

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. Additionally, **section 6** enacts provisions providing for equal time for candidates and representatives of ballot questions on a closed-circuit television station maintained by an association.

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** 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 37** amends provisions relating to the removal of members of the executive board. **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. **Sections 45 and 59.5** of this bill require an association to obtain crime insurance and remove the requirement that a community manager post a bond. **Section 45** also requires the association to maintain property, liability and crime 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



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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.

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 4. *If substantially all the units in a common-interest community have been destroyed or are uninhabitable and the available methods for giving notice under NRS 116.3108 of a meeting of units' owners to consider termination under*



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1 *NRS 116.2118 will not likely result in receipt of the notice, the*
2 *executive board or any other interested person may commence an*
3 *action in the district court of the county in which the common-*
4 *interest community is located seeking to terminate the common-*
5 *interest community. During the pendency of the action, the court*
6 *may issue whatever orders it considers appropriate, including,*
7 *without limitation, an order for the appointment of a receiver.*
8 *After a hearing, the court may terminate the common-interest*
9 *community or reduce its size and may issue any other order the*
10 *court considers to be in the best interest of the units' owners and*
11 *persons holding an interest in the common-interest community.*

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

21 *Sec. 6. 1. If an official publication contains any mention of*
22 *a candidate or ballot question, the official publication must, upon*
23 *request and under the same terms and conditions, provide equal*
24 *space to all candidates or to a representative of an organization*
25 *which supports the passage or defeat of the ballot question.*

26 *2. If an official publication contains the views or opinions of*
27 *the association, the executive board, a community manager or an*
28 *officer, employee or agent of an association concerning an issue*
29 *of official interest, the official publication must, upon request and*
30 *under the same terms and conditions, provide equal space to*
31 *opposing views and opinions of a unit's owner of the common-*
32 *interest community.*

33 *3. If an association has a closed-circuit television station and*
34 *that station interviews, or provides time to, a candidate or a*
35 *representative of an organization which supports the passage or*
36 *defeat of a ballot question, the closed-circuit television station*
37 *must, under the same terms and conditions, allow equal time for*
38 *all candidates or a representative of an opposing view to the ballot*
39 *question.*

40 *4. The association and its officers, employees and agents are*
41 *immune from criminal or civil liability for any act or omission*
42 *which arises out of the publication or disclosure of any*
43 *information related to any person and which occurs in the course*
44 *of carrying out any duties required pursuant to subsection 1, 2*
45 *or 3.*



5. *As used in this section:*

(a) *"Issue of official interest" means:*

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

(2) *The enactment or adoption of rules or regulations that will affect the 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.*

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.



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~~[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 ~~the~~ :

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

2. *As* security for an obligation.



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

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

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

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

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

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

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

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

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

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

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

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



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

2 116.1104 Except as expressly provided in this chapter, its
3 provisions may not be varied by agreement, and rights conferred by
4 it may not be waived. ~~[A]~~ *Except as otherwise provided in*
5 *paragraph (b) of subsection 2 of NRS 116.12075, a* declarant may
6 not act under a power of attorney, or use any other device, to evade
7 the limitations or prohibitions of this chapter or the declaration.

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

9 116.1108 The principles of law and equity, including the law
10 of corporations ~~[A]~~ *and any other form of organization authorized*
11 *by law of this State,* the law of unincorporated associations, the law
12 of real property, and the law relative to capacity to contract,
13 principal and agent, eminent domain, estoppel, fraud,
14 misrepresentation, duress, coercion, mistake, receivership,
15 substantial performance, or other validating or invalidating cause
16 supplement the provisions of this chapter, except to the extent
17 inconsistent with this chapter.

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

19 116.1114 ~~[A]~~ The remedies provided by this chapter must be
20 liberally administered to the end that the aggrieved party is put in as
21 good a position as if the other party had fully performed.
22 Consequential, special or punitive damages may not be awarded
23 except as specifically provided in this chapter or by other rule of
24 law.

25 ~~[2. Any right or obligation declared by this chapter is~~
26 ~~enforceable by judicial proceeding.]~~

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

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

31 2. This chapter does not apply to:

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

34 (1) Shall pay the fees required pursuant to NRS 116.31155,
35 except that if the limited-purpose association is created for a rural
36 agricultural residential common-interest community, the limited-
37 purpose association is not required to pay the fee unless the
38 association intends to use the services of the Ombudsman;

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

41 (3) Shall comply with the provisions of:

42 (I) NRS 116.31038;

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



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

(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 116.41035 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;



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(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



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1 NRS 116.1106 and 116.1107 unless the declaration provides that
2 this entire chapter is applicable.

3 2. Except for NRS 116.3104, 116.31043, 116.31046 and
4 116.31138, the provisions of NRS 116.3101 to 116.350, inclusive,
5 **and sections 5 and 6 of this act** and the definitions set forth in NRS
6 116.005 to 116.095, inclusive, to the extent that such definitions are
7 necessary in construing any of those provisions, apply to a
8 residential planned community containing more than six units.

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

10 116.1206 1. Any provision contained in a declaration, bylaw
11 or other governing document of a common-interest community that
12 violates the provisions of this chapter:

13 (a) Shall be deemed to conform with those provisions by
14 operation of law, and any such declaration, bylaw or other
15 governing document is not required to be amended to conform to
16 those provisions.

