

Amendment No. 32

Senate Amendment to Senate Bill No. 195	(BDR 10-470)
Proposed by: Senate Committee on Judiciary	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

MNM/BAW



Date: 4/5/2017

S.B. No. 195—Revises provisions relating to common-interest communities and time shares. (BDR 10-470)



SENATE BILL NO. 195—SENATOR HARRIS

PREFILED FEBRUARY 13, 2017

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to common-interest communities and time shares. (BDR 10-470)

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 real property; revising provisions relating to the filling of vacancies on the executive board of a unit-owners' association; revising provisions relating to the procedure for electing the executive board of such an association; revising provisions governing the transfer of special declarant's rights in certain circumstances; revising provisions governing meetings of the executive board of a unit-owners' association; requiring a unit-owners' association to maintain directors and officers insurance; ~~revising the duties, responsibilities and standards of practice for community managers;~~ requiring certain disclosures to be included in a public offering statement filed with the Real Estate Division of the Department of Business and Industry by a developer of time shares; ~~requiring certain disclosures to be included in a public offering statement provided to a prospective purchaser of a time share; revising provisions limiting the period of a developer's control of an association for a time share plan;~~ revising provisions governing the management of a time-share plan; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the governing documents of a unit-owners' association to require that vacancies on the executive board be filled by a vote of the membership of the association. (NRS 116.3103) **Section 1** of this bill removes this provision and, instead, authorizes the executive board to fill any vacancy in its membership until the earlier of the unexpired portion of any term or the next regularly scheduled election of executive board members, notwithstanding any provision of the governing documents to the contrary.

Existing law sets forth provisions relating to the election of the executive board of a unit-owners' association, including the procedure the board may follow if, at the closing of the prescribed period for nominations for membership on the board, the number of candidates nominated for membership is equal to or less than the number of members to be elected. (NRS 116.31034) **Section 2** of this bill revises this procedure and provides that the board may determine that if such a situation occurs: (1) the nominated candidates are deemed to be elected to the board; and (2) the remaining vacancies on the board may be filled by appointment of the board until the next regularly scheduled election of members of the board.

Section 4 of this bill requires the ballots for the election of members of the executive board to be counted at the annual meeting of members of the association.

Under existing law, upon a foreclosure or other involuntary sale of a declarant's unsold units, the purchaser acquires the special declarant's rights only under certain circumstances. (NRS 116.31043) **Section 3** of this bill provides that the foreclosure or involuntary sale transfers the special declarant's rights unless the purchaser otherwise elects.

Existing law requires a unit-owners' association to provide notice to the units' owners 10 days before a meeting of the executive board. (NRS 116.31083) **Section 5** of this bill exempts ~~any~~ executive ~~session~~ sessions of the board from this requirement. ~~Instead, section 5 and, depending on the purpose for which an executive session is being held, requires that notice of the executive session: (1) be given only to the person who may be subject to a hearing scheduled for that meeting; or (2) be posted within the common elements of the association and provided electronically to all units' owners who have provided an electronic mail address. Section 6 of this bill requires that if the board holds a meeting limited exclusively to an executive session relating to certain matters, the board is required to provide, acknowledge such an executive session at the next regular meeting of the board, a general description of the matters discussed at, and include the acknowledgment in the minutes of the meeting. (hold exclusively in executive session.)~~

Existing law requires a unit-owners' association to maintain property insurance, commercial general liability insurance and crime insurance, subject to reasonable deductibles. (NRS 116.3113) **Section 7** of this bill requires an association to maintain directors and officers insurance in a minimum aggregate amount of not less than \$1,000,000.

Existing law authorizes the governing documents of a unit-owners' association to set forth rules that reasonably restrict parking in the common-interest community and authorizes an association to impose fines for a violation of the governing documents. (NRS 116.31031, 116.350) **Section 8** of this bill specifically states that the governing documents may authorize the executive board to impose a fine for a violation of such a rule.

~~Existing law sets forth standards of practice for a community manager of a common-interest community or association of a condominium hotel. (NRS 116A.630) If a community manager violates any such standard or practice, he or she is subject to disciplinary action. (NRS 116A.400) Section 9 of this bill adds to the standards of practice a requirement that a community manager or the employer of a community manager provide an annual financial audit of the records of the community manager or his or her employer to the Real Estate Division of the Department of Business and Industry and each of his or her clients. Such audit must be prepared by an independent certified public accountant in accordance with generally accepted accounting principles and must evaluate internal audit controls and whether the community manager or his or her employer is a going concern. If the audit indicates that the community manager or his or her employer may not be a going concern, section 9 requires the independent certified public accountant to provide a copy of the audit to the Division and the Division to provide a copy of the audit to each of the community manager's clients.~~

Existing law requires a developer of a time share to file a public offering statement with the Real Estate Division of the Department of Business and Industry for approval for the purposes of applying for and being issued an initial permit to sell time shares by the Real Estate Administrator. The public offering statement must include certain disclosures. (NRS 119A.300, 119A.307) **Section 10** of this bill requires certain additional disclosures to be included in a public offering statement that concern: (1) the expectations a person should have in purchasing a ~~time share interest~~ time share; and (2) the resale of a ~~time share interest~~. **Section 11** of this bill revises the provision of existing law requiring the developer of a time share to provide the public offering statement to prospective buyers of a time share and sets forth certain additional required disclosures.

~~Existing law limits the period during which a developer of a time share may control the association for a time share plan to the earlier of: (1) 120 days after the conveyance of 80 percent of the time shares; (2) 5 years after the developer has ceased to offer time shares; or (2) 5 years after any right to add new time shares was last exercised. (NRS 119A.522) Section 12 of this bill applies these limitations to the developer's reserved rights and right to relocate certain time shares under existing law.~~ time share.

Existing law delineates the relationship between an association for a time-share plan and the manager of the time-share plan. (NRS 119A.530) **Section 13** of this bill ~~authorizes a majority of the board of the association to refuse to renew the agreement with the manager~~

74 ~~and~~ requires the manager to make certain disclosures concerning the compensation of the
75 manager.

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

Section 1. NRS 116.3103 is hereby amended to read as follows:

116.3103 1. Except as otherwise provided in the declaration, the bylaws,
this section or other provisions of this chapter, the executive board acts on behalf of
the association. In the performance of their duties, the officers and members of the
executive board are fiduciaries and shall act on an informed basis, in good faith and
in the honest belief that their actions are in the best interest of the association.
Officers and members of the executive board:

(a) Are required to exercise the ordinary and reasonable care of officers and
directors of a nonprofit corporation, subject to the 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 to:

(a) Amend the declaration.

(b) Terminate the common-interest community.

(c) Elect members of the executive board, 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,~~ notwithstanding any provision of the governing
documents to the contrary, 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, duties or terms of office of members
of the executive board.

