planned community, any real estate within ~~the~~ *a* planned community *which is* owned or leased by the association, other than a unit.

2. *In all common-interest communities, any other interests in real estate for the benefit of units' owners which are subject to the declaration.*

Sec. 11. NRS 116.035 is hereby amended to read as follows:

116.035 "Declarant" means any person or group of persons acting in concert who:

1. As part of a common promotional plan, offers to dispose of ~~this or her or its~~ *the* interest *of the person or group of persons* in a unit not previously disposed of; or

2. Reserves or succeeds to any special declarant's right.

Sec. 12. NRS 116.045 is hereby amended to read as follows:

116.045 "Executive board" means the body, regardless of name, designated in the declaration *or bylaws* to act on behalf of the association.

Sec. 13. NRS 116.079 is hereby amended to read as follows:

116.079 "Purchaser" means a person, other than a declarant or a dealer, who by means of a voluntary transfer acquires a legal or equitable interest in a unit other than ~~a~~ :

1. A leasehold interest, including options to renew, of less than 20 years ~~;~~ ~~or as~~ ; *or*

2. *As* security for an obligation.

Sec. 14. NRS 116.081 is hereby amended to read as follows:

116.081 "Real estate" means any leasehold or other estate or interest in, over or under land, including structures, fixtures and other improvements and interests that by custom, usage or law pass



1 with a conveyance of land though not described in the contract of
2 sale or instrument of conveyance. ~~["Real-estate"]~~ *The term* includes
3 parcels with or without upper or lower boundaries and spaces that
4 may be filled with air or water.

5 **Sec. 15.** NRS 116.089 is hereby amended to read as follows:

6 116.089 "Special declarant's rights" means rights reserved for
7 the benefit of a declarant to:

8 1. Complete improvements indicated on plats or in the
9 declaration ~~[(NRS 116.2109)]~~ or, in a cooperative, to complete
10 improvements described in the public offering statement pursuant to
11 *paragraph (b) of subsection 2* ~~1~~ of NRS 116.4103;

12 2. Exercise any developmental right ; ~~[(NRS 116.211)]~~;

13 3. Maintain sales offices, management offices, signs
14 advertising the common-interest community and models ;
15 ~~[(NRS 116.2115)]~~;

16 4. Use easements through the common elements for the
17 purpose of making improvements within the common-interest
18 community or within real estate which may be added to the
19 common-interest community ; ~~[(NRS 116.2116)]~~;

20 5. Make the common-interest community subject to a master
21 association ; ~~[(NRS 116.212)]~~;

22 6. Merge or consolidate a common-interest community with
23 another common-interest community of the same form of ownership
24 ; ~~[(NRS 116.2121)]~~; or

25 7. Appoint or remove any officer of the association or any
26 master association or any member of an executive board during any
27 period of declarant's control . ~~[(NRS 116.31032)]~~;

28 **Sec. 16.** NRS 116.095 is hereby amended to read as follows:

29 116.095 "Unit's owner" means a declarant or other person who
30 owns a unit, or a lessee of a unit in a leasehold common-interest
31 community whose lease expires simultaneously with any lease the
32 expiration or termination of which will remove the unit from the
33 common-interest community, but does not include a person having
34 an interest in a unit solely as security for an obligation. In a
35 condominium or planned community, the declarant is the owner of
36 any unit created by the declaration until that unit is conveyed to
37 another person. In a cooperative, the declarant is treated as the
38 owner of any unit to which allocated interests have been allocated
39 ~~[(NRS 116.2107)]~~ until that unit has been conveyed to another
40 person.

41 **Sec. 17.** NRS 116.1104 is hereby amended to read as follows:

42 116.1104 Except as expressly provided in this chapter, its
43 provisions may not be varied by agreement, and rights conferred by
44 it may not be waived. ~~[A]~~ *Except as otherwise provided in*
45 *paragraph (b) of subsection 2 of NRS 116.12075, a* declarant may



1 not act under a power of attorney, or use any other device, to evade
2 the limitations or prohibitions of this chapter or the declaration.

3 **Sec. 18.** NRS 116.1108 is hereby amended to read as follows:

4 116.1108 The principles of law and equity, including the law
5 of corporations ~~{1}~~ *and any other form of organization authorized*
6 *by law of this State*, the law of unincorporated associations, the law
7 of real property, and the law relative to capacity to contract,
8 principal and agent, eminent domain, estoppel, fraud,
9 misrepresentation, duress, coercion, mistake, receivership,
10 substantial performance, or other validating or invalidating cause
11 supplement the provisions of this chapter, except to the extent
12 inconsistent with this chapter.

13 **Sec. 19.** NRS 116.1114 is hereby amended to read as follows:

14 116.1114 ~~{1}~~ The remedies provided by this chapter must be
15 liberally administered to the end that the aggrieved party is put in a
16 good a position as if the other party had fully performed.
17 Consequential, special or punitive damages may not be awarded
18 except as specifically provided in this chapter or by other rule of
19 law.

20 ~~{2. Any right or obligation declared by this chapter is~~
21 ~~enforceable by judicial proceeding.}~~

22 **Sec. 20.** NRS 116.1201 is hereby amended to read as follows:

23 116.1201 1. Except as otherwise provided in this section and
24 NRS 116.1203, this chapter applies to all common-interest
25 communities created within this State.

26 2. This chapter does not apply to:

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

29 (1) Shall pay the fees required pursuant to NRS 116.31155,
30 except that if the limited-purpose association is created for a rural
31 agricultural residential common-interest community, the limited-
32 purpose association is not required to pay the fee unless the
33 association intends to use the services of the Ombudsman;

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

36 (3) Shall comply with the provisions of:

37 (I) NRS 116.31038;

38 (II) NRS 116.31083 and 116.31152, unless the limited-
39 purpose association is created for a rural agricultural residential
40 common-interest community;

41 (III) NRS 116.31073, if the limited-purpose association is
42 created for maintaining the landscape of the common elements of
43 the common-interest community; and



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

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

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

(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter or a part of this chapter does apply to that planned community pursuant to NRS 116.12075. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted only if the declaration so provides or if the real estate comprising the units that may be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.

(c) Common-interest communities or units located outside of this State, but ~~the provisions of~~ NRS 116.4102 ~~to 116.4108,~~ and 116.4103, and, to the extent applicable, NRS 116.4104 to 116.4107, inclusive, apply to ~~all contracts~~ a contract for the disposition ~~thereof~~ of a unit in that common-interest community signed in this State by any party unless exempt under subsection 2 of NRS 116.4101.

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

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

3. The provisions of this chapter do not:

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

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

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



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

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

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

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

5. The Commission shall establish, by regulation:

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

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

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

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

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

(2) Facilities for flood control; or

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

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

Sec. 21. NRS 116.1203 is hereby amended to read as follows:

116.1203 1. Except as otherwise provided in subsection 2, if a planned community contains no more than 12 units and is not subject to any developmental rights, it is subject only to NRS 116.1106 and 116.1107 unless the declaration provides that this entire chapter is applicable.

2. Except for NRS 116.3104, 116.31043, 116.31046 and 116.31138, the provisions of NRS 116.3101 to 116.350, inclusive,



1 *and sections 5 and 6 of this act* and the definitions set forth in NRS
2 116.005 to 116.095, inclusive, to the extent that such definitions are
3 necessary in construing any of those provisions, apply to a
4 residential planned community containing more than six units.

5 **Sec. 22.** NRS 116.1206 is hereby amended to read as follows:

6 116.1206 1. Any provision contained in a declaration, bylaw
7 or other governing document of a common-interest community that
8 violates the provisions of this chapter:

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

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

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

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

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

26 3. An amendment to the declaration, bylaws or plats authorized
27 by this section to be made under this chapter must be adopted in
28 conformity with the applicable provisions of chapter 117 or 278A of
29 NRS and , *except as otherwise provided in subsection 8 of NRS*
30 *116.2117*, with the procedures and requirements specified by those
31 instruments. If an amendment grants to ~~[any]~~ a person ~~[any rights,~~
32 ~~powers or privileges]~~ *a right, power or privilege* permitted by this
33 chapter, ~~[all]~~ any correlative ~~[obligations, liabilities and restrictions]~~
34 *obligation, liability or restriction* in this chapter also ~~[apply to that]~~
35 *applies to the* person.

36 **Sec. 23.** NRS 116.12075 is hereby amended to read as
37 follows:

38 116.12075 1. The provisions of this chapter do not apply to a
39 nonresidential condominium except to the extent that the declaration
40 for the nonresidential condominium provides that:

41 (a) This entire chapter applies to the condominium;

42 (b) Only the provisions of NRS 116.001 to 116.2122, inclusive,
43 and 116.3116 to 116.31168, inclusive, apply to the condominium; or

44 (c) Only the provisions of NRS 116.3116 to 116.31168,
45 inclusive, apply to the condominium.



2. If this entire chapter applies to a nonresidential condominium, the declaration may also require, subject to NRS 116.1112, that:

(a) Notwithstanding NRS 116.3105, any management, maintenance operations or employment contract, lease of recreational or parking areas or facilities and any other contract or lease between the association and a declarant or an affiliate of a declarant continues in force after the declarant turns over control of the association; and

(b) Notwithstanding NRS 116.1104 and subsection ~~2~~ 3 of NRS 116.311, purchasers of units must execute proxies, powers of attorney or similar devices in favor of the declarant regarding particular matters enumerated in those instruments.

Sec. 24. NRS 116.2103 is hereby amended to read as follows:

116.2103 1. The inclusion in a governing document of an association of a provision that violates any provision of this chapter does not render any other provisions of the governing document invalid or otherwise unenforceable if the other provisions can be given effect in accordance with their original intent and the provisions of this chapter.

2. The rule against perpetuities and NRS 111.103 to 111.1039, inclusive, do not apply to defeat any provision of the declaration, bylaws, rules or regulations adopted pursuant to NRS 116.3102.

3. ~~In the event of~~ If a conflict *exists* between ~~the provisions of~~ the declaration and the bylaws, the declaration prevails except to the extent the declaration is inconsistent with this chapter.

4. Title to a unit and common elements is not rendered unmarketable or otherwise affected by reason of an insubstantial failure of the declaration to comply with this chapter. Whether a substantial failure impairs marketability is not affected by this chapter.