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

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

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

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

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

40 **Sec. 23.** NRS 116.12075 is hereby amended to read as
41 follows:

42 116.12075 1. The provisions of this chapter do not apply to a
43 nonresidential condominium except to the extent that the declaration
44 for the nonresidential condominium provides that:

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



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

(c) Only the provisions of NRS 116.3116 to 116.31168, 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. ~~If 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;



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

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

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

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

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

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

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

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

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

(l) Any restrictions:

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

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



(m) The file number and book or other information ~~{to show where}~~ **for recorded** easements and licenses ~~{are recorded}~~ appurtenant to or included in the common-interest community or to which any portion of the common-interest community is or may 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



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1 NRS 116.1107 as if those units had been taken by eminent domain.
2 Reallocations must be confirmed by an amendment to the
3 declaration prepared, executed and recorded by the association.

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

5 116.2107 1. The declaration must allocate to each unit:

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

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

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

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

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

24 4. The declaration may provide:

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

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

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

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

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

42 6. In a condominium, the common elements are not subject to
43 partition, and any purported conveyance, encumbrance, judicial sale
44 or other voluntary or involuntary transfer of an undivided interest in



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1 the common elements made without the unit to which that interest is
2 allocated is void.

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

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

8 116.2113 1. If the declaration expressly so permits, a unit
9 may be subdivided into two or more units. Subject to ~~{the provisions~~
10 ~~of}~~ the declaration and ~~{other provisions of}~~ law ~~{,}~~ *other than this*
11 *chapter*, upon application of the unit's owner to subdivide a unit,
12 the association shall prepare, execute and record an amendment to
13 the declaration, including , in a condominium or planned community
14 , the plats, subdividing that unit.

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

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

22 116.2116 1. Subject to ~~{the provisions of}~~ the declaration, a
23 declarant has an easement through the common elements as may be
24 reasonably necessary to discharge the declarant's obligations or
25 exercise special declarant's rights, whether arising under this
26 chapter or reserved in the declaration.

27 2. ~~{In a planned community, subject to the provisions of}~~
28 *Subject to* paragraph (f) of subsection 1 of NRS 116.3102 and NRS
29 116.3112, the units' owners have an easement ~~{:~~

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

32 ~~—(b) To}~~

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

39 ~~{3.}~~ 4. Unless the terms of an easement in favor of an
40 association prohibit a residential use of a servient estate, if the
41 owner of the servient estate has obtained all necessary approvals
42 required by law or any covenant, condition or restriction on the
43 property, the owner may use such property in any manner
44 authorized by law without obtaining any additional approval from
45 the association. Nothing in this subsection authorizes an owner of a



servient estate to impede the lawful and contractual use of the easement.

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

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

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

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

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

4. Except to the extent expressly permitted or required by other provisions of this chapter, no amendment may change the boundaries of any unit or **change** the allocated interests of a unit in the absence of unanimous consent of ~~{the}~~ **only those** units' owners



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1 **whose units are** affected and the consent of a majority of the owners
2 of the remaining units.

3 5. Amendments to the declaration required by this chapter to
4 be recorded by the association must be prepared, executed, recorded
5 and certified on behalf of the association by any officer of the
6 association designated for that purpose or, in the absence of
7 designation, by the president of the association.

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

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

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

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

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

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

32 116.2118 1. Except in the case of a taking of all the units by
33 eminent domain , ~~[(NRS 116.1107) or]~~ in the case of foreclosure
34 against an entire cooperative of a security interest that has priority
35 over the declaration, **or in the circumstances described in section 4**
36 **of this act**, a common-interest community may be terminated only
37 by agreement of units' owners to whom at least 80 percent of the
38 votes in the association are allocated, or any larger percentage the
39 declaration specifies ~~H~~ , **and with any other approvals required by**
40 **the declaration.** The declaration may specify a smaller percentage
41 only if all of the units are restricted exclusively to nonresidential
42 uses.

43 2. An agreement to terminate must be evidenced by the
44 execution of an agreement to terminate, or ratifications thereof, in
45 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 declaration, an agreement to terminate may provide that all of the common elements and units of the common-interest community must be sold following termination. If, pursuant to the agreement, any real estate in the common-interest community is to be sold following termination, the agreement must set forth the minimum terms of the sale.

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

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

6. In a condominium or planned community, if the real estate constituting the common-interest community is not to be sold following termination, title to the common elements and, in a common-interest community containing only units having horizontal boundaries described in the declaration, title to all the real estate in the common-interest community, vests in the units' owners



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1 upon termination as tenants in common in proportion to their
2 respective interests as provided in NRS 116.21185, and liens on the
3 units shift accordingly. While the tenancy in common exists, each
4 unit's owner and his or her successors in interest have an exclusive
5 right to occupancy of the portion of the real estate that formerly
6 constituted the unit.

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

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

13 116.3101 1. A unit-owners' association must be organized no
14 later than the date the first unit in the common-interest community is
15 conveyed.

16 2. The membership of the association at all times consists
17 exclusively of all units' owners or, following termination of the
18 common-interest community, of all owners of former units entitled
19 to distributions of proceeds under NRS 116.2118, 116.21183 and
20 116.21185, or their heirs, successors or assigns.

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

22 4. The association must:

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

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

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

35 (d) Comply with the applicable provisions of chapters 78, 81,
36 82, 86, 87, 87A, 88 and 88A of NRS when filing with the Secretary
37 of State its articles of incorporation, articles of association, articles
38 of organization, certificate of registration, certificate of limited
39 partnership, certificate of trust or other documents of organization,
40 or any amendment thereof.

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

42 116.3102 1. Except as otherwise provided in this ~~section,~~
43 *chapter*, and subject to the provisions of the declaration, the
44 association : ~~may do any or all of the following;~~



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



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(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 and furnishing the documents and certificate required by that section.