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

Sec. 2. NRS 116.31034 is hereby amended to read as follows:

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

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

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

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

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

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

5. Before the secretary or other officer specified in the bylaws of the association causes notice to be given to each unit's owner of his or her eligibility to serve as a member of the executive board pursuant to subsection 4, the executive board may determine that if, at the closing of the prescribed period for nominations for membership on the executive board, the number of candidates nominated for membership on the executive board is equal to or less than the number of members to be elected to the executive board at the election, ~~then the secretary or other officer specified in the bylaws of the association will cause notice to be given to each unit's owner informing each unit's owner that:~~

~~—(a) The association will not prepare or mail any ballots to units' owners pursuant to this section and the nominated candidates shall be deemed to be duly elected to the executive board unless:~~

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

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

~~—(b) Each unit's owner who is qualified to serve as a member of the executive board may nominate himself or herself for membership on the executive board by submitting a nomination to the executive board within 30 days after the notice provided by this subsection.~~

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

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

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

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

~~7. If the notice described in subsection 5 is given and if, at the meeting of the units' owners at which the ballots would have been counted pursuant to paragraph (e) of subsection 15.~~

6. If the executive board makes the determination set forth in subsection 5, the secretary or other officer specified in the bylaws of the association shall disclose the determination and the provisions of subsection 5 with the notice given pursuant to subsection 4.

7. If, at the closing of the prescribed period for nominations for membership on the executive board, the number of candidates nominated for membership on the executive board is less than the number of members to be

elected to the executive board at the election, the executive board may fill the remaining vacancies on the executive board by appointment of the executive board at a meeting of the executive board held after the candidates are elected pursuant to subsection 5. Any such person appointed to the executive board shall serve as a member of the executive board until the next regularly scheduled election of members of the executive board. An executive board member elected to a previously appointed position which was temporarily filled by board appointment pursuant to this subsection may only be elected to fulfill the remainder of that term.

8. If, at the closing of the prescribed period for nominations for membership on the executive board described in subsection 5, the number of candidates nominated for membership on the executive board is greater than the number of members to be elected to the executive board, then the association shall:

- (a) Prepare and mail ballots to the units' owners pursuant to this section; and
- (b) Conduct an election for membership on the executive board pursuant to this section.

~~18-1~~ 9. Each person who is nominated as a candidate for membership on the executive board pursuant to subsection 4 ~~10-5~~ must:

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

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

The candidate must make all disclosures required pursuant to this subsection in writing to the association with his or her candidacy information. Except as otherwise provided in this subsection, the association shall distribute the disclosures, on behalf of the candidate, to each member of the association with the ballot or, in the event ballots are not prepared and mailed pursuant to subsection ~~16-1~~ 5, in the next regular mailing of the association. The association is not obligated to distribute any disclosure pursuant to this subsection if the disclosure contains information that is believed to be defamatory, libelous or profane.

~~19-1~~ 10. Except as otherwise provided in subsections ~~11-1~~ 11 and ~~12-1~~ 12, unless a person is appointed by the declarant:

(a) A person may not be a candidate for or member of the executive board or an officer of the association if:

(1) The person resides in a unit with, is married to, is domestic partners with, or is related by blood, adoption or marriage within the third degree of consanguinity or affinity to another person who is also a member of the executive board or is an officer of the association;

(2) The person stands to gain any personal profit or compensation of any kind from a matter before the executive board of the association; or

(3) The person, the person's spouse or the person's parent or child, by blood, marriage or adoption, performs the duties of a community manager for that association.

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

- (1) That master association; or

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

~~1101~~ **11.** A person, other than a person appointed by the declarant, who owns 75 percent or more of the units in an association may:

(a) Be a candidate for or member of the executive board or an officer of the association; and

(b) Reside in a unit with, be married to, be domestic partners with, or be related by blood, adoption or marriage within the third degree of consanguinity or affinity to another person who is also a member of the executive board or is an officer of the association,

↳ unless the person owning 75 percent or more of the units in the association and the other person would constitute a majority of the total number of seats on the executive board.

~~1111~~ **12.** A person, other than a person appointed by the declarant, may:

(a) Be a candidate for or member of the executive board; and

(b) Reside in a unit with, be married to, be domestic partners with, or be related by blood, adoption or marriage within the third degree of consanguinity or affinity to another person who is also a member of the executive board or is an officer of the association,

↳ if the number of candidates nominated for membership on the executive board is less than or equal to the number of members to be elected to the executive board.

~~1121~~ **13.** If a person is not eligible to be a candidate for or member of the executive board or an officer of the association pursuant to any provision of this chapter, the association:

(a) Must not place his or her name on the ballot; and

(b) Must prohibit such a person from serving as a member of the executive board or an officer of the association.

~~1131~~ **14.** An officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, a member or manager of a limited-liability company that owns a unit, and a fiduciary of an estate that owns a unit may be an officer of the association or a member of the executive board. In all events where the person serving or offering to serve as an officer of the association or a member of the executive board is not the record owner, the person shall file proof in the records of the association that:

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

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

~~1141~~ **15.** Except as otherwise provided in subsection ~~161~~ **5** or NRS 116.31105, the election of any member of the executive board must be conducted by secret written ballot in the following manner:

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

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

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

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

(e) The secret written ballots must be opened and counted at ~~the~~ *the meeting of the association's units' owners held pursuant to subsection 1 of NRS 116.3108.* A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

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

~~15.16.~~ *16.* An association shall not adopt any rule or regulation that has the effect of prohibiting or unreasonably interfering with a candidate in the candidate's campaign for election as a member of the executive board, except that the candidate's campaign may be limited to 90 days before the date that ballots are required to be returned to the association.

~~16.17.~~ *17.* A candidate who has submitted a nomination form for election as a member of the executive board may request that the association or its agent either:

(a) Send before the date of the election and at the association's expense, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner a candidate informational statement. The candidate informational statement:

- (1) Must be no longer than a single, typed page;
- (2) Must not contain any defamatory, libelous or profane information; and
- (3) May be sent with the secret ballot mailed pursuant to subsection ~~14.15~~ *15* or in a separate mailing; or

(b) To allow the candidate to communicate campaign material directly to the units' owners, provide to the candidate, in paper format at a cost not to exceed 25 cents per page for the first 10 pages and 10 cents per page thereafter, in the format of a compact disc at a cost of not more than \$5 or by electronic mail at no cost:

(1) A list of the mailing address of each unit, which must not include the names of the units' owners or the name of any tenant of a unit's owner; or

(2) If the members of the association are owners of time shares within a time share plan created pursuant to chapter 119A of NRS and:

(I) The voting rights of those owners are exercised by delegates or representatives pursuant to NRS 116.31105, the mailing address of the delegates or representatives.