Sec. 25. NRS 116.2105 is hereby amended to read as follows:

116.2105 1. The declaration must contain:

(a) The names of the common-interest community and the association and a statement that the common-interest community is either a condominium, cooperative or planned community;

(b) The name of every county in which any part of the common-interest community is situated;

(c) A *legally* sufficient description of the real estate included in the common-interest community;

(d) A statement of the maximum number of units that the declarant reserves the right to create;

(e) In a condominium or planned community, a description of the boundaries of each unit created by the declaration, including the unit's identifying number or, in a cooperative, a description, which



1 may be by plats, of each unit created by the declaration, including
2 the unit's identifying number, its size or number of rooms, and its
3 location within a building if it is within a building containing more
4 than one unit;

5 (f) A description of any limited common elements, other than
6 those specified in subsections 2 and 4 of NRS 116.2102, as provided
7 in paragraph (g) of subsection 2 of NRS 116.2109 and, in a planned
8 community, any real estate that is or must become common
9 elements;

10 (g) A description of any real estate, except real estate subject to
11 developmental rights, that may be allocated subsequently as limited
12 common elements, other than limited common elements specified in
13 subsections 2 and 4 of NRS 116.2102, together with a statement that
14 they may be so allocated;

15 (h) A description of any developmental rights and other special
16 declarant's rights reserved by the declarant, together with a legally
17 sufficient description of the real estate to which each of those rights
18 applies, and a time *limit* within which each of those rights must be
19 exercised;

20 (i) If any developmental right may be exercised with respect to
21 different parcels of real estate at different times, a statement to that
22 effect together with:

23 (1) Either a statement fixing the boundaries of those portions
24 and regulating the order in which those portions may be subjected to
25 the exercise of each developmental right or a statement that no
26 assurances are made in those regards; and

27 (2) A statement whether, if any developmental right is
28 exercised in any portion of the real estate subject to that
29 developmental right, that developmental right must be exercised in
30 all or in any other portion of the remainder of that real estate;

31 (j) Any other conditions or limitations under which the rights
32 described in paragraph (h) may be exercised or will lapse;

33 (k) An allocation to each unit of the allocated interests in the
34 manner described in NRS 116.2107;

35 (l) Any restrictions:

36 (1) On use, occupancy and alienation of the units; and

37 (2) On the amount for which a unit may be sold or on the
38 amount that may be received by a unit's owner on sale,
39 condemnation or casualty to the unit or to the common-interest
40 community, or on termination of the common-interest community;

41 (m) The file number and book or other information ~~{to show~~
42 ~~where}~~ *for recorded* easements and licenses ~~{are recorded}~~
43 appurtenant to or included in the common-interest community or to
44 which any portion of the common-interest community is or may
45 become subject by virtue of a reservation in the declaration; and



(n) All matters required by NRS 116.2106 to 116.2109, inclusive, 116.2115, 116.2116 and 116.31032.

2. The declaration may contain any other matters the declarant considers appropriate.

Sec. 26. NRS 116.2106 is hereby amended to read as follows:

116.2106 1. Any lease the expiration or termination of which may terminate the common-interest community or reduce its size must be recorded. Every lessor of those leases in a condominium or planned community shall sign the declaration. The declaration must state:

(a) The recording data ~~{where}~~ *for* the lease ~~{is}~~ *or a statement of where the* recorded ~~{;} lease may be inspected;~~

(b) The date on which the lease is scheduled to expire;

(c) A legally sufficient description of the real estate subject to the lease;

(d) Any right of the units' owners to redeem the reversion and the manner whereby those rights may be exercised, or a statement that they do not have those rights;

(e) Any right of the units' owners to remove any improvements within a reasonable time after the expiration or termination of the lease, or a statement that they do not have those rights; and

(f) Any rights of the units' owners to renew the lease and the conditions of any renewal, or a statement that they do not have those rights.

2. After the declaration for a leasehold condominium or leasehold planned community is recorded, neither the lessor nor the lessor's successor in interest may terminate the leasehold interest of a unit's owner who makes timely payment of his or her share of the rent and otherwise complies with all covenants which, if violated, would entitle the lessor to terminate the lease. The leasehold interest of a unit's owner in a condominium or planned community is not affected by failure of any other person to pay rent or fulfill any other covenant.

3. Acquisition of the leasehold interest of any unit's owner by the owner of the reversion or remainder does not merge the leasehold and freehold interests unless the leasehold interests of all units' owners subject to that reversion or remainder are acquired.

4. If the expiration or termination of a lease decreases the number of units in a common-interest community, the allocated interests must be reallocated in accordance with subsection 1 of NRS 116.1107 as if those units had been taken by eminent domain. Reallocations must be confirmed by an amendment to the declaration prepared, executed and recorded by the association.

Sec. 27. NRS 116.2107 is hereby amended to read as follows:

116.2107 1. The declaration must allocate to each unit:



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(a) In a condominium, a fraction or percentage of undivided interests in the common elements and in the common expenses of the association, ~~{(NRS 116.3115)}~~ and a portion of the votes in the association;

(b) In a cooperative, a proportionate ownership in the association, a fraction or percentage of the common expenses of the association ~~{(NRS 116.3115)}~~ and a portion of the votes in the association; and

(c) In a planned community, a fraction or percentage of the common expenses of the association ~~{(NRS 116.3115)}~~ and a portion of the votes in the association.

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

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

4. The declaration may provide:

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

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

(c) For class voting on specified issues affecting the class if necessary to protect valid interests of the class.

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

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

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

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



Sec. 28. NRS 116.2113 is hereby amended to read as follows:

116.2113 1. If the declaration expressly so permits, a unit may be subdivided into two or more units. Subject to ~~the provisions of~~ the declaration and ~~other provisions of~~ law ~~;~~ *other than this chapter*, upon application of the unit's owner to subdivide a unit, the association shall prepare, execute and record an amendment to the declaration, including , in a condominium or planned community , the plats, subdividing that unit.

2. The amendment to the declaration must be executed by the owner of the unit to be subdivided, assign an identifying number to each unit created, and reallocate the allocated interests formerly allocated to the subdivided unit to the new units in any reasonable manner prescribed by the owner of the subdivided unit ~~;~~ *or on any other basis the declaration requires.*

Sec. 29. NRS 116.2116 is hereby amended to read as follows:

116.2116 1. Subject to ~~the provisions of~~ the declaration, a declarant has an easement through the common elements as may be reasonably necessary to discharge the declarant's obligations or exercise special declarant's rights, whether arising under this chapter or reserved in the declaration.

2. ~~In a planned community, subject to the provisions of~~ *Subject to* paragraph (f) of subsection 1 of NRS 116.3102 and NRS 116.3112, the units' owners have an easement ~~;~~

~~(a) In~~ *in* the common elements for purposes of access to their units. ~~;~~ *and*

~~(b) To~~

3. *Subject to the declaration and any rules adopted by the association, the units' owners have a right* to use the common elements *that are not limited common elements* and all real estate that must become common elements ~~(paragraph (f) of subsection 1 of NRS 116.2105) for all other~~ *for the* purposes ~~;~~ *for which they were intended.*

~~;~~ 4. Unless the terms of an easement in favor of an association prohibit a residential use of a servient estate, if the owner of the servient estate has obtained all necessary approvals required by law or any covenant, condition or restriction on the property, the owner may use such property in any manner authorized by law without obtaining any additional approval from the association. Nothing in this subsection authorizes an owner of a servient estate to impede the lawful and contractual use of the easement.

~~;~~ 5. The provisions of subsection ~~;~~ 4 do not abrogate any easement, restrictive covenant, decision of a court, agreement of a party or any contract, governing document or declaration of covenants, conditions and restrictions, or any other decision, rule or



1 regulation that a local governing body or other entity that makes
2 decisions concerning land use or planning is authorized to make or
3 enact that exists before October 1, 1999, including, without
4 limitation, a zoning ordinance, permit or approval process or any
5 other requirement of a local government or other entity that makes
6 decisions concerning land use or planning.

7 **Sec. 30.** NRS 116.2117 is hereby amended to read as follows:

8 116.2117 1. Except as otherwise provided in NRS
9 116.21175, and except in cases of amendments that may be
10 executed by a declarant under subsection 5 of NRS 116.2109 or
11 NRS 116.211, or by the association under NRS 116.1107, 116.2106,
12 subsection 3 of NRS 116.2108, subsection 1 of NRS 116.2112 or
13 NRS 116.2113, or by certain units' owners under subsection 2 of
14 NRS 116.2108, subsection 1 of NRS 116.2112, subsection 2 of NRS
15 116.2113 or subsection 2 of NRS 116.2118, and except as otherwise
16 limited by ~~{subsection}~~ *subsections* 4, 7 and 8, the declaration,
17 including any plats, may be amended only by vote or agreement of
18 units' owners of units to which at least a majority of the votes in the
19 association are allocated, ~~{for any larger majority}~~ *unless* the
20 declaration specifies ~~{. The declaration may specify a smaller~~
21 ~~number only if all of the units are restricted exclusively to~~
22 ~~nonresidential use.}~~ *a different percentage for all amendments or*
23 *for specified subjects of amendment. If the declaration requires*
24 *the approval of another person as a condition of its effectiveness,*
25 *the amendment is not valid without that approval.*

26 2. No action to challenge the validity of an amendment adopted
27 by the association pursuant to this section may be brought more than
28 1 year after the amendment is recorded.

29 3. Every amendment to the declaration must be recorded in
30 every county in which any portion of the common-interest
31 community is located and is effective only upon recordation. An
32 amendment, except an amendment pursuant to NRS 116.2112, must
33 be indexed in the grantee's index in the name of the common-
34 interest community and the association and in the grantor's index in
35 the name of the parties executing the amendment.

36 4. Except to the extent expressly permitted or required by other
37 provisions of this chapter, no amendment may change the
38 boundaries of any unit or *change* the allocated interests of a unit in
39 the absence of unanimous consent of the units' owners . ~~{affected~~
40 ~~and the consent of a majority of the owners of the remaining units.}~~

41 5. Amendments to the declaration required by this chapter to
42 be recorded by the association must be prepared, executed, recorded
43 and certified on behalf of the association by any officer of the
44 association designated for that purpose or, in the absence of
45 designation, by the president of the association.



6. *An amendment to the declaration which prohibits or materially restricts the permitted uses of or behavior in a unit or the number or other qualifications of persons who may occupy units may not be enforced against a unit's owner who was the owner of the unit on the date of the recordation of the amendment as long as the unit's owner remains the owner of that unit.*

7. *A provision in the declaration creating special declarant's rights that have not expired may not be amended without the consent of the declarant.*

8. *If any provision of this chapter or of the declaration requires the consent of a holder of a security interest in a unit, or an insurer or guarantor of such interest, as a condition to the effectiveness of an amendment to the declaration, that consent is deemed granted if:*

(a) *The holder, insurer or guarantor has not requested, in writing, notice of any proposed amendment; or*

(b) *Notice of any proposed amendment is required or has been requested and a written refusal to consent is not received by the association within 60 days after the association delivers notice of the proposed amendment to the holder, insurer or guarantor, by certified mail, return receipt requested, to the address for notice provided by the holder, insurer or guarantor in a prior written request for notice.*

Sec. 31. NRS 116.2118 is hereby amended to read as follows:

116.2118 1. Except in the case of a taking of all the units by eminent domain, ~~[(NRS 116.1107) or]~~ in the case of foreclosure against an entire cooperative of a security interest that has priority over the declaration, *or in the circumstances described in section 4 of this act*, a common-interest community may be terminated only by agreement of units' owners to whom at least 80 percent of the votes in the association are allocated, or any larger percentage the declaration specifies ~~[-]~~, *and with any other approvals required by the declaration.* The declaration may specify a smaller percentage only if all of the units are restricted exclusively to nonresidential uses.