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

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

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

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

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

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

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

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

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

3. *The executive board may determine whether to take enforcement action by exercising the association's power to*



1 *impose sanctions or commence an action for a violation of the*
2 *declaration, bylaws or rules, including whether to compromise any*
3 *claim for unpaid assessments or other claim made by or against it.*
4 *The executive board does not have a duty to take enforcement*
5 *action if it determines that, under the facts and circumstances*
6 *presented:*

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

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

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

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

16 *4. The executive board's decision under subsection 3 not to*
17 *pursue enforcement under one set of circumstances does not*
18 *prevent the executive board from taking enforcement action under*
19 *another set of circumstances, but the executive board may not be*
20 *arbitrary or capricious in taking enforcement action.*

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

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

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

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



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

2. The executive board may not act ~~for on behalf of the association~~ to ~~amend~~ :

(a) Amend the declaration, ~~to terminate~~ except as otherwise provided in NRS 116.2117.

(b) Terminate the common-interest community . ~~to or to elect~~

(c) Elect members of the executive board ~~for 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 ~~to 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.

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

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

(a) Participated in or authorized the violation;

(b) Had prior notice of the violation; or

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

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

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

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



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

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

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

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

~~14-1~~ 5. The executive board must schedule the date, time and location for the hearing on the violation so that the unit's owner and, if different, the person against whom the fine will be imposed is provided with a reasonable opportunity to prepare for the hearing and to be present at the hearing.

~~15-1~~ 6. The executive board must hold a hearing before it may impose the fine, unless the fine is paid before the hearing or unless the unit's owner and, if different, the person against whom the fine will be imposed:

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

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

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

~~17-1~~ 8. If the governing documents so provide, the executive board may appoint a committee, with not less than three members, to conduct hearings on violations and to impose fines pursuant to this section. While acting on behalf of the executive board for those limited purposes, the committee and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the executive board and its members.

~~18-1~~ 9. A member of the executive board shall not participate in any hearing or cast any vote relating to a fine imposed pursuant to subsection 1 if the member has not paid all assessments which are due to the association by the member. If a member of the executive board:



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

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

~~10.1~~ 10. The provisions of this section establish the minimum procedural requirements that the executive board must follow before it may impose a fine. The provisions of this section do not preempt any provisions of the governing documents that provide greater procedural protections.

~~10.1~~ 11. Any past due fine must not bear interest, but may include any costs incurred by the association during a civil action to 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 ~~or~~
~~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 declarant. Not later than 60 days after conveyance of 50 percent of the units that may be created to units' owners other than a declarant, not less than ~~{33 1/3 percent}~~ **one-third** of the members of the executive board must be elected by units' owners other than the declarant.

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

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

~~—(a) The~~ , the number of votes cast **in favor of removal** constitutes ~~{at}~~ :

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

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

2. **A removal election may be called by units' owners constituting at least 10 percent, or any lower percentage specified in the bylaws, of the total number of voting members of the association. To call 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 a removal election is called pursuant to this subsection and:**

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

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



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1 (2) *The executive board shall set the date for the meeting to*
2 *open and count the secret written ballots so that the meeting is*
3 *held not more than 15 days after the deadline for returning the*
4 *secret written ballots and not later than 90 days after the date on*
5 *which the petition was received.*

6 (b) *The voting rights of the owners of time shares will be*
7 *exercised by delegates or representatives as set forth in NRS*
8 *116.31105, the executive board shall set the date for the removal*
9 *election so that the removal election is held not less than 15 days*
10 *or more than 90 days after the date on which the petition is*
11 *received.*

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

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

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

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

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

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

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

39 ~~§3. If a member of an executive board is named as a respondent~~
40 ~~or sued for liability for actions undertaken in his or her role as a~~
41 ~~member of the board, the association shall indemnify the member~~
42 ~~for his or her losses or claims, and undertake all costs of defense,~~
43 ~~unless it is proven that the member acted with willful or wanton~~
44 ~~misfeasance or with gross negligence. After such proof, the~~
45 ~~association is no longer liable for the cost of defense, and may~~



~~recover costs already expended from the member of the executive board who so acted. Members of the executive board are not personally liable to the victims of crimes occurring on the property. Punitive damages may not be recovered against:~~

~~—(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; or~~

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

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

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

116.3105 ~~[If entered into before]~~

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

(a) Any management ~~[contract,]~~ , **maintenance, operations or** employment contract, or lease of recreational or parking areas or facilities ~~[, any] ; or~~

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

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

3. This section does not apply to ~~[any] :~~

(a) Any lease the termination of which would terminate the common-interest community or reduce its size, unless the real estate subject to that lease was included in the common-interest community for the purpose of avoiding the right of the association to terminate a lease under this section ~~[, or to a] ; or~~

(b) A proprietary lease.