(II) The voting rights of those owners are not exercised by delegates or representatives, the mailing address of the association established pursuant to NRS 119A.520. If the mailing address of the association is provided to the candidate pursuant to this sub-subparagraph, the association must send to each owner of a time share within the time share plan the campaign material provided by the candidate. If the campaign material will be sent by mail, the candidate who provides the campaign material must provide to the association a separate copy of the campaign material for each owner and must pay the actual costs of mailing before the campaign material is mailed. If the campaign material will be sent by electronic transmission, the candidate must provide to the association one copy of the campaign material in an electronic format.

➤ The information provided pursuant to this paragraph must not include the name of any unit's owner or any tenant of a unit's owner. If a candidate who makes a request for the information described in this paragraph fails or refuses to provide a written statement signed by the candidate which states that the candidate is making the request to allow the candidate to communicate campaign material directly to units' owners and that the candidate will not use the information for any other purpose, the association or its agent may refuse the request.

~~17.1~~ 18. An association and its directors, 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 ~~17.6~~ 17.

~~18.1~~ 19. Each member of the executive board shall, within 90 days after his or her appointment or election, certify in writing to the association, on a form prescribed by the Administrator, that the member has read and understands the governing documents of the association and the provisions of this chapter to the best of his or her ability. The Administrator may require the association to submit a copy of the certification of each member of the executive board of that association at the time the association registers with the Ombudsman pursuant to NRS 116.31158.

Sec. 3. NRS 116.3104 is hereby amended to read as follows:

116.3104 1. A special declarant's right created or reserved under this chapter may be transferred only by an instrument evidencing the transfer recorded in every county in which any portion of the common-interest community is located. ~~The~~ *Except as otherwise provided in subsection 3, the* instrument is not effective unless executed by the transferee.

2. Upon transfer of any special declarant's right, the liability of a transferor declarant is as follows:

(a) A transferor is not relieved of any obligation or liability arising before the transfer and remains liable for warranties imposed upon the transferor by this chapter. Lack of privity does not deprive any unit's owner of standing to maintain an action to enforce any obligation of the transferor.

(b) If a successor to any special declarant's right is an affiliate of a declarant, the transferor is jointly and severally liable with the successor for any obligations or liabilities of the successor relating to the common-interest community.

(c) If a transferor retains any special declarant's rights, but transfers other special declarant's rights to a successor who is not an affiliate of the declarant, the transferor is liable for any obligations or liabilities imposed on a declarant by this chapter or by the declaration relating to the retained special declarant's rights and arising after the transfer.

(d) A transferor has no liability for any act or omission or any breach of a contractual obligation or warranty arising from the exercise of a special declarant's right by a successor declarant who is not an affiliate of the transferor.

3. Unless otherwise provided in a mortgage, deed of trust or other agreement creating a security interest, in case of foreclosure of a security interest, sale by a trustee under an agreement creating a security interest, tax sale, judicial sale or sale under the Bankruptcy Code or a receivership, of any units owned by a declarant or real estate in a common-interest community subject to developmental rights, a person acquiring title to all the property being foreclosed or sold ~~but only upon the person's request,~~ succeeds to all special declarant's rights related to that property held by that declarant ~~or only to any rights reserved in the declaration pursuant to NRS 116.2115 and held by that declarant to maintain models, offices for sales and signs. The~~ *and the instrument conveying title need not be executed by the transferee to be effective. If the person acquiring title to the property being foreclosed or sold pursuant to this section desires to succeed to some but not all of the special declarant's rights or none of the special declarant's rights, then the judgment or instrument conveying title must* ~~may~~ provide for transfer of only the special declarant's rights requested ~~it~~ *, in which case the transferee shall succeed only to any special declarant's rights requested and such judgment or instrument must be executed by the transferee to be effective.*

4. Upon foreclosure of a security interest, sale by a trustee under an agreement creating a security interest, tax sale, judicial sale or sale under the Bankruptcy Code or a receivership of all interests in a common-interest community owned by a declarant:

(a) The declarant ceases to have any special declarant's rights; and

(b) The period of declarant's control (NRS 116.31032) terminates unless the judgment or instrument conveying title provides for transfer of all special declarant's rights held by that declarant to a successor declarant.

Sec. 4. 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. *At the annual meeting of the units' owners held pursuant to this subsection, the ballots for the election of members of the executive board must be opened and counted.*

2. An association shall hold a special meeting of the units' owners to address any matter affecting the common-interest community or the association if its president, a majority of the executive board or units' owners constituting at least 10 percent, or any lower percentage specified in the bylaws, of the total number of votes in the association request that the secretary call such a meeting. To call a special meeting, the units' owners must submit a written petition which is signed by the required percentage of the total number of voting members of the association pursuant to this subsection and which is mailed, return receipt requested, or served by a process server to the executive board or the community manager for the association. If the petition calls for a special meeting, the executive board shall set the date for the special meeting so that the special meeting is held not less than 15 days or more than 60 days after the date on which the petition is received. The association shall not adopt any rule or regulation which prevents or unreasonably interferes with the collection of the required percentage of signatures for a petition pursuant to this subsection.

3. Not less than 15 days or more than 60 days in advance of any meeting of the units' owners, the secretary or other officer specified in the bylaws shall cause notice of the meeting to be given to the units' owners in the manner set forth in NRS 116.31068. The notice of the meeting must state the time and place of the meeting and include a copy of the agenda for the meeting. The notice must include notification of the right of a unit's owner to:

(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request, in 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.

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

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

(b) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items. In an emergency, the units'

owners may take action on an item which is not listed on the agenda as an item on which action may be taken.

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

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

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

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

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

(c) The substance of remarks made by any unit's owner at the meeting if 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.

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

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

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

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

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

(a) Could not have been reasonably foreseen;

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

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

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

Sec. 5. NRS 116.31083 is hereby amended to read as follows:

116.31083 1. A meeting of the executive board must be held at least once every quarter, and not less than once every 100 days and must be held at a time other than during standard business hours at least twice annually.

2. Except *as otherwise provided in subsection 3 or* in an emergency or unless the bylaws of an association require a longer period of notice, the secretary or other

officer specified in the bylaws of the association shall, not less than 10 days before the date of a meeting of the executive board, cause notice of the meeting to be given to the units' owners. Such notice must be:

(a) Given to the units' owners in the manner set forth in NRS 116.31068; or

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

3. *Notwithstanding any other provision of law or the governing documents of the association to the contrary, if the executive board holds a meeting limited exclusively to items for which the executive board may meet in executive session pursuant to:*

(a) Pursuant to paragraph (c) or (d) of subsection 3 of NRS 116.31085, the secretary or other officer specified in the bylaws of the association is required to give notice of the meeting only to a person who may be subject to a hearing scheduled for that meeting.

