

SENATE BILL NO. 114—SENATOR WOODHOUSE

PREFILED FEBRUARY 13, 2017

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to common-interest communities. (BDR 18-681)

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

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

AN ACT relating to common-interest communities; transferring the Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels from the Real Estate Division of the Department of Business and Industry to the Office of the Attorney General; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law creates the Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels within the Real Estate Division of the Department of Business and Industry to investigate and resolve disputes between certain parties in common-interest communities and condominium hotels. (NRS 116.625, 116.765) **Sections 1 and 5** of this bill transfer the Office of the Ombudsman from the Real Estate Division to the Office of the Attorney General. **Sections 2, 3, 10 and 11** of this bill make conforming changes to certain required forms. **Section 6** of this bill provides that any costs or expenses of the Office of the Ombudsman may be paid from the Account for Common-Interest Communities and Condominium Hotels, which is administered by the Administrator of the Real Estate Division. **Sections 7, 8, 14 and 15** of this bill provide for the continuing jurisdiction and protection from liability of the transferred Office of the Ombudsman. Finally, **section 16** of this bill provides that all pending claims or complaints will transfer to the new Office of the Ombudsman on July 1, 2017.

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

**Section 1.** Chapter 228 of NRS is hereby amended by adding thereto a new section to read as follows:

***1. The Attorney General shall:***



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1     ***(a) Administer the Office of the Ombudsman for Owners in***  
2     ***Common-Interest Communities and Condominium Hotels; and***  
3     ***(b) Appoint the Ombudsman in accordance with the provisions***  
4     ***of NRS 116.625.***

5     ***2. The Attorney General may submit claims to the Real Estate***  
6     ***Administrator of the Real Estate Division of the Department of***  
7     ***Business and Industry for the costs and expenses of the Office of***  
8     ***the Ombudsman. To the extent that money is available for that***  
9     ***purpose, those costs and expenses must be reimbursed from the***  
10    ***Account for Common-Interest Communities and Condominium***  
11    ***Hotels created by NRS 116.630.***

12    ***3. The Attorney General may recommend such regulations as***  
13    ***are necessary to carry out the provisions of this section for***  
14    ***adoption by the Commission for Common-Interest Communities***  
15    ***and Condominium Hotels pursuant to NRS 116.625.***

16    **Sec. 2.** NRS 116.311635 is hereby amended to read as  
17 follows:

18    116.311635 1. The association or other person conducting  
19 the sale shall also, after the expiration of the 90-day period  
20 described in paragraph (c) of subsection 1 of NRS 116.31162 and  
21 before selling the unit, give notice of the time and place of the sale  
22 by recording the notice of sale and by:

23    (a) Posting a similar notice particularly describing the unit, for  
24 20 days consecutively, in a public place in the county where the unit  
25 is situated;

26    (b) Publishing a copy of the notice three times, once each week  
27 for 3 consecutive weeks, in a newspaper of general circulation in the  
28 county where the unit is situated;

29    (c) Notifying the unit's owner or his or her successor in interest  
30 as follows:

31    (1) A copy of the notice of sale must be mailed, on or before  
32 the date of first publication or posting, by certified or registered  
33 mail, return receipt requested, to the unit's owner or his or her  
34 successor in interest at his or her address, if known, and to the  
35 address of the unit; and

36    (2) A copy of the notice of sale must be served, on or before  
37 the date of first publication or posting, in the manner set forth in  
38 subsection 2; and

39    (d) Mailing, on or before the date of first publication or posting,  
40 a copy of the notice by certified mail to:

41    (1) Each person entitled to receive a copy of the notice of  
42 default and election to sell notice under subsection 1 of  
43 NRS 116.31163;

44    (2) The holder of a security interest recorded before the  
45 mailing of the notice of sale, at the address of the holder that is



1 provided pursuant to NRS 657.110 on the Internet website  
2 maintained by the Division of Financial Institutions of the  
3 Department of Business and Industry; and

4 (3) The Ombudsman.

5 2. In addition to the requirements set forth in subsection 1, a  
6 copy of the notice of sale must be served:

7 (a) By a person who is 18 years of age or older and who is not a  
8 party to or interested in the sale by personally delivering a copy of  
9 the notice of sale to an occupant of the unit who is of suitable age;  
10 or

11 (b) By posting a copy of the notice of sale in a conspicuous  
12 place on the unit.