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

116.3106 1. The bylaws of the association must : ~~[provide:]~~



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

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

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

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

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

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

(g) ~~{A}~~ *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 or* 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*



1 *association if its* president, ~~by~~ a majority of the executive board or
2 ~~by~~ units' owners constituting at least 10 percent, or any lower
3 percentage specified in the bylaws, of the total number of ~~voting~~
4 ~~members of~~ *votes in* the association ~~[. The same number of units'~~
5 ~~owners may also call a removal election pursuant to NRS~~
6 ~~116.31036.] request that the secretary call such a meeting.~~ To call
7 a special meeting , ~~for a removal election,~~ the units' owners must
8 submit a written petition which is signed by the required percentage
9 of the total number of voting members of the association pursuant to
10 this subsection and which is mailed, return receipt requested, or
11 served by a process server to the executive board or the community
12 manager for the association. If the petition calls for a special
13 meeting, the executive board shall set the date for the special
14 meeting so that the special meeting is held not less than 15 days or
15 more than 60 days after the date on which the petition is received.
16 ~~If the petition calls for a removal election and:~~
17 ~~—(a) The voting rights of the owners of time shares will be~~
18 ~~exercised by delegates or representatives as set forth in NRS~~
19 ~~116.31105, the executive board shall set the date for the removal~~
20 ~~election so that the removal election is held not less than 15 days or~~
21 ~~more than 60 days after the date on which the petition is received; or~~
22 ~~—(b) The voting rights of the units' owners will be exercised~~
23 ~~through the use of secret written ballots pursuant to NRS 116.31036,~~
24 ~~the secret written ballots for the removal election must be sent in the~~
25 ~~manner required by NRS 116.31036 not less than 15 days or more~~
26 ~~than 60 days after the date on which the petition is received, and the~~
27 ~~executive board shall set the date for the meeting to open and count~~
28 ~~the secret written ballots so that the meeting is held not more than~~
29 ~~15 days after the deadline for returning the secret written ballots.~~
30 ~~↪~~ The association shall not adopt any rule or regulation which
31 prevents or unreasonably interferes with the collection of the
32 required percentage of signatures for a petition pursuant to this
33 subsection.
34 3. Not less than 15 days or more than 60 days in advance of
35 any meeting of the units' owners, the secretary or other officer
36 specified in the bylaws shall cause notice of the meeting to be
37 ~~hand-delivered, sent prepaid by United States mail to the mailing~~
38 ~~address of each unit or to any other mailing address designated in~~
39 ~~writing by the unit's owner or, if the association offers to send~~
40 ~~notice by electronic mail, sent by electronic mail at the request of~~
41 ~~the unit's owner to an electronic mail address designated in writing~~
42 ~~by the unit's owner.] given to the units' owners in the manner set~~
43 *forth in section 2 of this act.* The notice of the meeting must state
44 the time and place of the meeting and include a copy of the agenda



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1 for the meeting. The notice must include notification of the right of
2 a unit's owner to:

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

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

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

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

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

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

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

37 ~~—6.1~~ The secretary or other officer specified in the bylaws shall
38 cause minutes to be recorded or otherwise taken at each meeting of
39 the units' owners. Not more than 30 days after each such meeting,
40 the secretary or other officer specified in the bylaws shall cause the
41 minutes or a summary of the minutes of the meeting to be made
42 available to the units' owners. Except as otherwise provided in this
43 subsection, a copy of the minutes or a summary of the minutes must
44 be provided to any unit's owner upon request, in electronic format at
45 no charge to the unit's owner or, if the association is unable to



1 provide the copy or summary in electronic format, in paper format
2 at a cost not to exceed 25 cents per page for the first 10 pages, and
3 10 cents per page thereafter.

4 ~~(7-)~~ 6. Except as otherwise provided in subsection ~~(8-)~~ 7, the
5 minutes of each meeting of the units' owners must include:

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

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

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

14 ~~(8-)~~ 7. The executive board may establish reasonable
15 limitations on materials, remarks or other information to be included
16 in the minutes of a meeting of the units' owners.

17 ~~(9-)~~ 8. The association shall maintain the minutes of each
18 meeting of the units' owners until the common-interest community
19 is terminated.

20 ~~(10-)~~ 9. A unit's owner may record on audiotape or any other
21 means of sound reproduction a meeting of the units' owners if the
22 unit's owner, before recording the meeting, provides notice of his or
23 her intent to record the meeting to the other units' owners who are in
24 attendance at the meeting.

25 ~~(11-)~~ 10. The units' owners may approve, at the annual
26 meeting of the units' owners, the minutes of the prior annual
27 meeting of the units' owners and the minutes of any prior special
28 meetings of the units' owners. A quorum is not required to be
29 present when the units' owners approve the minutes.

30 ~~(12-)~~ 11. As used in this section, "emergency" means any
31 occurrence or combination of occurrences that:

32 (a) Could not have been reasonably foreseen;

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

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

37 (d) Makes it impracticable to comply with the provisions of
38 subsection 3 or 4.

39 **Sec. 41.** NRS 116.31083 is hereby amended to read as
40 follows:

41 116.31083 1. A meeting of the executive board must be held
42 at least once every quarter, and not less than once every 100 days
43 and must be held at a time other than during standard business hours
44 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) ~~1 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;~~

~~2 (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~~

~~3 (c) Given to the units' owners in the manner set forth in section 2 of this act; or~~

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

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

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

(a) Have a copy of the audio recording, the minutes or a summary of the minutes of the meeting provided to the 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.

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

5. The agenda of the meeting of the executive board must comply with the provisions of subsection 4 of NRS 116.3108. A period required to be devoted to comments by the units' owners and discussion of those comments must be scheduled for both the beginning and the end of each meeting. During the period devoted to comments by the units' owners and discussion of those comments at the beginning of each meeting, comments by the units' owners and discussion of those comments must be limited to items listed on



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1 the agenda. In an emergency, the executive board may take action
2 on an item which is not listed on the agenda as an item on which
3 action may be taken.