2. An agreement to terminate must be evidenced by the execution of an agreement to terminate, or ratifications thereof, in the same manner as a deed, by the requisite number of units' owners. The agreement must specify a date after which the agreement will be void unless it is recorded before that date. An agreement to terminate and all ratifications thereof must be recorded in every county in which a portion of the common-interest community is situated and is effective only upon recordation.

3. In the case of a condominium or planned community containing only units having horizontal boundaries described in the



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1 declaration, an agreement to terminate may provide that all of the
2 common elements and units of the common-interest community
3 must be sold following termination. If, pursuant to the agreement,
4 any real estate in the common-interest community is to be sold
5 following termination, the agreement must set forth the minimum
6 terms of the sale.

7 4. In the case of a condominium or planned community
8 containing any units not having horizontal boundaries described in
9 the declaration, an agreement to terminate may provide for sale of
10 the common elements, but it may not require that the units be sold
11 following termination, unless the declaration as originally recorded
12 provided otherwise or all the units' owners consent to the sale.

13 5. The association, on behalf of the units' owners, may contract
14 for the sale of real estate in a common-interest community, but the
15 contract is not binding on the units' owners until approved pursuant
16 to subsections 1 and 2. If any real estate is to be sold following
17 termination, title to that real estate, upon termination, vests in the
18 association as trustee for the holders of all interests in the units.
19 Thereafter, the association has all powers necessary and appropriate
20 to effect the sale. Until the sale has been concluded and the proceeds
21 thereof distributed, the association continues in existence with all
22 powers it had before termination. Proceeds of the sale must be
23 distributed to units' owners and lienholders as their interests may
24 appear, in accordance with NRS 116.21183 and 116.21185. Unless
25 otherwise specified in the agreement to terminate, as long as the
26 association holds title to the real estate, each unit's owner and his or
27 her successors in interest have an exclusive right to occupancy of
28 the portion of the real estate that formerly constituted the unit.
29 During the period of that occupancy, each unit's owner and his or
30 her successors in interest remain liable for all assessments and other
31 obligations imposed on units' owners by this chapter or the
32 declaration.

33 6. In a condominium or planned community, if the real estate
34 constituting the common-interest community is not to be sold
35 following termination, title to the common elements and, in a
36 common-interest community containing only units having
37 horizontal boundaries described in the declaration, title to all the real
38 estate in the common-interest community, vests in the units' owners
39 upon termination as tenants in common in proportion to their
40 respective interests as provided in NRS 116.21185, and liens on the
41 units shift accordingly. While the tenancy in common exists, each
42 unit's owner and his or her successors in interest have an exclusive
43 right to occupancy of the portion of the real estate that formerly
44 constituted the unit.



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7. Following termination of the common-interest community, the proceeds of ~~any~~ a sale of real estate, together with the assets of the association, are held by the association as trustee for units' owners and holders of liens on the units as their interests may appear.

Sec. 32. NRS 116.3101 is hereby amended to read as follows:

116.3101 1. A unit-owners' association must be organized no later than the date the first unit in the common-interest community is conveyed.

2. The membership of the association at all times consists exclusively of all units' owners or, following termination of the common-interest community, of all owners of former units entitled to distributions of proceeds under NRS 116.2118, 116.21183 and 116.21185, or their heirs, successors or assigns.

3. *The association must have an executive board.*

4. The association must:

(a) Be organized as a profit or nonprofit corporation, association, limited-liability company, trust, ~~or~~ partnership ~~or~~ *any other form of organization authorized by the law of this State;*

(b) Include in its articles of incorporation, articles of association, articles of organization, certificate of registration, certificate of limited partnership, certificate of trust or other documents of organization, or any amendment thereof, that the purpose of the corporation, association, limited-liability company, trust or partnership is to operate as an association pursuant to this chapter;

(c) Contain in its name the words "common-interest community," "community association," "master association," "homeowners' association" or "unit-owners' association"; and

(d) Comply with the applicable provisions of chapters 78, 81, 82, 86, 87, 87A, 88 and 88A of NRS when filing with the Secretary of State its articles of incorporation, articles of association, articles of organization, certificate of registration, certificate of limited partnership, certificate of trust or other documents of organization, or any amendment thereof.

Sec. 33. NRS 116.3102 is hereby amended to read as follows:

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

(a) ~~Adopt~~ *Shall adopt* and , *except as otherwise provided in the bylaws, may* amend bylaws ~~or~~ *and may adopt and amend* rules and regulations.

(b) ~~Adopt~~ *Shall adopt* and *may* amend budgets ~~for revenues, expenditures and reserves and~~ *in accordance with the requirements set forth in NRS 116.31151, may* collect assessments for common expenses from the units' owners ~~or~~ *and may invest*



funds of the association in accordance with the requirements set forth in NRS 116.311395.

(c) ~~{Hire}~~ *May hire* and discharge managing agents and other employees, agents and independent contractors.

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

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

(f) ~~{Regulate}~~ *May regulate* the use, maintenance, repair, replacement and modification of common elements.

(g) ~~{Cause}~~ *May cause* additional improvements to be made as a part of the common elements.

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

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

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

(i) ~~{Grant}~~ *May grant* easements, leases, licenses and concessions through or over the common elements.

(j) ~~{Impose}~~ *May impose* and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units' owners, including, without limitation, any services provided pursuant to NRS 116.310312.

(k) ~~{Impose}~~ *May impose* charges for late payment of assessments pursuant to NRS 116.3115.

(l) ~~{Impose}~~ *May impose* construction penalties when authorized pursuant to NRS 116.310305.

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

(n) ~~{Impose}~~ *May impose* reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing



1 and furnishing the documents and certificate required by that
2 section.

3 (o) ~~{Provide}~~ *May provide* for the indemnification of its officers
4 and executive board and maintain ~~{directors' and officers'}~~ *directors*
5 *and officers* liability insurance.

6 (p) ~~{Assign}~~ *May assign* its right to future income, including the
7 right to receive assessments for common expenses, but only to the
8 extent the declaration expressly so provides.

9 (q) ~~{Exercise}~~ *May exercise* any other powers conferred by the
10 declaration or bylaws.

11 (r) ~~{Exercise}~~ *May exercise* all other powers that may be
12 exercised in this State by legal entities of the same type as the
13 association.

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

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

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

31 (t) ~~{Exercise}~~ *May exercise* any other powers necessary and
32 proper for the governance and operation of the association.

33 2. The declaration may not ~~{impose limitations on}~~ *limit* the
34 power of the association to deal with the declarant ~~{which are}~~ *if the*
35 *limit is* more restrictive than the ~~{limitations}~~ *limit* imposed on the
36 power of the association to deal with other persons.

37 3. *The executive board may determine whether to take*
38 *enforcement action by exercising the association's power to*
39 *impose sanctions or commence an action for a violation of the*
40 *declaration, bylaws or rules, including whether to compromise any*
41 *claim for unpaid assessments or other claim made by or against it.*
42 *The executive board does not have a duty to take enforcement*
43 *action if it determines that, under the facts and circumstances*
44 *presented:*



1 (a) *The association's legal position does not justify taking any*
2 *or further enforcement action;*

3 (b) *The covenant, restriction or rule being enforced is, or is*
4 *likely to be construed as, inconsistent with current law;*

5 (c) *Although a violation may exist or may have occurred, it is*
6 *not so material as to be objectionable to a reasonable person or to*
7 *justify expending the association's resources; or*

8 (d) *It is not in the association's best interests to pursue an*
9 *enforcement action.*

10 4. *The executive board's decision under subsection 3 not to*
11 *pursue enforcement under one set of circumstances does not*
12 *prevent the executive board from taking enforcement action under*
13 *another set of circumstances, but the executive board may not be*
14 *arbitrary or capricious in taking enforcement action.*

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

27 **Sec. 34.** NRS 116.3103 is hereby amended to read as follows:

28 116.3103 1. Except as otherwise provided in the declaration,
29 the bylaws, this section or other provisions of this chapter, the
30 executive board ~~{may act in all instances}~~ *acts* on behalf of the
31 association. In the performance of their duties, the officers and
32 members of the executive board are fiduciaries and shall act on an
33 informed basis, in good faith and in the honest belief that their
34 actions are in the best interest of the association. ~~{The}~~ *Officers and*
35 *members of the executive board {are} :*

36 (a) *Are* required to exercise the ordinary and reasonable care of
37 *officers and* directors of a *nonprofit* corporation, subject to the
38 business-judgment rule ~~{}~~ *; and*

39 (b) *Are subject to conflict of interest rules governing the*
40 *officers and directors of a nonprofit corporation organized under*
41 *the law of this State.*

42 2. The executive board may not act ~~{on behalf of the~~
43 ~~association}~~ to ~~{amend}~~ :

44 (a) *Amend* the declaration, ~~{to terminate}~~ *except as otherwise*
45 *provided in NRS 116.2117.*



(b) *Terminate* the common-interest community . ~~[, or to elect]~~

(c) *Elect* members of the executive board ~~[or determine their]~~ ,
*but unless the governing documents provide that a vacancy on the
executive board must be filled by a vote of the membership of the
association, the executive board may fill vacancies in its
membership for the unexpired portion of any term or until the
next regularly scheduled election of executive board members,
whichever is earlier. Any executive board member elected to a
previously vacant position which was temporarily filled by board
appointment may only be elected to fulfill the remainder of the
unexpired portion of the term.*

(d) *Determine the* qualifications, powers , ~~[and]~~ duties or terms
of office ~~[, but the executive board may fill vacancies in its
membership for the unexpired portion of any term unless the
governing documents provide that a vacancy on the executive board
must be filled by a vote of the membership of the association.] of
members of the executive board.~~

*3. The executive board shall adopt budgets as provided in
NRS 116.31151.*

Sec. 35. NRS 116.31031 is hereby amended to read as
follows:

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

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

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

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

(b) Impose a fine against the unit's owner or the tenant or the
invitee of the unit's owner or the tenant for each violation, except
that:

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

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



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

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

20 (a) Participated in or authorized the violation;

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

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

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

30 4. The executive board may not impose a fine pursuant to
31 subsection 1 unless:

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

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

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

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

44 ➡ For the purposes of this subsection, a unit's owner shall not be
45 deemed to have received written notice unless written notice is



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1 mailed to the address of the unit and, if different, to a mailing
2 address specified by the unit's owner.

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

8 ~~[5-]~~ 6. The executive board must hold a hearing before it may
9 impose the fine, unless the fine is paid before the hearing or unless
10 the unit's owner and, if different, the person against whom the fine
11 will be imposed:

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

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

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

23 ~~[7-]~~ 8. If the governing documents so provide, the executive
24 board may appoint a committee, with not less than three members,
25 to conduct hearings on violations and to impose fines pursuant to
26 this section. While acting on behalf of the executive board for those
27 limited purposes, the committee and its members are entitled to all
28 privileges and immunities and are subject to all duties and
29 requirements of the executive board and its members.