(b) Pursuant to any provision of law other than paragraph (c) or (d) of subsection 3 of NRS 116.31085, the secretary or other officer specified in the bylaws of the association is required to:

(1) Post notice of the executive session in one or more prominent places within the common elements of the association; and

(2) Provide electronic notice of the executive session to all units' owners who have provided the association with an electronic mail address.

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

~~4.4~~ 5. 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.

~~4.5~~ 6. 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 the agenda. In an emergency, the executive board may take action on an item which is not listed on the agenda as an item on which action may be taken.

~~4.6~~ 7. At least once every quarter, and not less than once every 100 days, unless the declaration or bylaws of the association impose more stringent standards, the executive board shall review, at a minimum, the following financial information at one of its meetings:

- (a) A current year-to-date financial statement of the association;
- (b) A current year-to-date schedule of revenues and expenses for the operating account and the reserve account, compared to the budget for those accounts;
- (c) A current reconciliation of the operating account of the association;
- (d) A current reconciliation of the reserve account of the association;
- (e) The latest account statements prepared by the financial institutions in which the accounts of the association are maintained; and
- (f) The current status of any civil action or claim submitted to arbitration or mediation in which the association is a party.

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

~~8-8~~ 9. Except as otherwise provided in subsection ~~9-9~~ 10 and NRS 116.31085, the minutes of each meeting of the executive board must include:

- (a) The date, time and place of the meeting;
- (b) Those members of the executive board who were present and those members who were absent at the meeting;
- (c) The substance of all matters proposed, discussed or decided at the meeting;
- (d) A record of each member's vote on any matter decided by vote at the meeting; and
- (e) The substance of remarks made by any unit's owner who addresses the executive board at the meeting if the unit's owner requests that the minutes reflect his or her remarks or, if the unit's owner has prepared written remarks, a copy of his or her prepared remarks if the unit's owner submits a copy for inclusion.

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

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

~~11-11~~ 12. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the executive board, unless the executive board is meeting in executive session, if the unit's owner, before recording the meeting, provides notice of his or her intent to record the meeting to the members of the executive board and the other units' owners who are in attendance at the meeting.

~~12-12~~ 13. As used in this section, "emergency" means any occurrence or combination of occurrences that:

- (a) Could not have been reasonably foreseen;
- (b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;
- (c) Requires the immediate attention of, and possible action by, the executive board; and
- (d) Makes it impracticable to comply with the provisions of subsection 2, 3 or

~~13-13~~ 6.

1 **Sec. 6.** NRS 116.31085 is hereby amended to read as follows:

2 116.31085 1. Except as otherwise provided in this section, a unit's owner
3 may attend any meeting of the units' owners or of the executive board and speak at
4 any such meeting. The executive board may establish reasonable limitations on the
5 time a unit's owner may speak at such a meeting.

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

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

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

13 (b) Discuss the character, alleged misconduct, professional competence, or
14 physical or mental health of a community manager or an employee of the
15 association.

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

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

22 4. An executive board shall meet in executive session to hold a hearing on an
23 alleged violation of the governing documents unless the person who may be
24 sanctioned for the alleged violation requests in writing that an open hearing be
25 conducted by the executive board. If the person who may be sanctioned for the
26 alleged violation requests in writing that an open hearing be conducted, the person:

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

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

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

35 5. The provisions of subsection 4 establish the minimum protections that the
36 executive board must provide before it may make a decision. The provisions of
37 subsection 4 do not preempt any provisions of the governing documents that
38 provide greater protections.

39 6. Except as otherwise provided in this subsection, any matter discussed by
40 the executive board when it meets in executive session must be generally noted in
41 the minutes of the meeting of the executive board. *If the executive board holds a*
42 *meeting limited exclusively to an executive session ~~it~~ pursuant to paragraph (c)*
43 *or (d) of subsection 3, at the next regularly scheduled meeting of the executive*
44 *board, the executive board shall ~~disclose the date and generally the matters~~*
45 *discussed at the meeting held exclusively in executive session ~~it~~ acknowledge that*
46 *the executive board met in accordance with paragraph (c) or (d) of subsection 3,*
47 *as applicable, and include such ~~disclosures~~ an acknowledgment in the minutes*
48 *of the meeting at which the ~~disclosures were~~ acknowledgment was made.* The
49 executive board shall maintain minutes of any decision made pursuant to subsection
50 4 concerning an alleged violation and, upon request, provide a copy of the decision
51 to the person who was subject to being sanctioned at the hearing or to the person's
52 designated representative.

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

Sec. 7. NRS 116.3113 is hereby amended to read as follows:

116.3113 1. Commencing not later than the time of the first conveyance of a unit to a person other than a declarant, the association shall maintain, to the extent reasonably available and subject to reasonable deductibles ~~††~~, *all of the following:*

(a) Property insurance on the common elements and, in a planned community, also on property that must become common elements, insuring against risks of direct physical loss commonly insured against, which insurance, after application of any deductibles, must be not less than 80 percent of the actual cash value of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from property policies. ~~††~~

(b) Commercial general liability insurance, including insurance for medical payments, in an amount determined by the executive board but not less than any amount specified in the declaration, covering all occurrences commonly insured against for bodily injury and property damage arising out of or in connection with the use, ownership, or maintenance of the common elements and, in cooperatives, also of all units. ~~†; and†~~

(c) Crime insurance which includes coverage for dishonest acts by members of the executive board and the officers, employees, agents, directors and volunteers of the association and which extends coverage to any business entity that acts as the community manager of the association and the employees of that entity. Such insurance may not contain a conviction requirement, and the minimum amount of the policy must be not less than an amount equal to 3 months of aggregate assessments on all units plus reserve funds or \$5,000,000, whichever is less.

(d) Directors and officers insurance that is a nonprofit organization errors and omissions policy in a minimum aggregate amount of not less than \$1,000,000 naming the association as the owner and the named insured. The coverage must extend to the members of the executive board and the officers, employees, agents, directors and volunteers of the association and to the community manager of the association and any employees thereof while acting as agents as insured persons under the policy terms. Coverage must be subject to the terms listed in the declaration.

2. In the case of a building that contains units divided by horizontal boundaries described in the declaration, or vertical boundaries that comprise common walls between units, the insurance maintained under paragraph (a) of subsection 1, to the extent reasonably available, must include the units, but need not include improvements and betterments installed by units' owners.

3. If the insurance described in subsections 1 and 2 is not reasonably available, the association promptly shall cause notice of that fact to be given to all units' owners. The declaration may require the association to carry any other insurance, and the association may carry any other insurance it considers appropriate to protect the association or the units' owners.