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

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

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

13 (c) A current reconciliation of the operating account of the
14 association;

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

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

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

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

38 8. Except as otherwise provided in subsection 9 and NRS
39 116.31085, the minutes of each meeting of the executive board must
40 include:

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

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

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



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(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



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

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

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

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

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

34 4. *Meetings of the association must be conducted in*
35 *accordance with the most recent edition of Robert's Rules of*
36 *Order Newly Revised, unless the bylaws or a resolution of the*
37 *executive board adopted before the meeting provide otherwise.*

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

39 116.311 1. *Unless prohibited or limited by the declaration*
40 *or bylaws and except as otherwise provided in this section, units'*
41 *owners may vote at a meeting in person, by absentee ballot*
42 *pursuant to paragraph (d) of subsection 2, by a proxy pursuant to*
43 *subsections 3 to 8, inclusive, or, when a vote is conducted without*
44 *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 the person presiding over the meeting by any of the other owners of the unit.

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

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

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

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

~~[3.]~~ 4. Before a vote may be cast pursuant to a proxy:

(a) The proxy must be dated.

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



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

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

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

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

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

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

~~7~~ 8. A proxy is void if the proxy or the holder of the proxy violates any provision of subsections ~~4~~ 3 to ~~6~~ 7, inclusive.

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~10-1~~ 11. If any votes are allocated to a unit that is owned by the association, those votes may not be cast, by proxy or otherwise, for any purpose.

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

116.3111 1. *A unit's owner is not liable, solely by reason of being a unit's owner, for an injury or damage arising out of the condition or use of the common elements.* Neither the association nor any unit's owner except the declarant is liable for that



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1 declarant's torts in connection with any part of the common-interest
2 community which that declarant has the responsibility to maintain.

3 ~~{Otherwise, an}~~

4 **2. An** action alleging a wrong done by the association ~~{must be~~
5 ~~brought}~~ , **including, without limitation, an action arising out of**
6 **the condition or use of the common elements, may be maintained**
7 **only** against the association and not against any unit's owner. If the
8 wrong occurred during any period of declarant's control and the
9 association gives the declarant reasonable notice of and an
10 opportunity to defend against the action, the declarant who then
11 controlled the association is liable to the association or to any unit's
12 owner for all tort losses not covered by insurance suffered by the
13 association or that unit's owner, and all costs that the association
14 would not have incurred but for a breach of contract or other
15 wrongful act or omission. Whenever the declarant is liable to the
16 association under this section, the declarant is also liable for all
17 expenses of litigation, including reasonable attorney's fees, incurred
18 by the association. ~~{Any}~~

19 **3. Except as otherwise provided in subsection 4 of NRS**
20 **116.4116 with respect to warranty claims, any** statute of limitation
21 affecting the association's right of action **against a declarant** under
22 this section is tolled until the period of declarant's control
23 terminates. A unit's owner is not precluded from maintaining an
24 action contemplated by this section because he or she is a unit's
25 owner or a member or officer of the association. **Liens resulting**
26 **from judgments against the association are governed by**
27 **NRS 116.3117.**

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

29 116.3113 1. Commencing not later than the time of the first
30 conveyance of a unit to a person other than a declarant, the
31 association shall maintain, to the extent reasonably available ~~{, both~~
32 ~~of the following;}~~ **and subject to reasonable deductibles:**

33 (a) Property insurance on the common elements and, in a
34 planned community, also on property that must become common
35 elements, insuring against ~~{all}~~ risks of direct physical loss
36 commonly insured against ~~{or, in the case of a converted building,~~
37 ~~against fire and extended coverage perils. The total amount of}~~ ,
38 **which** insurance , after application of any deductibles , must be not
39 less than 80 percent of the actual cash value of the insured property
40 at the time the insurance is purchased and at each renewal date,
41 exclusive of land, excavations, foundations and other items
42 normally excluded from property policies ; ~~{}~~

43 (b) ~~{Liability}~~ **Commercial general liability** insurance, including
44 insurance for medical payments, in an amount determined by the
45 executive board but not less than any amount specified in the



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1 declaration, covering all occurrences commonly insured against for
2 ~~{death,}~~ bodily injury ~~{}~~ and property damage arising out of or in
3 connection with the use, ownership, or maintenance of the common
4 elements and, in cooperatives, also of all units ~~{}~~; and

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

14 2. In the case of a building ~~{that is part of a cooperative or}~~ that
15 contains units ~~{having}~~ *divided by* horizontal boundaries described
16 in the declaration, *or vertical boundaries that comprise common*
17 *walls between units,* the insurance maintained under paragraph (a)
18 of subsection 1, to the extent reasonably available, must include the
19 units, but need not include improvements and betterments installed
20 by units' owners.

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

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

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

33 116.31133 1. Insurance policies carried pursuant to NRS
34 116.3113 must provide ~~{to the extent reasonably available}~~ that:

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

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

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

44 (d) If, at the time of a loss under the policy, there is other
45 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 or refuse to renew it until 30 days after notice of the proposed cancellation or nonrenewal has been mailed to the association, *each unit's owner* and ~~to any person~~ *each holder of a security interest* to whom a certificate or memorandum of insurance has been issued at their respective last known addresses.

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

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

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

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

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

~~1~~ 2. The cost of repair or replacement in excess of insurance proceeds, *deductibles* and reserves is a common expense.

~~2~~ If the entire common-interest community is not repaired or replaced ~~the~~:

(a) *The insurance* proceeds attributable to the damaged common elements ~~1~~ must be used to restore the damaged area to a



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condition compatible with the remainder of the common-interest community; ~~§~~ and ~~except~~

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

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

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

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

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

3. If the units' owners vote not to rebuild any unit, that unit's allocated interests are automatically reallocated upon the vote as if the unit had been condemned under subsection 1 of NRS 116.1107, and the association promptly shall prepare, execute and record an amendment to the declaration reflecting the reallocations.