30 ~~[8-]~~ 9. A member of the executive board shall not participate
31 in any hearing or cast any vote relating to a fine imposed pursuant to
32 subsection 1 if the member has not paid all assessments which are
33 due to the association by the member. If a member of the executive
34 board:

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

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

38 ~~[9-]~~ 10. The provisions of this section establish the minimum
39 procedural requirements that the executive board must follow before
40 it may impose a fine. The provisions of this section do not preempt
41 any provisions of the governing documents that provide greater
42 procedural protections.

43 ~~[10-]~~ 11. Any past due fine must not bear interest, but may
44 include any costs incurred by the association during a civil action to
45 enforce the payment of the past due fine.



~~11.1~~ 12. If requested by a person upon whom a fine was imposed, not later than 60 days after receiving any payment of a fine, an association shall provide to the person upon whom the fine was imposed a statement of the remaining balance owed.

Sec. 36. NRS 116.31032 is hereby amended to read as follows:

116.31032 1. Except as otherwise provided in this section, the declaration may provide for a period of declarant's control of the association, during which a declarant, or persons designated by a declarant, may appoint and remove the officers of the association and members of the executive board. *A declarant may voluntarily surrender the right to appoint and remove officers and members of the executive board before termination of that period and, in that event, the declarant may require, for the duration of the period of declarant's control, that specified actions of the association or executive board, as described in a recorded instrument executed by the declarant, be approved by the declarant before they become effective.* Regardless of the period provided in the declaration, a period of declarant's control terminates no later than ~~the~~ *the earliest of:*

(a) Sixty days after conveyance of 75 percent of the units that may be created to units' owners other than a declarant or, if the association exercises powers over a common-interest community pursuant to this chapter and a time-share plan pursuant to chapter 119A of NRS, 120 days after conveyance of 80 percent of the units that may be created to units' owners other than a declarant;

(b) Five years after all declarants have ceased to offer units for sale in the ordinary course of business; ~~or~~

(c) Five years after any right to add new units was last exercised ~~;~~

~~whichever occurs earlier; or~~

(d) The day the declarant, after giving notice to units' owners, records an instrument voluntarily surrendering all rights to control activities of the association.

2. ~~[A declarant may voluntarily surrender the right to appoint and remove officers and members of the executive board before termination of that period, but in that event the declarant may require, for the duration of the period of declarant's control, that specified actions of the association or executive board, as described in a recorded instrument executed by the declarant, be approved by the declarant before they become effective.~~

~~3.]~~ Not later than 60 days after conveyance of 25 percent of the units that may be created to units' owners other than a declarant, at least one member and not less than 25 percent of the members of the executive board must be elected by units' owners other than the



1 declarant. Not later than 60 days after conveyance of 50 percent of
2 the units that may be created to units' owners other than a declarant,
3 not less than ~~{33-1/3 percent}~~ *one-third* of the members of the
4 executive board must be elected by units' owners other than the
5 declarant.

6 **Sec. 37.** NRS 116.31036 is hereby amended to read as
7 follows:

8 116.31036 1. Notwithstanding any provision of the
9 declaration or bylaws to the contrary, any member of the executive
10 board, other than a member appointed by the declarant, may be
11 removed from the executive board, with or without cause, if at a
12 removal election held pursuant to this section:

13 (a) The number of votes cast constitutes at least 35 percent of
14 the total number of voting members of the association; and

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

17 2. *A removal election may be called by units' owners*
18 *constituting at least 10 percent, or any lower percentage specified*
19 *in the bylaws, of the total number of voting members of the*
20 *association. To call a removal election, the units' owners must*
21 *submit a written petition which is signed by the required*
22 *percentage of the total number of voting members of the*
23 *association pursuant to this subsection and which is mailed,*
24 *return receipt requested, or served by a process server to the*
25 *executive board or the community manager for the association. If*
26 *a removal election is called pursuant to this subsection and:*

27 (a) *The voting rights of the owners of time shares will be*
28 *exercised by delegates or representatives as set forth in NRS*
29 *116.31105, the executive board shall set the date for the removal*
30 *election so that the removal election is held not less than 15 days*
31 *or more than 60 days after the date on which the petition is*
32 *received.*

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

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



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

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

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

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

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

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

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

35 ~~—(a) The association;~~

36 ~~—(b) The members of the executive board for acts or omissions~~
37 ~~that occur in their official capacity as members of the executive~~
38 ~~board; or~~

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

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



1 **Sec. 38.** NRS 116.3105 is hereby amended to read as follows:

2 116.3105 ~~{If entered into before}~~

3 1. *Within 2 years after* the executive board elected by the
4 units' owners pursuant to NRS 116.31034 takes office, ~~{any}~~ *the*
5 *association may terminate without penalty, upon not less than 90*
6 *days' notice to the other party, any of the following if it was*
7 *entered into before that executive board was elected:*

8 (a) Any management ~~{contract,}~~ *, maintenance, operations or*
9 employment contract, or lease of recreational or parking areas or
10 facilities ~~{, any}~~ *; or*

11 (b) Any other contract or lease between the association and a
12 declarant or an affiliate of a declarant . ~~{or any contract or lease that~~
13 ~~is not in good faith or was unconscionable to the units' owners at the~~
14 ~~time entered into under the circumstances then prevailing may be~~
15 ~~terminated}~~

16 2. *The association may terminate* without penalty , ~~{by the~~
17 ~~association}~~ at any time after the executive board elected by the
18 units' owners *pursuant to NRS 116.31034* takes office upon not
19 less than 90 days' notice to the other party ~~{,}~~ *, any contract or lease*
20 *that is not in good faith or was unconscionable to the units'*
21 *owners at the time entered into.*

22 3. This section does not apply to ~~{any}~~ *:*

23 (a) Any lease the termination of which would terminate the
24 common-interest community or reduce its size, unless the real estate
25 subject to that lease was included in the common-interest
26 community for the purpose of avoiding the right of the association
27 to terminate a lease under this section ~~{, or to a}~~ *; or*

28 (b) A proprietary lease.

29 **Sec. 39.** NRS 116.3106 is hereby amended to read as follows:

30 116.3106 1. The bylaws of the association must : ~~{provide:}~~

31 (a) ~~{The}~~ *Provide the* number of members of the executive
32 board and the titles of the officers of the association;

33 (b) ~~{For}~~ *Provide for* election by the executive board of a
34 president, treasurer, secretary and any other officers of the
35 association the bylaws specify;

36 (c) ~~{The}~~ *Specify the* qualifications, powers and duties, terms of
37 office and manner of electing and removing officers of the
38 association and members of the executive board and filling
39 vacancies;

40 (d) ~~{Which}~~ *Specify the* powers ~~{, if any, that}~~ the executive
41 board or the officers of the association may delegate to other
42 persons or to a community manager;

43 (e) ~~{Which of its}~~ *Specify the* officers *who* may prepare,
44 execute, certify and record amendments to the declaration on behalf
45 of the association;



(f) ~~Procedural~~ *Provide procedural* rules for conducting meetings of the association;

(g) ~~IA~~ *Specify a* method for ~~amending~~ *the units' owners to amend* the bylaws; ~~and~~

(h) ~~Procedural~~ *Provide procedural* rules for conducting elections ~~;~~;

(i) *Contain any provision necessary to satisfy requirements in this chapter or the declaration concerning meetings, voting, quorums and other activities of the association; and*

(j) *Provide for any matter required by law of this State other than this chapter to appear in the bylaws of organizations of the same type as the association.*

2. Except as otherwise provided in *this chapter and* the declaration, the bylaws may provide for any other *necessary or appropriate* matters ~~{the association deems necessary and appropriate.}~~, *including, without limitation, matters that could be adopted as rules.*

3. The bylaws must be written in plain English.

Sec. 40. 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 ~~;~~ *at a time and place stated in or fixed in accordance with the bylaws.* 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}~~ *An association shall hold a special meeting* of the units' owners ~~{may be called by the}~~ *to address any matter affecting the common-interest community or the association if its* 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}~~ *votes in* the association ~~{The same number of units' owners may also call a removal election pursuant to NRS 116.31036.}~~ *request that the secretary call such a meeting.* 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 subsection and which is mailed, return receipt requested, or served by a process server to the executive board or the community manager for the association. If the petition calls for a special meeting, the executive board shall set the date for the special meeting so that the special meeting is held not less than 15 days or



1 more than 60 days after the date on which the petition is received.

2 ~~[If the petition calls for a removal election and:~~

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

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

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. Not less than 15 days or more than 60 days in advance of
21 any meeting of the units' owners, the secretary or other officer
22 specified in the bylaws shall cause notice of the meeting to be
23 ~~[hand-delivered, sent prepaid by United States mail to the mailing~~
24 ~~address of each unit or to any other mailing address designated in~~
25 ~~writing by the unit's owner or, if the association offers to send~~
26 ~~notice by electronic mail, sent by electronic mail at the request of~~
27 ~~the unit's owner to an electronic mail address designated in writing~~
28 ~~by the unit's owner.] given to the units' owners in the manner set~~
29 ~~forth in section 2 of this act.~~ The notice of the meeting must state
30 the time and place of the meeting and include a copy of the agenda
31 for the meeting. The notice must include notification of the right of
32 a unit's owner to:

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

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

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

43 (a) A clear and complete statement of the topics scheduled to be
44 considered during the meeting, including, without limitation, any
45 proposed amendment to the declaration or bylaws, any fees or



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1 assessments to be imposed or increased by the association, any
2 budgetary changes and any proposal to remove an officer of the
3 association or member of the executive board.

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

8 (c) A period devoted to comments by units' owners *regarding*
9 *any matter affecting the common-interest community or the*
10 *association* and discussion of those comments. Except in
11 emergencies, no action may be taken upon a matter raised under this
12 item of the agenda until the matter itself has been specifically
13 included on an agenda as an item upon which action may be taken
14 pursuant to paragraph (b).

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

22 ~~—6.~~ The secretary or other officer specified in the bylaws shall
23 cause minutes to be recorded or otherwise taken at each meeting of
24 the units' owners. Not more than 30 days after each such meeting,
25 the secretary or other officer specified in the bylaws shall cause the
26 minutes or a summary of the minutes of the meeting to be made
27 available to the units' owners. Except as otherwise provided in this
28 subsection, a copy of the minutes or a summary of the minutes must
29 be provided to any unit's owner upon request, in electronic format at
30 no charge to the unit's owner or, if the association is unable to
31 provide the copy or summary in electronic format, in paper format
32 at a cost not to exceed 25 cents per page for the first 10 pages, and
33 10 cents per page thereafter.

34 ~~{7}~~ 6. Except as otherwise provided in subsection ~~{8}~~ 7, the
35 minutes of each meeting of the units' owners must include:

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

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

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



~~[8-]~~ 7. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of a meeting of the units' owners.

~~[9-]~~ 8. The association shall maintain the minutes of each meeting of the units' owners until the common-interest community is terminated.

~~[10-]~~ 9. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the units' owners if the unit's owner, before recording the meeting, provides notice of his or her intent to record the meeting to the other units' owners who are in attendance at the meeting.