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

Sec. 8. NRS 116.350 is hereby amended to read as follows:

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

2. Except as otherwise provided in subsection 3, the provisions of subsection 1 do not preclude an association from adopting, and do not preclude the governing documents of an association from setting forth, rules that reasonably restrict the parking or storage of recreational vehicles, watercraft, trailers or commercial vehicles in the common-interest community to the extent authorized by law. *The governing documents of an association may authorize the executive board of the association to impose a fine pursuant to NRS 116.31031 for any violation of the rules authorized pursuant to this subsection.*

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

(a) Parking a utility service vehicle that has a gross vehicle weight rating of 20,000 pounds or less:

(1) In an area designated for parking for visitors, in a designated parking area or common parking area, or on the driveway of the unit of a subscriber or consumer, while the person is engaged in any activity relating to the delivery of public utility services to subscribers or consumers; or

(2) In an area designated for parking for visitors, in a designated parking area or common parking area, or on the driveway of his or her unit, if the person is:

(I) A unit's owner or a tenant of a unit's owner; and

(II) Bringing the vehicle to his or her unit pursuant to his or her employment with the entity which owns the vehicle for the purpose of responding to emergency requests for public utility services; or

(b) Parking a law enforcement vehicle or emergency services vehicle:

(1) In an area designated for parking for visitors, in a designated parking area or common parking area, or on the driveway of the unit of a person to whom law enforcement or emergency services are being provided, while the person is engaged in his or her official duties; or

(2) In an area designated for parking for visitors, in a designated parking area or common parking area, or on the driveway of his or her unit, if the person is:

(I) A unit's owner or a tenant of a unit's owner; and

(II) Bringing the vehicle to his or her unit pursuant to his or her employment with the entity which owns the vehicle for the purpose of responding to requests for law enforcement services or emergency services.

4. An association may require that a person parking a utility service vehicle, law enforcement vehicle or emergency services vehicle as set forth in subsection 3 provide written confirmation from his or her employer that the person is qualified to park his or her vehicle in the manner set forth in subsection 3.

5. As used in this section:

(a) "Emergency services vehicle" means a vehicle:

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

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

(b) "Law enforcement vehicle" means a vehicle:

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

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

(c) "Utility service vehicle" means any motor vehicle:

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

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

Sec. 9. ~~NRS 116A.630 is hereby amended to read as follows:~~

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

- ~~1. Except as otherwise provided by specific statute, at all times:~~
 - ~~(a) Act as a fiduciary in any client relationship; and~~
 - ~~(b) Exercise ordinary and reasonable care in the performance of duties.~~
- ~~2. Comply with all applicable:~~
 - ~~(a) Federal, state and local laws, regulations and ordinances; and~~
 - ~~(b) Lawful provisions of the governing documents of each client.~~
- ~~3. Keep informed of new developments in the management of a common-interest community through continuing education, including, without limitation, new developments in law, insurance coverage and accounting principles.~~
- ~~4. Advise a client to obtain advice from an independent expert relating to matters that are beyond the expertise of the community manager.~~
- ~~5. Under the direction of a client, uniformly enforce the provisions of the governing documents of the association.~~
- ~~6. At all times ensure that:~~
 - ~~(a) The financial transactions of a client are current, accurate and properly documented; and~~
 - ~~(b) There are established policies and procedures that are designed to provide reasonable assurances in the reliability of the financial reporting, including, without limitation:~~
 - ~~(1) Proper maintenance of accounting records;~~
 - ~~(2) Documentation of the authorization for any purchase orders, expenditures or disbursements;~~
 - ~~(3) Verification of the integrity of the data used in business decisions;~~
 - ~~(4) Facilitation of fraud detection and prevention; and~~
 - ~~(5) Compliance with all applicable laws and regulations governing financial records.~~
- ~~7. Prepare or cause to be prepared interim and annual financial statements that will allow the Division, the executive board, the units' owners and the accountant or auditor to determine whether the financial position of an association is fairly presented in accordance with all applicable laws and regulations.~~
- ~~8. Cause to be prepared, if required by the Division, a financial audit performed by an independent certified public accountant of the records of the community manager pertaining to the common interest community, which must be made available to the Division.~~
- ~~9. Make the financial records of an association available for inspection by the Division in accordance with the applicable laws and regulations.~~
- ~~10. Cooperate with the Division in resolving complaints filed with the Division.~~
- ~~11. Upon written request, make the financial records of an association available to the units' owners electronically or during regular business hours required for inspection at a reasonably convenient location, which must be within 60 miles from the physical location of the common interest community, and provide copies of such records in accordance with the applicable laws and regulations. As used in this subsection, "regular business hours" means Monday through Friday, 9 a.m. to 5 p.m., excluding legal holidays.~~

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

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

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

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

~~16. On an annual basis, provide to the Division and each client of the community manager a financial audit of the records of the community manager or, if the community manager is acting on behalf of a corporation, partnership, limited partnership, limited liability partnership, limited liability company or other entity, the employer of the community manager, which is performed by an independent certified public accountant in accordance with generally accepted accounting principles and that evaluates:~~

~~(a) Internal accounting controls, including, without limitation, segregation of incompatible accounting functions; and~~

~~(b) Whether the community manager or the employer of the community manager is a going concern.~~

~~If the financial audit indicates that the community manager or the employer of the community manager may not be a going concern, the independent certified public accountant who prepared the audit shall provide a copy of the audit to the Division as soon as reasonably practicable, and the Division shall provide a copy of the audit to each client of the community manager.~~

~~17. Ensure that the executive board develops and approves written investment policies and procedures.~~

~~[17.] 18. Recommend in writing to each client that the client register with the Division, maintain its registration and file all papers with the Division and the Secretary of State as required by law.~~

~~[18.] 19. Comply with the directions of a client, unless the directions conflict with the governing documents of the client or the applicable laws or regulations of this State.~~

~~[19.] 20. Recommend in writing to each client that the client be in compliance with all applicable federal, state and local laws, regulations and ordinances and the governing documents of the client.~~

~~[20.] 21. Obtain, when practicable, at least three qualified bids for any capital improvement project for the client.~~

~~[21.] 22. Develop written collection policies, approved by the executive board, to comply with all applicable federal, state and local laws, regulations and ordinances relating to the collection of debt. The collection policies must require:~~

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

~~(b) That the community manager provide timely updates and reports as necessary.] (Deleted by amendment.)~~

Sec. 10. NRS 119A.307 is hereby amended to read as follows:

119A.307 1. The developer shall file a public offering statement with the Division for approval for use as prescribed in NRS 119A.300.