13 3. Any copy of the notice of sale required to be served pursuant  
14 to this section must include:

15 (a) The amount necessary to satisfy the lien as of the date of the  
16 proposed sale; and

17 (b) The following warning in 14-point bold type:  
18

19 WARNING! A SALE OF YOUR PROPERTY IS  
20 IMMINENT! UNLESS YOU PAY THE AMOUNT  
21 SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE,  
22 YOU COULD LOSE YOUR HOME, EVEN IF THE  
23 AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE  
24 THE SALE DATE. IF YOU HAVE ANY QUESTIONS,  
25 PLEASE CALL (name and telephone number of the contact  
26 person for the association). IF YOU NEED ASSISTANCE,  
27 PLEASE CALL THE FORECLOSURE SECTION OF THE  
28 OMBUDSMAN'S OFFICE, ~~NEVADA REAL ESTATE~~  
29 ~~DIVISION;~~ **OFFICE OF THE ATTORNEY GENERAL,**  
30 AT (toll-free telephone number designated by the ~~(Division)~~  
31 **Office of the Ombudsman**) IMMEDIATELY.  
32

33 4. Proof of service of any copy of the notice of sale required to  
34 be served pursuant to this section must consist of:

35 (a) A certificate of mailing which evidences that the notice was  
36 mailed through the United States Postal Service; or

37 (b) An affidavit of service signed by the person who served the  
38 notice stating:

39 (1) The time of service, manner of service and location of  
40 service; and

41 (2) The name of the person served or, if the notice was not  
42 served on a person, a description of the location where the notice  
43 was posted on the unit.



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1     **Sec. 3.** NRS 116.41095 is hereby amended to read as follows:  
2     116.41095 The information statement required by NRS  
3     116.4103 and 116.4109 must be in substantially the following form:

4  
5                   BEFORE YOU PURCHASE PROPERTY IN A  
6                   COMMON-INTEREST COMMUNITY  
7                   DID YOU KNOW . . .

8             1. YOU GENERALLY HAVE 5 DAYS TO CANCEL  
9     THE PURCHASE AGREEMENT?

10    When you enter into a purchase agreement to buy a home or  
11    unit in a common-interest community, in most cases you  
12    should receive either a public offering statement, if you are  
13    the original purchaser of the home or unit, or a resale  
14    package, if you are not the original purchaser. The law  
15    generally provides for a 5-day period in which you have the  
16    right to cancel the purchase agreement. The 5-day period  
17    begins on different starting dates, depending on whether you  
18    receive a public offering statement or a resale package. Upon  
19    receiving a public offering statement or a resale package, you  
20    should make sure you are informed of the deadline for  
21    exercising your right to cancel. In order to exercise your right  
22    to cancel, the law generally requires that you hand deliver the  
23    notice of cancellation to the seller within the 5-day period, or  
24    mail the notice of cancellation to the seller by prepaid United  
25    States mail within the 5-day period. For more information  
26    regarding your right to cancel, see Nevada Revised Statutes  
27    116.4108, if you received a public offering statement, or  
28    Nevada Revised Statutes 116.4109, if you received a resale  
29    package.

30             2. YOU ARE AGREEING TO RESTRICTIONS ON  
31    HOW YOU CAN USE YOUR PROPERTY?

32    These restrictions are contained in a document known as the  
33    Declaration of Covenants, Conditions and Restrictions. The  
34    CC&Rs become a part of the title to your property. They bind  
35    you and every future owner of the property whether or not  
36    you have read them or had them explained to you. The  
37    CC&Rs, together with other "governing documents" (such as  
38    association bylaws and rules and regulations), are intended to  
39    preserve the character and value of properties in the  
40    community, but may also restrict what you can do to improve  
41    or change your property and limit how you use and enjoy  
42    your property. By purchasing a property encumbered by  
43    CC&Rs, you are agreeing to limitations that could affect your  
44    lifestyle and freedom of choice. You should review the  
45    CC&Rs, and other governing documents before purchasing to



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1 make sure that these limitations and controls are acceptable to  
2 you. Certain provisions in the CC&Rs and other governing  
3 documents may be superseded by contrary provisions of  
4 chapter 116 of the Nevada Revised Statutes. The Nevada  
5 Revised Statutes are available at the Internet address  
6 <http://www.leg.state.nv.us/nrs/>.

7 3. YOU WILL HAVE TO PAY OWNERS'  
8 ASSESSMENTS FOR AS LONG AS YOU OWN YOUR  
9 PROPERTY?

10 As an owner in a common-interest community, you are  
11 responsible for paying your share of expenses relating to the  
12 common elements, such as landscaping, shared amenities and  
13 the operation of any homeowners' association. The obligation  
14 to pay these assessments binds you and every future owner of  
15 the property. Owners' fees are usually assessed by the  
16 homeowners' association and due monthly. You have to pay  
17 dues whether or not you agree with the way the association is  
18 managing the property or spending the assessments. The  
19 executive board of the association may have the power to  
20 change and increase the amount of the assessment and to levy  
21 special assessments against your property to meet  
22 extraordinary expenses. In some communities, major  
23 components of the common elements of the community such  
24 as roofs and private roads must be maintained and replaced  
25 by the association. If the association is not well managed or  
26 fails to provide adequate funding for reserves to repair,  
27 replace and restore common elements, you may be required to  
28 pay large, special assessments to accomplish these tasks.