~~[11-]~~ 10. 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-]~~ 11. 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. 41. 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 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)]~~ *Given to the units' owners in the manner set forth in section 2 of this act; or*



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

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

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

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

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

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

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

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

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

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



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

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

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

7. The secretary or other officer specified in the bylaws shall cause each meeting of the executive board to be audio recorded and the minutes to be recorded or otherwise taken at each meeting of the executive board, but if the executive board is meeting in executive session, the meeting must not be audio recorded. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the audio recording of the meeting, the minutes 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 electronic format at no charge to the unit's owner or, if the association is unable to provide the copy or summary in electronic format, 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. Except as otherwise provided in subsection 9 and NRS 116.31085, the minutes of each meeting of the executive board must include:

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

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

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

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

(e) The substance of remarks made by any unit's owner who addresses the executive board at the meeting if 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. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of its meetings.

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



11. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the executive board, unless the executive board is meeting in executive session, if the unit's owner, before recording the meeting, provides notice of his 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.

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

(a) Could not have been reasonably foreseen;

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

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

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

Sec. 42. NRS 116.3109 is hereby amended to read as follows:

116.3109 1. Except as otherwise provided in this section and NRS 116.31034, and except when the governing documents provide otherwise, a quorum is present throughout any meeting of the ~~association if the number of members of~~ *units' owners if persons entitled to cast 20 percent of the votes in* the association ~~[who are]~~ :

(a) Are present in person ~~for~~;

(b) Are present by proxy ~~[at the beginning of the meeting equals or exceeds 20 percent of the total number of voting members of the association.]~~;

(c) Have cast absentee ballots in accordance with paragraph (d) of subsection 2 of NRS 116.311; or

(d) Are present by any combination of paragraphs (a), (b) and (c).

2. If the governing documents of an association contain a quorum requirement for a meeting of the association that is greater than the 20 percent required by subsection 1 and, after proper notice has been given for a meeting, the members of the association who are present in person or by proxy at the meeting are unable to hold the meeting because a quorum is not present at the beginning of the meeting, the members who are present in person at the meeting may adjourn the meeting to a time that is not less than 48 hours or more than 30 days from the date of the meeting. At the subsequent meeting:

(a) A quorum shall be deemed to be present if the number of members of the association who are present in person or by proxy at the beginning of the subsequent meeting equals or exceeds 20 percent of the total number of voting members of the association; and



(b) If such a quorum is deemed to be present but the actual number of members who are present in person or by proxy at the beginning of the subsequent meeting is less than the number of members who are required for a quorum under the governing documents, the members who are present in person or by proxy at the subsequent meeting may take action only on those matters that were included as items on the agenda of the original meeting.

➔ The provisions of this subsection do not change the actual number of votes that are required under the governing documents for taking action on any particular matter.

3. Unless the governing documents specify a larger ~~{percentage,} number,~~ a quorum *of the executive board* is ~~{deemed}~~ present ~~{throughout any}~~ *for purposes of determining the validity of any action taken at a meeting of the executive board only* if ~~{persons}~~ *individuals* entitled to cast ~~{50-percent}~~ *a majority* of the votes on that board are present at the ~~{beginning of the meeting.}~~ *time a vote regarding that action is taken. If a quorum is present when a vote is taken, the affirmative vote of a majority of the members present is the act of the executive board unless a greater vote is required by the declaration or bylaws.*

4. *Except as otherwise provided in the bylaws, meetings of the association must be conducted in accordance with the most recent edition of Robert's Rules of Order Newly Revised.*

Sec. 43. NRS 116.311 is hereby amended to read as follows:

116.311 1. *Unless prohibited or limited by the declaration or bylaws and except as otherwise provided in this section, units' owners may vote at a meeting in person, by absentee ballot pursuant to paragraph (d) of subsection 2, by a proxy pursuant to subsections 3 to 8, inclusive, or, when a vote is conducted without a meeting, by electronic or paper ballot pursuant to subsection 9.*

2. *At a meeting of units' owners, the following requirements apply:*

(a) *Units' owners who are present in person may vote by voice vote, show of hands, standing or any other method for determining the votes of units' owners, as designated by the person presiding at the meeting.*

(b) If only one of several owners of a unit is present, ~~{at a meeting of the association,}~~ that owner is entitled to cast all the votes allocated to that unit. If more than one of the owners are present, the votes allocated to that unit may be cast only in accordance with the agreement of a majority in interest of the owners, unless the declaration expressly provides otherwise. There is majority agreement if any one of the owners cast the votes allocated to ~~{that}~~ *the* unit without protest *being* made promptly to



1 the person presiding over the meeting by any of the other owners of
2 the unit.

3 ~~(2)~~ (c) *Unless a greater number or fraction of the votes in the*
4 *association is required by this chapter or the declaration, a*
5 *majority of the votes cast determines the outcome of any action of*
6 *the association.*

7 (d) *Subject to subsection 1, a unit's owner may vote by*
8 *absentee ballot without being present at the meeting. The*
9 *association promptly shall deliver an absentee ballot to an owner*
10 *who requests it if the request is made at least 3 days before the*
11 *scheduled meeting. Votes cast by absentee ballot must be included*
12 *in the tally of a vote taken at that meeting.*

13 (e) *When a unit's owner votes by absentee ballot, the*
14 *association must be able to verify that the ballot is cast by the*
15 *unit's owner having the right to do so.*

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

28 ~~(3)~~ 4. Before a vote may be cast pursuant to a proxy:

29 (a) The proxy must be dated.

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

31 (c) The proxy must designate the meeting for which it is
32 executed ~~(1)~~, *and such a designation includes any recessed session*
33 *of that meeting.*

34 (d) The proxy must designate each specific item on the agenda
35 of the meeting for which the unit's owner has executed the proxy,
36 except that the unit's owner may execute the proxy without
37 designating any specific items on the agenda of the meeting if the
38 proxy is to be used solely for determining whether a quorum is
39 present for the meeting. If the proxy designates one or more specific
40 items on the agenda of the meeting for which the unit's owner has
41 executed the proxy, the proxy must indicate, for each specific item
42 designated in the proxy, whether the holder of the proxy must cast a
43 vote in the affirmative or the negative on behalf of the unit's owner.
44 If the proxy does not indicate whether the holder of the proxy must
45 cast a vote in the affirmative or the negative for a particular item on



1 the agenda of the meeting, the proxy must be treated, with regard to
2 that particular item, as if the unit's owner were present but not
3 voting on that particular item.

4 (e) The holder of the proxy must disclose at the beginning of the
5 meeting for which the proxy is executed *and any recessed session*
6 *of that meeting* the number of proxies pursuant to which the holder
7 will be casting votes.

8 ~~[4-]~~ 5. A proxy terminates immediately after the conclusion of
9 the meeting, *and any recessed sessions of the meeting*, for which it
10 is executed.

11 ~~[5-]~~ 6. Except as otherwise provided in this subsection, a vote
12 may not be cast pursuant to a proxy for the election or removal of a
13 member of the executive board of an association. A vote may be
14 cast pursuant to a proxy for the election or removal of a member of
15 the executive board of a master association which governs a time-
16 share plan created pursuant to chapter 119A of NRS if the proxy is
17 exercised through a delegate or representative authorized pursuant
18 to NRS 116.31105.

19 ~~[6-]~~ 7. The holder of a proxy may not cast a vote on behalf of
20 the unit's owner who executed the proxy in a manner that is
21 contrary to the proxy.

22 ~~[7-]~~ 8. A proxy is void if the proxy or the holder of the proxy
23 violates any provision of subsections ~~[H]~~ 3 to ~~[6-]~~ 7, inclusive.

24 ~~[8-]~~ 9. *Unless prohibited or limited by the declaration or*
25 *bylaws, an association may conduct a vote without a meeting.*
26 *Except as otherwise provided in NRS 116.31034 and 116.31036, if*
27 *an association conducts a vote without a meeting, the following*
28 *requirements apply:*

29 (a) *The association shall notify the units' owners that the vote*
30 *will be taken by ballot.*

31 (b) *The association shall deliver a paper or electronic ballot to*
32 *every unit's owner entitled to vote on the matter.*

33 (c) *The ballot must set forth each proposed action and provide*
34 *an opportunity to vote for or against the action.*

35 (d) *When the association delivers the ballots, it shall also:*

36 (1) *Indicate the number of responses needed to meet the*
37 *quorum requirements;*

38 (2) *State the percentage of votes necessary to approve each*
39 *matter other than election of directors;*

40 (3) *Specify the time and date by which a ballot must be*
41 *delivered to the association to be counted, which time and date*
42 *may not be fewer than 3 days after the date the association delivers*
43 *the ballot; and*



1 (4) *Describe the time, date and manner by which units'*
2 *owners wishing to deliver information to all units' owners*
3 *regarding the subject of the vote may do so.*

4 (e) *Except as otherwise provided in the declaration or bylaws,*
5 *a ballot is not revoked after delivery to the association by death or*
6 *disability of or attempted revocation by the person who cast that*
7 *vote.*

8 (f) *Approval by ballot pursuant to this subsection is valid only*
9 *if the number of votes cast by ballot equals or exceeds the quorum*
10 *required to be present at a meeting authorizing the action.*

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

15 (a) ~~[The provisions of subsections 1 to 7, inclusive, apply]~~ *This*
16 *section applies* to the lessees as if they were the units' owners;

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

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

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

25 ~~[9-]~~ 11. If any votes are allocated to a unit that is owned by the
26 association, those votes may not be cast, by proxy or otherwise, for
27 any purpose.