2. The public offering statement must include ~~that~~ :
(a) The following disclosures in substantially the following form, in at least 12-point bold type:

1 This Public Offering Statement is prepared by the Developer to provide you
2 with basic and relevant information on a specific time-share offering. The
3 Developer or Owner of the offering that is the subject of this Public
4 Offering Statement has provided certain information and documentation to
5 the Real Estate Division of the Department of Business and Industry (the
6 "Division") as required by law.
7

8 The statements contained in this Public Offering Statement are only
9 summary in nature. A prospective purchaser should review the purchase
10 contract, all documents governing the time-share plan or provided or
11 available to the purchaser and the sales materials. You should not rely upon
12 oral representations as being correct. Refer to this public offering statement,
13 the purchase contract and the documents governing the time-share plan for
14 correct representations.
15

16 While the Division makes every effort to confirm the information provided
17 and to ensure that the offering will be developed, managed and operated as
18 planned, there is no guarantee this will always be the case. The Division
19 cannot and does not make any promise or guarantee as to the viability or
20 continuance of the offering or the financial future of the offering or any
21 plan, club or association affiliated therewith.
22

23 The information included in this Public Offering Statement is applicable as
24 of its effective date. Expenses of operation are difficult to predict accurately
25 and even if accurately estimated initially, most expenses increase with the
26 age of facilities and with increases in the cost of living.
27

28 The Division strongly suggests that before executing an agreement or
29 contract, you read all of the documentation and information provided to you
30 and seek additional assistance if necessary to assure that you understand all
31 aspects of the offering and are aware of any potential adverse circumstances
32 that could result from a time-share purchase in this Offering.
33

34 The purchaser of a time share may cancel, by written notice, the contract of
35 sale until midnight of the fifth calendar day following the date of execution
36 of the contract. The right of cancellation may not be waived. Any attempt
37 by the Developer to obtain a waiver results in a contract which is voidable
38 by the purchaser. The notice of cancellation may be delivered personally to
39 the Developer or sent by certified mail, return receipt requested, or by
40 providing notice by express, priority or recognized overnight delivery
41 service, with proof of service, to the business address of the Developer. The
42 Developer must, within 20 days after receipt of the notice of cancellation,
43 return all payments made by the Purchaser.
44

45 ~~*{Be aware that:
46 The future value of a time share interest is very uncertain; do not count
47 on appreciation.}*~~
48

49 *(b) The following disclosures in substantially the following form, in at least*
50 *12-point bold type on a separate page in a prominent place, as determined by the*
51 *Division:*

A time share is for personal use and is not an investment for a profit or tax advantage. The purchase of a ~~time share interest~~ time share should be based upon its value as a vacation experience or for spending leisure time, and not ~~be considered~~ for purposes of acquiring an appreciating investment or with an expectation that the ~~time share interest~~ time share may be resold.

Resale of your ~~time share interest~~ time share may be subject to ~~the Developer's restrictions, such as limitations~~ conditions, including, without limitation, restrictions on the posting of signs, ~~limitations~~ restrictions on the rights of other parties to enter the project unaccompanied, ~~membership prerequisites or approval requirements, or the Developer's first right of refusal~~ or the Developer's continued sale of time-share inventory. Any future purchaser may not receive any ancillary benefits which were not part of the time-share plan that the Developer may have offered at the time of purchase.

You should check your contract and the governing documents for any such ~~restrictions~~ conditions and also ~~note~~ check whether your purchase contract or note or any other obligation ~~would affect your right to sell~~ will be fully due and payable upon sale of your ~~time share interest~~.

~~You should consider the competition that you may experience from the Developer in attempting to resell your time share interest and the possibility that real~~ time share.

Real estate ~~brokers~~ agents may not be interested in listing your ~~time-share interest or unit~~.

~~The Developer may have limited your resale rights. Any future purchaser (other than a transfer to an immediate family member or as the result of death or divorce) who buys your time share interest from you will have severely limited opportunities to reserve occupancy in the time share plan.~~ time share.

3. The public offering statement must include, without limitation, the following information in a form prescribed by the Division:

(a) A brief history of the developer's business background, experience in real estate and regulatory history.

(b) A description of any judgment against the developer or sales and marketing entity which has a material adverse effect on the developer or the time-share plan. If no such judgment exists, there must be a statement of such fact.

(c) The status of any pending proceeding to which the developer or sales and marketing entity is a party and which has a material adverse effect on the developer or the time-share plan. If no such proceedings exist, there must be a statement of such fact.

(d) The name and address of the developer, the name of the time-share plan and the address of each component site.

(e) A summary of the current annual budget of the project or the time-share plan, including:

(1) The projected assessments for each type of unit offered in the time-share plan; and

(2) A statement of property taxes assessed against the project and, if not included in the projected assessments, the projected amount of the purchaser's share of responsibility for the property taxes assessed against the project.

(f) A detailed description of the type of time-share plan being offered, a description of the type of interest and use rights the purchaser will receive and a description of the total number of time shares in the time-share plan at the time the permit is issued.

(g) A description of all restrictions, easements, reservations or zoning requirements which may limit the purchaser's use, sale, lease, transfer or conveyance of the time share. The description must include any restrictions to be imposed on time shares concerning the use of any of the accommodations or facilities, and whether there are restrictions upon children or pets. For the purposes of this paragraph:

(1) The description may reference a list of the documents containing the restrictions and state that the copies of the documents are available to the purchaser upon request.

(2) If there are any restrictions upon the sale, lease, transfer or conveyance of a time share, the description must include a statement, in at least 12-point bold type, in substantially the following form:

The sale, lease, transfer or conveyance of a time share is restricted or controlled.

(Immediately following this statement, a description of the nature of the restriction, limitation or control on the sale, lease, transfer or conveyance of the time share must be included.)

(3) If there are no restrictions, there must be a statement of that fact.

(h) A description of the duration, projected phases and operation of the time-share plan.

(i) A representation by the developer ensuring that the time-share plan maintains a one-to-one use night to use right ratio. For the purposes of the ratio calculation in this paragraph, each purchaser must be counted according to the use rights held by that purchaser in any calendar year. For the purposes of this paragraph, "one-to-one use night to use right ratio" has the meaning ascribed to it in NRS 119A.525.

(j) A summary of the organization of the association for the time-share plan, the voting rights of the members, the developer's voting rights in that association, a description of what constitutes a quorum for voting purposes and at what point in the sales program the developer relinquishes his or her control of that association, if applicable, and any other information pertaining to that association which is material to the right of the purchaser to use a time share.

(k) A description of the existing or proposed accommodations, including a description of the type and number of time shares in the accommodations which is expressed in periods of 7-day use availability or other time increments applicable to the time-share plan and, if the accommodations are proposed or not yet completed or fully functional, an estimated date of completion. For the purposes of this paragraph, the type of accommodation must be described in terms of the number of bedrooms, bathrooms and sleeping capacity, and a statement of whether the accommodation contains a full kitchen. As used in this paragraph, "full kitchen" means a kitchen that includes, at a minimum, a dishwasher, range, sink, oven and refrigerator.

(l) A description of any existing or proposed amenities of the time-share plan and, if the amenities are proposed or not yet completed or fully functional, the

1 estimated date of completion, including a description of the extent to which
2 financial assurances have been made for the completion of any incomplete but
3 promised amenities.