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

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

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

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

(b) The association shall establish adequate reserves, funded on a reasonable basis, for the repair, replacement and restoration of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore. The reserves may be used only for those purposes, including, without limitation, repairing, replacing and restoring roofs, roads and sidewalks, and must not be



1 used for daily maintenance. The association may comply with the
2 provisions of this paragraph through a funding plan that is designed
3 to allocate the costs for the repair, replacement and restoration of the
4 major components of the common elements and any other portion of
5 the common-interest community that the association is obligated to
6 maintain, repair, replace or restore over a period of years if the
7 funding plan is designed in an actuarially sound manner which will
8 ensure that sufficient money is available when the repair,
9 replacement and restoration of the major components of the
10 common elements or any other portion of the common-interest
11 community that the association is obligated to maintain, repair,
12 replace or restore are necessary. Notwithstanding any provision of
13 the governing documents to the contrary, to establish adequate
14 reserves pursuant to this paragraph, including, without limitation, to
15 establish or carry out a funding plan, the executive board may,
16 without seeking or obtaining the approval of the units' owners,
17 impose any necessary and reasonable assessments against the units
18 in the common-interest community. Any such assessments imposed
19 by the executive board must be based on the study of the reserves of
20 the association conducted pursuant to NRS 116.31152.

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

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

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

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

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

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

44 6. If *damage to a unit or other part of the common-interest*
45 *community, or if* any *other* common expense is caused by the



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1 *willful misconduct or gross negligence* of any unit's owner, *tenant*
2 *or invitee of a unit's owner or tenant*, the association may assess
3 that expense exclusively against his or her unit ~~H~~, *even if the*
4 *association maintains insurance with respect to that damage or*
5 *common expense, unless the damage or other common expense is*
6 *caused by a vehicle and is committed by a person who is delivering*
7 *goods to, or performing services for, the unit's owner, tenant or*
8 *invitee of the unit's owner or tenant.*

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

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

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

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

22 116.3116 1. The association has a *statutory* lien on a unit for
23 any construction penalty that is imposed against the unit's owner
24 pursuant to NRS 116.310305, any assessment ~~levied against~~
25 *attributable to* that unit or any fines imposed against the unit's
26 owner from the time the construction penalty, assessment or fine
27 becomes due. Unless the declaration otherwise provides, *reasonable*
28 *attorney's fees and costs*, any penalties, *other* fees, charges, late
29 charges, fines and interest charged pursuant to paragraphs (j) to (n),
30 inclusive, of subsection 1 of NRS 116.3102, *and any other sums*
31 *due to the association under the declaration, this chapter, or as a*
32 *result of an administrative, arbitration, mediation or judicial*
33 *decision* are enforceable *in the same manner* as *unpaid*
34 assessments under this section. If an assessment is payable in
35 installments, the full amount of the assessment is a lien from the
36 time the first installment thereof becomes due.

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

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

42 (b) ~~HA~~ *Except as otherwise provided in subsection 3, a* first
43 security interest on the unit recorded before the date on which the
44 assessment sought to be enforced became delinquent or, in a
45 cooperative, the first security interest encumbering only the unit's



owner's interest and perfected before the date on which the assessment sought to be enforced became delinquent; and
(c) Liens for real estate taxes and other governmental assessments or charges against the unit or cooperative.

~~{→The}~~

3. A lien under this section is also prior to all security interests described in paragraph (b) **of subsection 2** to the extent of any charges incurred by the association on a unit pursuant to NRS 116.310312 and to the extent of the assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 which would have become due in the absence of acceleration during the 9 months immediately preceding institution of an action to enforce the lien, unless federal regulations adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien. If federal regulations adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien, the period during which the lien is prior to all security interests described in paragraph (b) **of subsection 2** must be determined in accordance with those federal regulations, except that notwithstanding the provisions of the federal regulations, the period of priority for the lien must not be less than the 6 months immediately preceding institution of an action to enforce the lien. This subsection does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association.

~~{3-}~~ **4.** Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority.

~~{4-}~~ **5.** Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required.

~~{5-}~~ **6.** A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within 3 years after the full amount of the assessments becomes due.

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

~~{7-}~~ **8.** A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.

~~{8-}~~ **9.** The association, upon written request, shall furnish to a unit's owner a statement setting forth the amount of unpaid assessments against the unit. If the interest of the unit's owner is real



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1 estate or if a lien for the unpaid assessments may be foreclosed
2 under NRS 116.31162 to 116.31168, inclusive, the statement must
3 be in recordable form. The statement must be furnished within 10
4 business days after receipt of the request and is binding on the
5 association, the executive board and every unit's owner.