28 Sec. 44. NRS 116.3111 is hereby amended to read as follows:

29 116.3111 1. *A unit's owner is not liable, solely by reason of*
30 *being a unit's owner, for an injury or damage arising out of the*
31 *condition or use of the common elements.* Neither the association
32 nor any unit's owner except the declarant is liable for that
33 declarant's torts in connection with any part of the common-interest
34 community which that declarant has the responsibility to maintain.
35 ~~[Otherwise, an]~~

36 2. *An action alleging a wrong done by the association* ~~[must be~~
37 ~~brought]~~ *, including, without limitation, an action arising out of*
38 *the condition or use of the common elements, may be maintained*
39 *only* against the association and not against any unit's owner. If the
40 wrong occurred during any period of declarant's control and the
41 association gives the declarant reasonable notice of and an
42 opportunity to defend against the action, the declarant who then
43 controlled the association is liable to the association or to any unit's
44 owner for all tort losses not covered by insurance suffered by the
45 association or that unit's owner, and all costs that the association



1 would not have incurred but for a breach of contract or other
2 wrongful act or omission. Whenever the declarant is liable to the
3 association under this section, the declarant is also liable for all
4 expenses of litigation, including reasonable attorney's fees, incurred
5 by the association. ~~[Any]~~

6 **3. Except as otherwise provided in subsection 4 of NRS**
7 **116.4116 with respect to warranty claims, any** statute of limitation
8 affecting the association's right of action **against a declarant** under
9 this section is tolled until the period of declarant's control
10 terminates. A unit's owner is not precluded from maintaining an
11 action contemplated by this section because he or she is a unit's
12 owner or a member or officer of the association. **Liens resulting**
13 **from judgments against the association are governed by**
14 **NRS 116.3117.**

15 **Sec. 45.** NRS 116.3113 is hereby amended to read as follows:

16 116.3113 1. Commencing not later than the time of the first
17 conveyance of a unit to a person other than a declarant, the
18 association shall maintain, to the extent reasonably available ~~[, both~~
19 ~~of the following:]~~ **and subject to reasonable deductibles:**

20 (a) Property insurance on the common elements and, in a
21 planned community, also on property that must become common
22 elements, insuring against ~~[all]~~ risks of direct physical loss
23 commonly insured against ~~[or, in the case of a converted building,~~
24 ~~against fire and extended coverage perils. The total amount of]~~ ,
25 **which** insurance , after application of any deductibles , must be not
26 less than 80 percent of the actual cash value of the insured property
27 at the time the insurance is purchased and at each renewal date,
28 exclusive of land, excavations, foundations and other items
29 normally excluded from property policies ; ~~[;]~~

30 (b) ~~[Liability]~~ **Commercial general liability** insurance, including
31 insurance for medical payments, in an amount determined by the
32 executive board but not less than any amount specified in the
33 declaration, covering all occurrences commonly insured against for
34 ~~[death,]~~ bodily injury ~~[;]~~ and property damage arising out of or in
35 connection with the use, ownership, or maintenance of the common
36 elements and, in cooperatives, also of all units ~~[;]~~ **and**

37 **(c) Fidelity insurance.**

38 2. In the case of a building ~~[that is part of a cooperative or]~~ that
39 contains units ~~[having]~~ **divided by** horizontal boundaries described
40 in the declaration, **or vertical boundaries that comprise common**
41 **walls between units,** the insurance maintained under paragraph (a)
42 of subsection 1, to the extent reasonably available, must include the
43 units, but need not include improvements and betterments installed
44 by units' owners.



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

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

Sec. 46. NRS 116.31133 is hereby amended to read as follows:

116.31133 1. Insurance policies carried pursuant to NRS 116.3113 must provide ~~to the extent reasonably available~~ that:

(a) Each unit's owner is an insured person under the policy with respect to liability arising out of the unit's owner's interest in the common elements or membership in the association;

(b) The insurer waives its right to subrogation under the policy against any unit's owner or member of his or her household;

(c) No act or omission by any unit's owner, unless acting within the scope of his or her authority on behalf of the association, ~~will void~~ **voids** the policy or ~~be~~ **is** a condition to recovery under the policy; and

(d) If, at the time of a loss under the policy, there is other insurance in the name of a unit's owner covering the same risk covered by the policy, the association's policy provides primary insurance.

2. Any loss covered by the property policy under subsections 1 and 2 of NRS 116.3113 must be adjusted with the association, but the proceeds for that loss are payable to any **insurance** trustee designated for that purpose, or otherwise to the association, and not to any holder of a security interest. The **insurance** trustee or the association shall hold any **insurance** proceeds in trust for the association, units' owners and lienholders as their interests may appear. Subject to ~~the provisions of~~ NRS 116.31135, the proceeds must be disbursed first for the repair or restoration of the damaged property, and the association, units' owners, and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, or the common-interest community is terminated.

3. An insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance to the association and, upon written request, to any unit's owner or holder of a security interest. The insurer issuing the policy may not cancel



1 or refuse to renew it until 30 days after notice of the proposed
2 cancellation or nonrenewal has been mailed to the association, *each*
3 *unit's owner* and ~~{to any person}~~ *each holder of a security interest*
4 to whom a certificate or memorandum of insurance has been issued
5 at their respective last known addresses.

6 **Sec. 47.** NRS 116.31135 is hereby amended to read as
7 follows:

8 116.31135 1. Any portion of the common-interest
9 community for which insurance is required under NRS 116.3113
10 which is damaged or destroyed must be repaired or replaced
11 promptly by the association unless:

12 (a) The common-interest community is terminated, in which
13 case NRS 116.2118, 116.21183 and 116.21185 apply;

14 (b) Repair or replacement would be illegal under any state or
15 local statute or ordinance governing health or safety; or

16 (c) Eighty percent of the units' owners, including every owner
17 of a unit or assigned limited common element that will not be
18 rebuilt, vote not to rebuild.

19 ~~{→}~~ 2. The cost of repair or replacement in excess of insurance
20 proceeds, *deductibles* and reserves is a common expense.

21 ~~{2}~~ If the entire common-interest community is not repaired or
22 replaced ~~{, the}~~ :

23 (a) *The insurance* proceeds attributable to the damaged
24 common elements ~~{}~~ must be used to restore the damaged area to a
25 condition compatible with the remainder of the common-interest
26 community ; ~~{}~~ and ~~{except}~~

27 (b) *Except* to the extent that other persons will be distributees
28 ~~{(subparagraph 2 of paragraph (1) of subsection 1 of NRS 116.2105):~~
29 ~~—(a)} :~~

30 (1) *The insurance* proceeds attributable to units and limited
31 common elements that are not rebuilt must be distributed to the
32 owners of those units and the owners of the units to which those
33 limited common elements were allocated, or to lienholders, as their
34 interests may appear; and

35 ~~{(b)}~~ (2) The remainder of the proceeds must be distributed to
36 all the units' owners or lienholders, as their interests may appear, as
37 follows:

38 ~~{(1)}~~ (I) In a condominium, in proportion to the interests of
39 all the units in the common elements; and

40 ~~{(2)}~~ (II) In a cooperative or planned community, in
41 proportion to the liabilities of all the units for common expenses.

42 3. If the units' owners vote not to rebuild any unit, that unit's
43 allocated interests are automatically reallocated upon the vote as if
44 the unit had been condemned under subsection 1 of NRS 116.1107,



1 and the association promptly shall prepare, execute and record an
2 amendment to the declaration reflecting the reallocations.

3 **Sec. 48.** NRS 116.3115 is hereby amended to read as follows:

4 116.3115 1. Until the association makes an assessment for
5 common expenses, the declarant shall pay all common expenses.
6 After an assessment has been made by the association, assessments
7 must be made at least annually, based on a budget adopted at least
8 annually by the association in accordance with the requirements set
9 forth in NRS 116.31151. Unless the declaration imposes more
10 stringent standards, the budget must include a budget for the daily
11 operation of the association and a budget for the reserves required
12 by paragraph (b) of subsection 2.

13 2. Except for assessments under subsections 4 to 7, inclusive
14 ~~§~~, *or as otherwise provided in this chapter:*

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

19 (b) The association shall establish adequate reserves, funded on
20 a reasonable basis, for the repair, replacement and restoration of the
21 major components of the common elements and any other portion of
22 the common-interest community that the association is obligated to
23 maintain, repair, replace or restore. The reserves may be used only
24 for those purposes, including, without limitation, repairing,
25 replacing and restoring roofs, roads and sidewalks, and must not be
26 used for daily maintenance. The association may comply with the
27 provisions of this paragraph through a funding plan that is designed
28 to allocate the costs for the repair, replacement and restoration of the
29 major components of the common elements and any other portion of
30 the common-interest community that the association is obligated to
31 maintain, repair, replace or restore over a period of years if the
32 funding plan is designed in an actuarially sound manner which will
33 ensure that sufficient money is available when the repair,
34 replacement and restoration of the major components of the
35 common elements or any other portion of the common-interest
36 community that the association is obligated to maintain, repair,
37 replace or restore are necessary. Notwithstanding any provision of
38 the governing documents to the contrary, to establish adequate
39 reserves pursuant to this paragraph, including, without limitation, to
40 establish or carry out a funding plan, the executive board may,
41 without seeking or obtaining the approval of the units' owners,
42 impose any necessary and reasonable assessments against the units
43 in the common-interest community. Any such assessments imposed
44 by the executive board must be based on the study of the reserves of
45 the association conducted pursuant to NRS 116.31152.



3. Any assessment for common expenses or installment thereof that is 60 days or more past due bears interest at a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions on January 1 or July 1, as the case may be, immediately preceding the date the assessment becomes past due, plus 2 percent. The rate must be adjusted accordingly on each January 1 and July 1 thereafter until the balance is satisfied.

4. Except as otherwise provided in the governing documents:

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

(b) Any common expense ~~for portion thereof~~ benefiting fewer than all of the units ~~must~~ *or their owners may* be assessed exclusively against the units *or units' owners* benefited; and

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

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

6. If *damage to a unit or other part of the common-interest community, or if any other* common expense is caused by the *willful* misconduct *or gross negligence* of any unit's owner, *tenant or invitee of a unit's owner or tenant*, the association may assess that expense exclusively against his or her unit ~~it~~, *even if the association maintains insurance with respect to that damage or common expense, unless the damage or other common expense is caused by a vehicle and is committed by a person who is delivering goods to, or performing services for, the unit's owner, tenant or invitee of the unit's owner or tenant.*

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.



1 **Sec. 49.** NRS 116.3116 is hereby amended to read as follows:

2 116.3116 1. The association has a *statutory* lien on a unit for
3 any construction penalty that is imposed against the unit's owner
4 pursuant to NRS 116.310305, any assessment ~~[levied against]~~
5 *attributable to* that unit or any fines imposed against the unit's
6 owner from the time the construction penalty, assessment or fine
7 becomes due. Unless the declaration otherwise provides, *reasonable*
8 *attorney's fees and costs*, any penalties, *other* fees, charges, late
9 charges, fines and interest charged pursuant to paragraphs (j) to (n),
10 inclusive, of subsection 1 of NRS 116.3102 , *and any other sums*
11 *due to the association under the declaration, this chapter, or as a*
12 *result of an administrative, arbitration, mediation or judicial*
13 *decision* are enforceable *in the same manner* as *unpaid*
14 assessments under this section. If an assessment is payable in
15 installments, the full amount of the assessment is a lien from the
16 time the first installment thereof becomes due.

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

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

22 (b) ~~[A]~~ *Except as otherwise provided in subsection 3, a* first
23 security interest on the unit recorded before the date on which the
24 assessment sought to be enforced became delinquent or, in a
25 cooperative, the first security interest encumbering only the unit's
26 owner's interest and perfected before the date on which the
27 assessment sought to be enforced became delinquent; and

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

30 ~~[The]~~

31 3. A lien *under this section* is also prior to all security interests
32 described in paragraph (b) *of subsection 2* to the extent of any
33 charges incurred by the association on a unit pursuant to NRS
34 116.310312 and to the extent of the assessments for common
35 expenses based on the periodic budget adopted by the association
36 pursuant to NRS 116.3115 which would have become due in the
37 absence of acceleration during the 9 months immediately preceding
38 institution of an action to enforce the lien, unless federal regulations
39 adopted by the Federal Home Loan Mortgage Corporation or the
40 Federal National Mortgage Association require a shorter period of
41 priority for the lien. If federal regulations adopted by the Federal
42 Home Loan Mortgage Corporation or the Federal National
43 Mortgage Association require a shorter period of priority for the
44 lien, the period during which the lien is prior to all security interests
45 described in paragraph (b) *of subsection 2* must be determined in



1 accordance with those federal regulations, except that
2 notwithstanding the provisions of the federal regulations, the period
3 of priority for the lien must not be less than the 6 months
4 immediately preceding institution of an action to enforce the lien.
5 This subsection does not affect the priority of mechanics' or
6 materialmen's liens, or the priority of liens for other assessments
7 made by the association.