4 (m) The name and principal address of the manager, if any, of the project or
5 time-share plan, as applicable, and a description of the procedures, if any, for
6 altering the powers and responsibilities of the manager and for removing or
7 replacing the manager.

8 (n) A description of any liens, defects or encumbrances on or affecting the title
9 to the time share which materially affects the purchaser's use of the units or
10 facilities within the time-share plan.

11 (o) Any special fee due from the purchaser at closing, other than customary
12 closing costs, together with a description of the purpose of the fee.

13 (p) Any current or expected fees or charges to be paid by purchasers for the use
14 of any amenities of the time-share plan.

15 (q) A statement of whether or not the amenities of the time-share plan will be
16 used exclusively by purchasers of time-shares in, or authorized under, the time-
17 share plan and, if the amenities are not to be used exclusively by such purchasers or
18 authorized users, a statement of whether or not the purchasers of time shares in the
19 time-share plan are required to pay any portion of the maintenance expenses of
20 such amenities in addition to any fees for the use of such amenities.

21 (r) A statement indicating that hazard insurance coverage is provided for the
22 project.

23 (s) A description of the purchaser's right to cancel the purchase contract.

24 (t) A statement of whether or not the purchaser's deposit will be held by an
25 escrow agent until the expiration of any right to cancel the contract or, if the
26 purchaser's deposit will not be held by such an escrow agent, a statement that the
27 purchaser's deposit will be immediately released to the developer and that the
28 developer has posted a surety bond.

29 (u) A statement that the deposit plus any interest earned must be returned to the
30 purchaser if he or she elects to exercise his or her right of cancellation.

31 (v) If the time-share plan provides purchasers with the opportunity to
32 participate in an exchange program, the name and address of the exchange
33 company and a description of the method by which a purchaser may choose to
34 participate in the exchange program.

35 (w) A description of the reservation system, if applicable, which must include:

36 (1) The name of the entity responsible for operating the reservation system,
37 its relationship to the developer and the duration of any agreement for operation of
38 the reservation system; and

39 (2) A summary of the rules and regulations governing access to and use of
40 the reservation system, including, without limitation, the existence of and an
41 explanation regarding any priority reservation features that affect a purchaser's
42 ability to make reservations for the use of a given accommodation on a first-come,
43 first-served basis.

44 (x) A description of the points system, if applicable, including, without
45 limitation, whether additional points may be acquired by purchase or otherwise, in
46 the future and the manner in which future purchases of points may be made, and the
47 transferability of points to other persons, other years or other time-share plans. The
48 description must include:

49 (1) A statement that no owner shall be prevented from using a time share
50 as a result of changes in the manner in which point values may be used;

51 (2) A statement that in the event point values are changed or adjusted, no
52 owner shall be prevented from using his or her home resort, if any, in the same
53 manner as was provided for under the original purchase contract; and

1 (3) A description of any limitations or restrictions upon the use of point
2 values.

3 (y) A statement as to whether any unit within the time-share plan is within a
4 mixed-use project containing whole ownership condominiums.

5 (z) A statement that documents filed with the Division as part of the statement
6 of record which are not delivered to the purchaser are available from the developer
7 upon request.

8 (aa) For a time-share plan with more than one component site, a description of
9 each component site. With respect to a component site, the information required by
10 subparagraph (2) and paragraphs (d), (k), (l), (p), (q) and (r) may be disclosed in
11 written, graphic, tabular or any other form approved by the Division. In addition to
12 the information required by paragraphs (a) to (z), inclusive, the description of a
13 time-share plan with more than one component site must include the following
14 information:

15 (1) A general statement as to whether the developer has a right to make
16 additions, substitutions or deletions of any accommodations, amenities or
17 component sites, and a statement of the basis upon which accommodations,
18 amenities or component sites may be added to, substituted for or deleted from the
19 time-share plan.

20 (2) The location of each component site of the time-share plan, the
21 historical occupancy of the units in each component site for the previous 12-month
22 period, if the component site was part of the time-share plan during the previous
23 12-month time period, or any other description acceptable to the Division that
24 reasonably informs a purchaser regarding the relative use demand per component
25 site, as well as a statement of any periodic adjustment or amendment to the
26 reservation system that may be needed in order to respond to actual use patterns and
27 changes in use demand for the accommodations existing at that time within the
28 time-share plan.

29 (3) The number of accommodations and time shares, expressed in periods
30 of 7-day use availability or other time increments applicable to the time-share plan,
31 committed to the time-share plan, and available for use by purchasers, and a
32 statement describing how adequate periods of time for maintenance and repair will
33 be provided.

34 (bb) Any other information that the developer, with the approval of the
35 Administrator, decides to include in the public offering statement.

36 4. Copies of the following documents and plans, or proposed documents if the
37 time-share plan has not been declared or created at the time the application for a
38 permit is submitted, to the extent they are applicable, must be provided to the
39 purchaser with the public offering statement:

40 (a) Copies of the time-share instruments.

41 (b) The estimated or, if applicable, actual operating budget of the time-share
42 plan.

43 5. The public offering statement must include a list of the following
44 documents, if applicable to the time-share plan, and must state that the documents
45 listed are available to the purchaser upon request:

46 (a) Any ground lease or other underlying lease of the real property associated
47 with the time-share plan.

48 (b) The management agreement of the project or time-share plan, as applicable.

49 (c) The floor plan of each type of accommodation and any existing plot plan
50 showing the location of all accommodations and facilities declared as part of the
51 time-share plan and filed with the Division.

52 (d) The lease for any facilities that are part of the time-share plan.

(e) Any executed agreement for the escrow of payments made to the developer before closing.

(f) Any letter from the escrow agent confirming that the escrow agent and its officers, directors or other partners are independent.

6. The Administrator may, upon finding that the subject matter is otherwise adequately covered or the information is unnecessary or inapplicable, waive any requirement set forth in this section.