6 ~~9.1~~ 10. In a cooperative, upon nonpayment of an assessment
7 on a unit, the unit's owner may be evicted in the same manner as
8 provided by law in the case of an unlawful holdover by a
9 commercial tenant, and:

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

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

15 (1) May be foreclosed as a security interest under NRS
16 104.9101 to 104.9709, inclusive; or

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

19 **11. *In an action by an association to collect assessments or to***
20 ***foreclose a lien created under this section, the court may appoint a***
21 ***receiver to collect all rents or other income from the unit alleged***
22 ***to be due and owing to a unit's owner before commencement or***
23 ***during pendency of the action. The receivership is governed by***
24 ***chapter 32 of NRS. The court may order the receiver to pay any***
25 ***sums held by the receiver to the association during pendency of***
26 ***the action to the extent of the association's common expense***
27 ***assessments based on a periodic budget adopted by the association***
28 ***pursuant to NRS 116.3115.***

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

30 116.3117 1. In a condominium or planned community:

31 (a) Except as otherwise provided in paragraph (b), a judgment
32 for money against the association, if a copy of the docket or an
33 abstract or copy of the judgment is recorded, is not a lien on the
34 common elements, but is a lien in favor of the judgment lienholder
35 against all of ***the other real property of the association and all of***
36 ***the units in the common-interest community at the time the***
37 ***judgment was entered. No other property of a unit's owner is subject***
38 ***to the claims of creditors of the association.***

39 (b) If the association has granted a security interest in the
40 common elements to a creditor of the association pursuant to NRS
41 116.3112, the holder of that security interest shall exercise its right
42 against the common elements before its judgment lien on any unit
43 may be enforced.

44 (c) Whether perfected before or after the creation of the
45 common-interest community, if a lien, other than a deed of trust or



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1 mortgage, including a judgment lien or lien attributable to work
2 performed or materials supplied before creation of the common-
3 interest community, becomes effective against two or more units,
4 the owner of an affected unit may pay to the lienholder the amount
5 of the lien attributable to his or her unit, and the lienholder, upon
6 receipt of payment, promptly shall deliver a release of the lien
7 covering that unit. The amount of the payment must be
8 proportionate to the ratio which that owner's liability for common
9 expenses bears to the liabilities for common expenses of all owners
10 whose units are subject to the lien. After payment, the association
11 may not assess or have a lien against that owner's unit for any
12 portion of the common expenses incurred in connection with that
13 lien.

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

17 2. In a cooperative:

18 (a) If the association receives notice of an impending foreclosure
19 on all or any portion of the association's real estate, the association
20 shall promptly transmit a copy of that notice to each owner of a unit
21 located within the real estate to be foreclosed. Failure of the
22 association to transmit the notice does not affect the validity of the
23 foreclosure.

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

27 **Sec. 51.** NRS 116.31175 is hereby amended to read as
28 follows:

29 116.31175 1. Except as otherwise provided in ~~this~~
30 subsection 3, the executive board of an association shall, upon the
31 written request of a unit's owner, make available the books, records
32 and other papers of the association for review at the business office
33 of the association or a designated business location not to exceed 60
34 miles from the physical location of the common-interest community
35 and during the regular working hours of the association, including,
36 without limitation ~~to all~~:

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

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

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

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



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2. *The executive board shall provide a copy of any of the records described in paragraphs (a), (b) and (c) of 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 the fee may not exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.*

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

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

(b) The records of the association relating to another unit's owner, including, without limitation, any architectural plan or specification submitted by a unit's owner to the association during an approval process required by the governing documents, except for those records described in subsection ~~2-1~~ 4; and

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

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

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

~~2-1~~ 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.

~~3-1~~ 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 units' owners will be voting, including, without limitation, the election of members of the executive board; and~~

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

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

~~(1) An official website;~~



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~~1 (2) An official newsletter or other similar publication that is~~
~~2 circulated to each unit's owner; or~~
~~3 (3) An official bulletin board that is available to each unit's~~
~~4 owner,~~
~~5 which is published or maintained at the cost of an association and~~
~~6 by an association, an executive board, a member of an executive~~
~~7 board, a community manager or an officer, employee or agent of an~~
~~8 association.] subsection 1.~~

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

10 116.4101 1. NRS 116.4101 to 116.412, inclusive, apply to all
11 units subject to this chapter, except as otherwise provided in ~~this~~
12 ~~section]~~ **subsection 2** or as modified or waived by agreement of
13 purchasers of units in a common-interest community in which all
14 units are restricted to nonresidential use.

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

- 17 (a) Gratuitous disposition of a unit;
18 (b) Disposition pursuant to court order;
19 (c) Disposition by a government or governmental agency;
20 (d) Disposition by foreclosure or deed in lieu of foreclosure;
21 (e) Disposition to a dealer;
22 (f) Disposition that may be cancelled at any time and for any
23 reason by the purchaser without penalty; ~~or]~~
24 (g) Disposition of a unit in a planned community which contains
25 no more than 12 units if:

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

29 (2) The declaration cannot be amended to increase the
30 assessment during the period of the declarant's control without the
31 consent of all units' owners ~~].~~

~~32 3. Except as otherwise provided in subsection 2, the provisions~~
~~33 of NRS 116.4101 to 116.412, inclusive, do not apply to a planned~~
~~34 community described in NRS 116.1203.] ; or~~

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

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

37 116.4103 1. Except as otherwise provided in NRS
38 116.41035, a public offering statement must set forth or fully and
39 accurately disclose each of the following:

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

44 (b) A general description of the common-interest community,
45 including to the extent possible, the types, number and declarant's



1 schedule of commencement and completion of construction of
2 buildings, and amenities that the declarant anticipates including in
3 the common-interest community.

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

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

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

14 ~~—— (1) A statement of the amount included in the budget as~~
15 ~~reserves for repairs, replacement and restoration pursuant to NRS~~
16 ~~116.3115; and~~

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

21 (f) A description of any services or subsidies being provided by
22 the declarant or an affiliate of the declarant, not reflected in the
23 budget ~~[.]~~ *that the declarant provides, or expenses which the*
24 *declarant pays and which the declarant expects may become at*
25 *any subsequent time a common expense of the association and the*
26 *projected common expense assessment attributable to each of*
27 *those services or expenses for the association and for each type of*
28 *unit.*

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

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

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

42 (j) A statement of any unsatisfied ~~[judgments]~~ *judgment* or
43 pending ~~[suits]~~ *action* against the association, and the status of any
44 pending ~~[suits]~~ *action* material to the common-interest community
45 of which a declarant has actual knowledge.