8 ~~[3-]~~ 4. Unless the declaration otherwise provides, if two or
9 more associations have liens for assessments created at any time on
10 the same property, those liens have equal priority.

11 ~~[4-]~~ 5. Recording of the declaration constitutes record notice
12 and perfection of the lien. No further recordation of any claim of
13 lien for assessment under this section is required.

14 ~~[5-]~~ 6. A lien for unpaid assessments is extinguished unless
15 proceedings to enforce the lien are instituted within 3 years after the
16 full amount of the assessments becomes due.

17 ~~[6-]~~ 7. This section does not prohibit actions *against units'*
18 *owners* to recover sums for which subsection 1 creates a lien or
19 prohibit an association from taking a deed in lieu of foreclosure.

20 ~~[7-]~~ 8. A judgment or decree in any action brought under this
21 section must include costs and reasonable attorney's fees for the
22 prevailing party.

23 ~~[8-]~~ 9. The association, upon written request, shall furnish to a
24 unit's owner a statement setting forth the amount of unpaid
25 assessments against the unit. If the interest of the unit's owner is real
26 estate or if a lien for the unpaid assessments may be foreclosed
27 under NRS 116.31162 to 116.31168, inclusive, the statement must
28 be in recordable form. The statement must be furnished within 10
29 business days after receipt of the request and is binding on the
30 association, the executive board and every unit's owner.

31 ~~[9-]~~ 10. In a cooperative, upon nonpayment of an assessment
32 on a unit, the unit's owner may be evicted in the same manner as
33 provided by law in the case of an unlawful holdover by a
34 commercial tenant, and:

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

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

40 (1) May be foreclosed as a security interest under NRS
41 104.9101 to 104.9709, inclusive; or

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

44 *11. In an action by an association to collect assessments or to*
45 *foreclose a lien created under this section, the court may appoint a*



1 *receiver to collect all rents or other income from the unit alleged*
2 *to be due and owing to a unit's owner before commencement or*
3 *during pendency of the action. The receivership is governed by*
4 *chapter 32 of NRS. The court may order the receiver to pay any*
5 *sums held by the receiver to the association during pendency of*
6 *the action to the extent of the association's common expense*
7 *assessments based on a periodic budget adopted by the association*
8 *pursuant to NRS 116.3115.*

9 **Sec. 50.** NRS 116.3117 is hereby amended to read as follows:

10 116.3117 1. In a condominium or planned community:

11 (a) Except as otherwise provided in paragraph (b), a judgment
12 for money against the association, if a copy of the docket or an
13 abstract or copy of the judgment is recorded, is not a lien on the
14 common elements, but is a lien in favor of the judgment lienholder
15 against all of *the other real property of the association and all of*
16 *the units in the common-interest community at the time the*
17 *judgment was entered. No other property of a unit's owner is subject*
18 *to the claims of creditors of the association.*

19 (b) If the association has granted a security interest in the
20 common elements to a creditor of the association pursuant to NRS
21 116.3112, the holder of that security interest shall exercise its right
22 against the common elements before its judgment lien on any unit
23 may be enforced.

24 (c) Whether perfected before or after the creation of the
25 common-interest community, if a lien, other than a deed of trust or
26 mortgage, including a judgment lien or lien attributable to work
27 performed or materials supplied before creation of the common-
28 interest community, becomes effective against two or more units,
29 the owner of an affected unit may pay to the lienholder the amount
30 of the lien attributable to his or her unit, and the lienholder, upon
31 receipt of payment, promptly shall deliver a release of the lien
32 covering that unit. The amount of the payment must be
33 proportionate to the ratio which that owner's liability for common
34 expenses bears to the liabilities for common expenses of all owners
35 whose units are subject to the lien. After payment, the association
36 may not assess or have a lien against that owner's unit for any
37 portion of the common expenses incurred in connection with that
38 lien.

39 (d) A judgment against the association must be indexed in the
40 name of the common-interest community and the association and,
41 when so indexed, is notice of the lien against the units.

42 2. In a cooperative:

43 (a) If the association receives notice of an impending foreclosure
44 on all or any portion of the association's real estate, the association
45 shall promptly transmit a copy of that notice to each owner of a unit



1 located within the real estate to be foreclosed. Failure of the
2 association to transmit the notice does not affect the validity of the
3 foreclosure.

4 (b) Whether ~~for not~~ an owner's unit is subject to the claims of
5 the association's creditors, no other property of an owner is subject
6 to those claims.

7 **Sec. 51.** NRS 116.31175 is hereby amended to read as
8 follows:

9 116.31175 1. Except as otherwise provided in ~~this~~
10 subsection 3, the executive board of an association shall, upon the
11 written request of a unit's owner, make available the books, records
12 and other papers of the association for review at the business office
13 of the association or a designated business location not to exceed 60
14 miles from the physical location of the common-interest community
15 and during the regular working hours of the association, including,
16 without limitation ~~the~~:

17 (a) *The financial statement of the association;*

18 (b) *The budgets of the association required to be prepared*
19 *pursuant to NRS 116.31151;*

20 (c) *The study of the reserves of the association required to be*
21 *conducted pursuant to NRS 116.31152; and*

22 (d) *All* contracts to which the association is a party and all
23 records filed with a court relating to a civil or criminal action to
24 which the association is a party.

25 2. *The executive board shall provide a copy of any of the*
26 *records described in paragraphs (a), (b) and (c) of subsection 1 to*
27 *a unit's owner or the Ombudsman within 14 days after receiving a*
28 *written request therefor. The executive board may charge a fee to*
29 *cover the actual costs of preparing a copy, but the fee may not*
30 *exceed 25 cents per page.*

31 3. The provisions of ~~this~~ subsection 1 do not apply to:

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

35 (b) The records of the association relating to another unit's
36 owner, including, without limitation, any architectural plan or
37 specification submitted by a unit's owner to the association during
38 an approval process required by the governing documents, except
39 for those records described in subsection ~~2;~~ 4; and

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

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



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

~~[2-]~~ 4. The executive board of an association shall maintain a general record concerning each violation of the governing documents, other than a violation involving a failure to pay an assessment, for which the executive board has imposed a fine, a construction penalty or any other sanction. The general record:

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

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

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

~~[3-]~~ 5. If the executive board refuses to allow a unit's owner to review the books, records or other papers of the association, the Ombudsman may:

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

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

~~[4-]~~ 6. The books, records and other papers of an association must be maintained for at least 10 years. The provisions of this subsection do not apply to:

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

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

~~[5-]~~ 7. The executive board shall not require a unit's owner to pay an amount in excess of \$10 per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of ~~this section.~~

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



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

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

~~9. As used in this section:~~

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

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

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

~~(b) "Official publication" means:~~

~~(1) An official website;~~

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

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

~~which is published or maintained at the cost of an association and by an association, an executive board, a member of an executive board, a community manager or an officer, employee or agent of an association.] subsection 1.~~

Sec. 52. NRS 116.4101 is hereby amended to read as follows:

116.4101 1. NRS 116.4101 to 116.412, inclusive, apply to all units subject to this chapter, except as otherwise provided in ~~this section~~ **subsection 2** or as modified or waived by agreement of purchasers of units in a common-interest community in which all units are restricted to nonresidential use.

2. Neither a public offering statement nor a certificate of resale need be prepared or delivered in the case of a:

(a) Gratuitous disposition of a unit;

(b) Disposition pursuant to court order;

(c) Disposition by a government or governmental agency;

(d) Disposition by foreclosure or deed in lieu of foreclosure;

(e) Disposition to a dealer;

(f) Disposition that may be cancelled at any time and for any reason by the purchaser without penalty; ~~or~~



(g) Disposition of a unit in a planned community which contains no more than 12 units if:

(1) The declarant reasonably believes in good faith that the maximum assessment stated in the declaration will be sufficient to pay the expenses of the planned community; and

(2) The declaration cannot be amended to increase the assessment during the period of the declarant's control without the consent of all units' owners ~~[-~~

~~3. Except as otherwise provided in subsection 2, the provisions of NRS 116.4101 to 116.412, inclusive, do not apply to a planned community described in NRS 116.1203.]; or~~

(h) Disposition of a unit restricted to nonresidential purposes.

Sec. 53. NRS 116.4103 is hereby amended to read as follows:

116.4103 1. Except as otherwise provided in NRS 116.41035, a public offering statement must set forth or fully and accurately disclose each of the following:

(a) The name and principal address of the declarant and of the common-interest community, and a statement that the common-interest community is ~~[-~~either a condominium, cooperative or planned community.

(b) A general description of the common-interest community, including to the extent possible, the types, number and declarant's schedule of commencement and completion of construction of buildings, and amenities that the declarant anticipates including in the common-interest community.

(c) The estimated number of units in the common-interest community.

(d) Copies of the declaration, bylaws, and any rules or regulations of the association, but a plat is not required.

(e) ~~[-A current year to date financial statement, including the most recent audited or reviewed financial statement, and the projected budget for the association, either within or as an exhibit to the public offering statement, for 1 year after the date of the first conveyance to a purchaser, and thereafter the current budget of the association. The budget must include, without limitation:~~

~~— (1) A statement of the amount included in the budget as reserves for repairs, replacement and restoration pursuant to NRS 116.3115; and~~

~~— (2) The projected monthly assessment for common expenses for each type of unit, including the amount established as reserves pursuant to NRS 116.3115.]~~ *The financial information required by subsection 2.*

(f) A description of any services or subsidies being provided by the declarant or an affiliate of the declarant, not reflected in the budget ~~[-]~~ *that the declarant provides, or expenses which the*



1 *declarant pays and which the declarant expects may become at*
2 *any subsequent time a common expense of the association and the*
3 *projected common expense assessment attributable to each of*
4 *those services or expenses for the association and for each type of*
5 *unit.*

6 (g) Any initial or special fee due from the purchaser *or seller* at
7 closing, *including, without limitation, any transfer fees, whether*
8 *payable to the association, the community manager of the*
9 *association or any third party,* together with a description of the
10 purpose and method of calculating the fee.

11 (h) The terms and significant limitations of any warranties
12 provided by the declarant, including statutory warranties and
13 limitations on the enforcement thereof or on damages.

14 (i) A statement that unless the purchaser or his or her agent has
15 personally inspected the unit, the purchaser may cancel, by written
16 notice, his or her contract for purchase until midnight of the fifth
17 calendar day following the date of execution of the contract, and the
18 contract must contain a provision to that effect.

19 (j) A statement of any unsatisfied ~~{judgments}~~ *judgment* or
20 pending ~~{suits}~~ *action* against the association, and the status of any
21 pending ~~{suits}~~ *action* material to the common-interest community
22 of which a declarant has actual knowledge.