Sec. 11. ~~[NRS 119A.400 is hereby amended to read as follows:~~

~~119A.400 1. Before the execution of any contract for the sale of a time share, the developer or, if the developer sells time shares through his or her project broker and sales agents, the project broker and sales agent, shall provide each prospective purchaser with:~~

~~(a) A copy of the developer's public offering statement which was approved by the Division pursuant to NRS 119A.307 and which must contain the date the developer's permit was originally issued and the effective date of the permit; [and]~~

~~(b) An addendum to the public offering statement summarizing any pending amendments to the public offering statement that have been submitted to the Division but have not yet been approved, along with a statement to the purchaser that the amendment has been submitted to the Division for approval [.] ; and~~

~~(c) The following disclosures in substantially the following form, in at least 12 point bold type:~~

NOTICE TO PURCHASER

~~*Law and regulations adopted by the Real Estate Commission require a prospective purchaser, before a written reservation or deposit is accepted from you, to place his or her initials next to each item below and sign this document, acknowledging the following:*~~

~~*(1) The contract I or we are about to enter is perpetual. It has no termination and I or we will be responsible for the pro-rata share of all assessments and other expenses of the one or more properties in which I or we hold an ownership interest. All interests and obligations under the terms of this time share purchase will be binding on my or our heirs and devisees.*~~

~~*(2) It may be difficult to sell this time share interest given limitations of the secondary market. If a subsequent sale is completed, net proceeds may be significantly less than the original price paid for the time share interest.*~~

~~*(3) Any attempt to sell this time share interest may be subject to restrictions, including, without limitation, the Developer's first right of refusal, transfer fees, limitations on the posting of signs, limitations on the rights of other parties to enter the project unaccompanied, membership prerequisites or approval requirements and the Developer's continued sale of time share inventory.*~~

~~*(4) I have been presented in plain language documents describing all give back, deed back, repurchase and any other ownership divestiture programs available through the Developer, the association or the seller. If none of these programs are available, I have been so informed.*~~

~~*(5) The following documents have been made available for my inspection:*~~

~~*(1) Purchase and sale contract*~~

~~(II) Exchange or affiliation program contract.~~
~~(III) The declaration of covenants, conditions and restrictions for the time share plan.~~
~~(IV) The articles of incorporation, bylaws, rules and regulations for the association.~~
~~(V) Any other instrument that establishes or defines the common, mutual and reciprocal rights and responsibilities of the owners or lessees of interest in the time share plan as members of the association or otherwise.~~
~~(6) Before executing an agreement or contract, you should read all of the documentation and information provided to you and seek additional assistance if necessary to assure that you understand all aspects of the offering and are aware of any potential adverse circumstances that could result from a time share purchase in this Offering.~~

~~2. The project broker or sales agent shall review the public offering statement with each prospective purchaser before the execution of any contract for the sale of a time share and obtain a receipt signed by the purchaser for a copy of the public offering statement. A prospective purchaser may request to receive the public offering statement in electronic format or paper format. If the prospective purchaser requests the public offering statement in electronic format, the developer shall provide to the purchaser the statement of the right of cancellation pursuant to NRS 119A.410 in a single separate document.~~

~~3. If a contract is signed by the purchaser, the signed receipt for a copy of the public offering statement must be kept by the project broker for 3 years and is subject to such inspections and audits as may be prescribed by regulations adopted by the Division.~~ **(Deleted by amendment.)**

Sec. 12. [NRS 119A.522 is hereby amended to read as follows:

~~119A.522 1. Except as otherwise provided in this section, a time share instrument may provide for a period of the developer's control of an association during which the developer, or a person designated by the developer, may appoint and remove the officers of the association and the members of the board [;], exercise the developer's reserved rights pursuant to NRS 119A.524 and relocate certain time shares pursuant to NRS 119A.525. Regardless of the period provided in the time share instrument, the developer's reserved rights or an instrument authorizing the relocation of certain time shares, the period of the developer's control of the association terminates no later than:~~

~~(a) One hundred and twenty days after conveyance of 80 percent of the time shares that may be created by the time share instrument to owners other than the developer;~~

~~(b) Five years after the developer has ceased to offer time shares for sale in the ordinary course of business; or~~

~~(c) Five years after any right to add new time shares was last exercised, or whichever occurs earlier.~~

~~2. A developer may voluntarily surrender the right to appoint and remove officers and members of the board before the end of the period provided for in subsection 1 by executing and recording with the time share instrument a written instrument declaring the surrender. If such an instrument is recorded, the developer may require that, for the duration of the period of the developer's control, specified actions of the association or board, as described in the recorded instrument, be approved by the developer before they become effective.~~

~~2. Not later than 60 days after conveyance of 25 percent of the time shares that may be created pursuant to the time share instrument to owners other than the developer, at least one member and not less than 25 percent of the members of the board must be elected by owners other than the developer. Not later than 60 days after conveyance of 50 percent of the time shares that may be created pursuant to the time share instrument to owners other than the developer, not less than 23 1/3 percent of the members of the board must be elected by owners other than the developer.~~ **(Deleted by amendment.)**

Sec. 13. NRS 119A.530 is hereby amended to read as follows:

119A.530 1. During any period in which the developer holds a valid permit and the developer or an affiliate of the developer is the manager, the developer or an affiliate of the developer shall provide for the management of the time-share plan and the project, by a written agreement with the association or, if there is no association, with the owners. The initial term of the agreement must expire upon the first annual meeting of the members of the association or at the end of 5 years, whichever comes first. All succeeding terms of the agreement must be renewed annually unless the manager refuses to renew the agreement or a majority of the members of the association who are entitled to vote, excluding the developer, ~~board~~ notifies the manager of its refusal to renew the agreement.

2. The agreement must provide that:

(a) The manager or a majority of the owners ~~board~~ may terminate the agreement for cause.

(b) The resignation of the manager will not be accepted until 90 days after receipt by the association, or if there is no association, by the owners, of the written resignation.

(c) A fidelity bond must be delivered by the manager to the association.

3. An agreement entered into or renewed on or after October 1, 2001, must contain a detailed, itemized schedule of all fees, compensation or other property that the manager is entitled to receive for services rendered to the association or any member of the association or otherwise derived from the manager's affiliation with the time-share plan or the project, or both. ~~1. unless the manager is the developer or an affiliate of the developer. Upon the request of the association, the~~ *The manager shall disclose to the association ~~annual revenue received by the manager~~ annually and make available electronically to an owner upon request a report describing all fees, compensation or other property that the manager is entitled to receive for services rendered to the association or any member of the association or otherwise derived* from the manager's affiliation with the time-share plan or the project, or both.

4. Except as otherwise provided in this subsection, if the developer retains a property interest in the project, the parties to such an agreement must include the developer, the manager and the association. In addition to the provisions required in subsections 1 and 2, the agreement must provide:

(a) That the project will be maintained in good condition. Except as otherwise provided in this paragraph, any defect which is not corrected within 10 days after notification by the developer may be corrected by the developer. In an emergency situation, notice is not required. The association must repay the developer for any cost of the repairs plus the legal rate of interest. Each owner must be assessed for his or her share of the cost of repairs.

(b) That, if any dispute arises between the developer and the manager or association, either party may request from the American Arbitration Association or the Nevada Arbitration Association a list of seven potential fact finders from which one must be chosen to settle the dispute. The agreement must provide for the method of selecting one fact finder from this list.

1 (c) For the collection of assessments from the owners to pay obligations which
2 may be due to the developer for breach of the covenant to maintain the premises in
3 good condition and repair.

4 ➡ If the developer is not made a party to this agreement, the developer shall be
5 considered to be a third-party beneficiary of such an agreement.

6 5. The provisions of this section and NRS 119A.532 and 119A.534 do not
7 apply to the management of a project located outside of this State.