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

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

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

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

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

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

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

2. *The public offering statement must contain any current balance sheet and a 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, a statement of who prepared the budget and a statement of the budget's assumptions concerning occupancy and inflation factors. The budget must include:*

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

(b) A statement of any other reserves;

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

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

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



1 **Sec. 54.** NRS 116.41035 is hereby amended to read as
2 follows:

3 116.41035 If a common-interest community composed of not
4 more than 12 units is not subject to any developmental rights and no
5 power is reserved to a declarant to make the common-interest
6 community part of a larger common-interest community, group of
7 common-interest communities or other real estate, a public offering
8 statement may ~~but need not~~ include the information otherwise
9 required by paragraphs (h) and (k) of subsection 1 of
10 NRS 116.4103.

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

12 116.4109 1. Except in the case of a sale in which delivery of
13 a public offering statement is required, or unless exempt under
14 subsection 2 of NRS 116.4101, a unit's owner or his or her
15 authorized agent shall, at the expense of the unit's owner, furnish to
16 a purchaser a resale package containing all of the following:

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

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

23 (c) A copy of the current operating budget of the association and
24 current year-to-date financial statement for the association, which
25 must include a summary of the reserves of the association required
26 by NRS 116.31152 and which must include, without limitation, a
27 summary of the information described in paragraphs (a) to (e),
28 inclusive, of subsection 3 of NRS 116.31152;

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

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

35 (f) In addition to any other document, a statement describing all
36 current and expected fees or charges for each unit, including,
37 without limitation, association fees, fines, assessments, late charges
38 or penalties, interest rates on delinquent assessments, additional
39 costs for collecting past due fines and charges for opening or closing
40 any file for each unit.

41 2. The purchaser may, by written notice, cancel the contract of
42 purchase until midnight of the fifth calendar day following the date
43 of receipt of the resale package described in subsection 1, and the
44 contract for purchase must contain a provision to that effect. If
45 the purchaser elects to cancel a contract pursuant to this subsection,



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1 the purchaser must hand deliver the notice of cancellation to the
2 unit's owner or his or her authorized agent or mail the notice of
3 cancellation by prepaid United States mail to the unit's owner or his
4 or her authorized agent. Cancellation is without penalty, and all
5 payments made by the purchaser before cancellation must be
6 refunded promptly. If the purchaser has accepted a conveyance of
7 the unit, the purchaser is not entitled to:

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

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

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

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

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

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

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

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

37 (c) The association may charge the unit's owner a reasonable
38 fee, not to exceed 25 cents per page ~~H~~ *for the first 10 pages, and 10*
39 *cents per page thereafter*, to cover the cost of copying the other
40 documents furnished pursuant to subsection 3.

41 (d) Except for the fees allowed pursuant to paragraphs (b) and
42 (c), the association may not charge the unit's owner any other fees
43 for preparing or furnishing the documents and certificate pursuant to
44 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 common-interest community creates an express warranty that the unit and related rights and uses will conform to the affirmation or promise;

(b) Any model or description of the physical characteristics of the common-interest community, including plans and specifications of or for improvements, creates an express warranty that the common-interest community will reasonably conform to the model or description;

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

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

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



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3. Any conveyance of a unit transfers to the purchaser all express warranties of quality made by ~~{previous-sellers.}~~ **the declarant.**

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

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

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

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

(a) Free from defective materials; and

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

3. ~~{In-addition,-a}~~ **A** declarant and any dealer warrant to a purchaser of a unit that may be used for residential use that an existing use, continuation of which is contemplated by the parties, does not violate applicable law at the earlier of the time of conveyance or delivery of possession.

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

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

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

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

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

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



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

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

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

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

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

4. During the period of declarant control, the association may authorize an independent committee of the executive board to evaluate and enforce any warranty claims involving the common elements, and to compromise those claims. Only members of the executive board elected by units' owners other than the declarant and other persons appointed by those independent members may 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:



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

4 (b) By a unit's owner against:

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

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

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

13 4. Except as otherwise provided in ~~NRS 116.31036,~~
14 *subsection 5*, punitive damages may be awarded for a willful and
15 material failure to comply with any provision of this chapter if the
16 failure is established by clear and convincing evidence.

17 ~~4.1~~ 5. *Punitive damages may not be awarded against:*

18 (a) *The association;*

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

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

24 6. The court may award reasonable attorney's fees to the
25 prevailing party.

26 ~~5.1~~ 7. The civil remedy provided by this section is in addition
27 to, and not exclusive of, any other available remedy or penalty.

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

32 **Sec. 59.5.** NRS 116A.410 is hereby amended to read as
33 follows:

34 116A.410 1. The Commission shall by regulation provide for
35 the issuance by the Division of certificates. The regulations:

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

(b) ~~Must require an applicant or the employer of the applicant to post a bond in a form and in an amount established by regulation. The Commission shall, by regulation, adopt a sliding scale for the~~



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~~amount of the bond that is based upon the amount of money that applicants are expected to control. In adopting the regulations establishing the form and sliding scale for the amount of a bond required to be posted pursuant to this paragraph, the Commission shall consider the availability and cost of such bonds.~~

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

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

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

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

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

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

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

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

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



- 1 **Sec. 60.** NRS 116.31177 is hereby repealed.
2 **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.