23 (k) Any current or expected fees or charges to be paid by units'
24 owners for the use of the common elements and other facilities
25 related to the common-interest community.

26 (l) In addition to any other document, a statement describing all
27 current and expected fees or charges for each unit, including,
28 without limitation, association fees, fines, assessments, late charges
29 or penalties, interest rates on delinquent assessments, additional
30 costs for collecting past due fines and charges for opening or closing
31 any file for each unit.

32 (m) *Any restraints on alienation of any portion of the*
33 *common-interest community and any restrictions:*

34 (1) *On the leasing or renting of units; and*

35 (2) *On the amount for which a unit may be sold or on the*
36 *amount that may be received by a unit's owner on the sale or*
37 *condemnation of or casualty loss to the unit or to the common-*
38 *interest community, or on termination of the common-interest*
39 *community.*

40 (n) *A description of any arrangement described in NRS*
41 *116.1209 binding the association.*

42 (o) The information statement set forth in NRS 116.41095.

43 2. *The public offering statement must contain any current*
44 *balance sheet and a projected budget for the association, either*
45 *within or as an exhibit to the public offering statement, for 1 year*



1 *after the date of the first conveyance to a purchaser, and*
2 *thereafter the current budget of the association, a statement of*
3 *who prepared the budget and a statement of the budget's*
4 *assumptions concerning occupancy and inflation factors. The*
5 *budget must include:*

6 (a) *A statement of the amount included in the budget as a*
7 *reserve for repairs, replacement and restoration pursuant to*
8 *NRS 116.3115;*

9 (b) *A statement of any other reserves;*

10 (c) *The projected common expense assessment by category of*
11 *expenditures for the association; and*

12 (d) *The projected monthly common expense assessment for*
13 *each type of unit, including the amount established as reserves*
14 *pursuant to NRS 116.3115.*

15 3. A declarant is not required to revise a public offering
16 statement more than once each calendar quarter, if the following
17 warning is given prominence in the statement: "THIS PUBLIC
18 OFFERING STATEMENT IS CURRENT AS OF (insert a
19 specified date). RECENT DEVELOPMENTS REGARDING (here
20 refer to particular provisions of NRS 116.4103 and 116.4105) MAY
21 NOT BE REFLECTED IN THIS STATEMENT."

22 **Sec. 54.** NRS 116.41035 is hereby amended to read as
23 follows:

24 116.41035 If a common-interest community composed of not
25 more than 12 units is not subject to any developmental rights and no
26 power is reserved to a declarant to make the common-interest
27 community part of a larger common-interest community, group of
28 common-interest communities or other real estate, a public offering
29 statement may ~~but need not~~ include the information otherwise
30 required by paragraphs (h) and (k) of subsection 1 of
31 NRS 116.4103.

32 **Sec. 55.** NRS 116.4109 is hereby amended to read as follows:

33 116.4109 1. Except in the case of a sale in which delivery of
34 a public offering statement is required, or unless exempt under
35 subsection 2 of NRS 116.4101, a unit's owner or his or her
36 authorized agent shall, at the expense of the unit's owner, furnish to
37 a purchaser a resale package containing all of the following:

38 (a) A copy of the declaration, other than any plats, the bylaws,
39 the rules or regulations of the association and the information
40 statement required by NRS 116.41095;

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

44 (c) A copy of the current operating budget of the association and
45 current year-to-date financial statement for the association, which



1 must include a summary of the reserves of the association required
2 by NRS 116.31152 and which must include, without limitation, a
3 summary of the information described in paragraphs (a) to (e),
4 inclusive, of subsection 3 of NRS 116.31152;

5 (d) A statement of any unsatisfied judgments or pending legal
6 actions against the association and the status of any pending legal
7 actions relating to the common-interest community of which the
8 unit's owner has actual knowledge;

9 (e) A statement of any transfer fees, transaction fees or any other
10 fees associated with the resale of a unit; and

11 (f) In addition to any other document, a statement describing all
12 current and expected fees or charges for each unit, including,
13 without limitation, association fees, fines, assessments, late charges
14 or penalties, interest rates on delinquent assessments, additional
15 costs for collecting past due fines and charges for opening or closing
16 any file for each unit.

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

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

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

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

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

40 (b) A certificate containing the information necessary to enable
41 the unit's owner to comply with paragraphs (b), (d), ~~(e)~~ (e) ~~and~~
42 (f) of subsection 1.

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



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

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

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

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

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

6. Upon the request of a unit's owner or his or her authorized agent, or upon the request of a purchaser to whom the unit's owner has provided a resale package pursuant to this section or his or her authorized agent, the association shall make the entire study of the reserves of the association which is required by NRS 116.31152 reasonably available for the unit's owner, purchaser or authorized agent to inspect, examine, photocopy and audit. The study must be made available at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties.

Sec. 56. NRS 116.4113 is hereby amended to read as follows:

116.4113 1. Express warranties made by ~~any seller~~ a declarant to a purchaser of a unit, if relied upon by the purchaser, are created as follows:

(a) Any affirmation of fact or promise that relates to the unit, its use or rights appurtenant thereto, improvements to the common-interest community that would directly benefit the unit, or the right to use or have the benefit of facilities not located in the



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1 common-interest community creates an express warranty that the
2 unit and related rights and uses will conform to the affirmation or
3 promise;

4 (b) Any model or description of the physical characteristics of
5 the common-interest community, including plans and specifications
6 of or for improvements, creates an express warranty that the
7 common-interest community will reasonably conform to the model
8 or description ~~[H]~~ *unless the model or description clearly discloses*
9 *that it is only proposed or is subject to change;*

10 (c) Any description of the quantity or extent of the real estate
11 comprising the common-interest community, including plats or
12 surveys, creates an express warranty that the common-interest
13 community will conform to the description, subject to customary
14 tolerances; and

15 (d) A provision that a purchaser may put a unit only to a
16 specified use is an express warranty that the specified use is lawful.

17 2. Neither formal words, such as "warranty" or "guarantee,"
18 nor a specific intention to make a warranty is necessary to create an
19 express warranty of quality, but a statement purporting to be merely
20 an opinion or commendation of the real estate or its value does not
21 create a warranty.

22 3. Any conveyance of a unit transfers to the purchaser all
23 express warranties of quality made by ~~[previous-sellers.]~~ *the*
24 *declarant.*

25 4. A warranty created by this section may be excluded or
26 modified by agreement of the parties.

27 **Sec. 57.** NRS 116.4114 is hereby amended to read as follows:

28 116.4114 1. A declarant and any dealer warrant that a unit
29 will be in at least as good condition at the earlier of the time of the
30 conveyance or delivery of possession as it was at the time of
31 contracting, reasonable wear and tear excepted.

32 2. A declarant and any dealer impliedly warrant that a unit and
33 the common elements in the common-interest community are
34 suitable for the ordinary uses of real estate of its type and that any
35 improvements made or contracted for by ~~[him or her.]~~ *a declarant*
36 *or dealer*, or made by any person before the creation of the
37 common-interest community, will be:

38 (a) Free from defective materials; and

39 (b) Constructed in accordance with applicable law, according to
40 sound standards of engineering and construction, and in a
41 workmanlike manner.

42 3. ~~[In addition, a]~~ *A* declarant and any dealer warrant to a
43 purchaser of a unit that may be used for residential use that an
44 existing use, continuation of which is contemplated by the parties,



1 does not violate applicable law at the earlier of the time of
2 conveyance or delivery of possession.

3 4. Warranties imposed by this section may be excluded or
4 modified as specified in NRS 116.4115.

5 5. For purposes of this section, improvements made or
6 contracted for by an affiliate of a declarant are made or contracted
7 for by the declarant.

8 6. Any conveyance of a unit transfers to the purchaser all of the
9 declarant's implied warranties of quality.

10 **Sec. 58.** NRS 116.4116 is hereby amended to read as follows:

11 116.4116 1. ~~[A]~~ *Unless a period of limitation is tolled under*
12 *NRS 116.3111 or affected by subsection 4, a* judicial proceeding for
13 breach of any obligation arising under NRS 116.4113 or 116.4114
14 must be commenced within 6 years after the cause of action accrues,
15 but the parties may agree to reduce the period of limitation to not
16 less than 2 years. With respect to a unit that may be occupied for
17 residential use, an agreement to reduce the period of limitation must
18 be evidenced by a separate instrument executed by the purchaser.

19 2. Subject to subsection 3, a cause of action for breach of
20 warranty of quality, regardless of the purchaser's lack of knowledge
21 of the breach, accrues:

22 (a) As to a unit, at the time the purchaser to whom the warranty
23 is first made enters into possession if a possessory interest was
24 conveyed or at the time of acceptance of the instrument of
25 conveyance if a nonpossessory interest was conveyed; and

26 (b) As to each common element, at the time the common
27 element is completed or, if later, as to:

28 (1) A common element that may be added to the common-
29 interest community or portion thereof, at the time the first unit
30 therein is conveyed to a bona fide purchaser; or

31 (2) A common element within any other portion of the
32 common-interest community, at the time the first unit is conveyed to
33 a purchaser in good faith.

34 3. If a warranty of quality explicitly extends to future
35 performance or duration of any improvement or component of the
36 common-interest community, the cause of action accrues at the time
37 the breach is discovered or at the end of the period for which the
38 warranty explicitly extends, whichever is earlier.

39 *4. During the period of declarant control, the association may*
40 *authorize an independent committee of the executive board to*
41 *evaluate and enforce any warranty claims involving the common*
42 *elements, and to compromise those claims. Only members of the*
43 *executive board elected by units' owners other than the declarant*
44 *and other persons appointed by those independent members may*
45 *serve on the committee, and the committee's decision must be free*



of any control by the declarant or any member of the executive board or officer appointed by the declarant. All costs reasonably incurred by the committee, including attorney's fees, are common expenses, and must be added to the budget annually adopted by the association in accordance with the requirements of NRS 116.31151. If the committee is so created, the period of limitation for a warranty claim considered by the committee begins to run from the date of the first meeting of the committee.

Sec. 59. 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,~~ subsection 5, 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.

~~4-1~~ 5. *Punitive damages may not be awarded 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;*

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



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

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

6 ~~5-1~~ 7. The civil remedy provided by this section is in addition
7 to, and not exclusive of, any other available remedy or penalty.

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

12 Sec. 60. NRS 116.31177 is hereby repealed.

13 Sec. 61. This act becomes effective on January 1, 2012.

TEXT OF REPEALED SECTION

116.31177 Maintenance and availability of certain financial records of association; provision of copies to units' owners and Ombudsman.

1. The executive board of an association shall maintain and make 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:

(a) The financial statement of the association;

(b) The budgets of the association required to be prepared pursuant to NRS 116.31151; and

(c) The study of the reserves of the association required to be conducted pursuant to NRS 116.31152.

2. The executive board shall provide a copy of any of the records required to be maintained pursuant to subsection 1 to a unit's owner or the Ombudsman within 14 days after receiving a written request therefor. The executive board may charge a fee to cover the actual costs of preparing a copy, but not to exceed 25 cents per page.