29 4. IF YOU FAIL TO PAY OWNERS'  
30 ASSESSMENTS, YOU COULD LOSE YOUR HOME?

31 If you do not pay these assessments when due, the association  
32 usually has the power to collect them by selling your property  
33 in a nonjudicial foreclosure sale. If fees become delinquent,  
34 you may also be required to pay penalties and the  
35 association's costs and attorney's fees to become current. If  
36 you dispute the obligation or its amount, your only remedy to  
37 avoid the loss of your home may be to file a lawsuit and ask a  
38 court to intervene in the dispute.

39 5. YOU MAY BECOME A MEMBER OF A  
40 HOMEOWNERS' ASSOCIATION THAT HAS THE  
41 POWER TO AFFECT HOW YOU USE AND ENJOY  
42 YOUR PROPERTY?

43 Many common-interest communities have a homeowners'  
44 association. In a new development, the association will  
45 usually be controlled by the developer until a certain number



1 of units have been sold. After the period of developer control,  
2 the association may be controlled by property owners like  
3 yourself who are elected by homeowners to sit on an  
4 executive board and other boards and committees formed by  
5 the association. The association, and its executive board, are  
6 responsible for assessing homeowners for the cost of  
7 operating the association and the common or shared elements  
8 of the community and for the day to day operation and  
9 management of the community. Because homeowners sitting  
10 on the executive board and other boards and committees of  
11 the association may not have the experience or professional  
12 background required to understand and carry out the  
13 responsibilities of the association properly, the association  
14 may hire professional community managers to carry out these  
15 responsibilities.

16 Homeowners' associations operate on democratic principles.  
17 Some decisions require all homeowners to vote, some  
18 decisions are made by the executive board or other boards or  
19 committees established by the association or governing  
20 documents. Although the actions of the association and its  
21 executive board are governed by state laws, the CC&Rs and  
22 other documents that govern the common-interest  
23 community, decisions made by these persons will affect your  
24 use and enjoyment of your property, your lifestyle and  
25 freedom of choice, and your cost of living in the community.  
26 You may not agree with decisions made by the association or  
27 its governing bodies even though the decisions are ones  
28 which the association is authorized to make. Decisions may  
29 be made by a few persons on the executive board or  
30 governing bodies that do not necessarily reflect the view of  
31 the majority of homeowners in the community. If you do not  
32 agree with decisions made by the association, its executive  
33 board or other governing bodies, your remedy is typically to  
34 attempt to use the democratic processes of the association to  
35 seek the election of members of the executive board or other  
36 governing bodies that are more responsive to your needs. If  
37 you have a dispute with the association, its executive board or  
38 other governing bodies, you may be able to resolve the  
39 dispute through the complaint, investigation and intervention  
40 process administered by the Office of the Ombudsman for  
41 Owners in Common-Interest Communities and Condominium  
42 Hotels, the Nevada Real Estate Division and the Commission  
43 for Common-Interest Communities and Condominium  
44 Hotels. However, to resolve some disputes, you may have to  
45 mediate or arbitrate the dispute and, if mediation or



1 arbitration is unsuccessful, you may have to file a lawsuit and  
2 ask a court to resolve the dispute. In addition to your personal  
3 cost in mediation or arbitration, or to prosecute a lawsuit, you  
4 may be responsible for paying your share of the association's  
5 cost in defending against your claim.

6 6. YOU ARE REQUIRED TO PROVIDE  
7 PROSPECTIVE PURCHASERS OF YOUR PROPERTY  
8 WITH INFORMATION ABOUT LIVING IN YOUR  
9 COMMON-INTEREST COMMUNITY?

10 The law requires you to provide a prospective purchaser of  
11 your property with a copy of the community's governing  
12 documents, including the CC&Rs, association bylaws, and  
13 rules and regulations, as well as a copy of this document. You  
14 are also required to provide a copy of the association's  
15 current year-to-date financial statement, including, without  
16 limitation, the most recent audited or reviewed financial  
17 statement, a copy of the association's operating budget and  
18 information regarding the amount of the monthly assessment  
19 for common expenses, including the amount set aside as  
20 reserves for the repair, replacement and restoration of  
21 common elements. You are also required to inform  
22 prospective purchasers of any outstanding judgments or  
23 lawsuits pending against the association of which you are  
24 aware. For more information regarding these requirements,  
25 see Nevada Revised Statutes 116.4109.

26 7. YOU HAVE CERTAIN RIGHTS REGARDING  
27 OWNERSHIP IN A COMMON-INTEREST COMMUNITY  
28 THAT ARE GUARANTEED YOU BY THE STATE?

29 Pursuant to provisions of chapter 116 of Nevada Revised  
30 Statutes, you have the right:

31 (a) To be notified of all meetings of the association and  
32 its executive board, except in cases of emergency.

33 (b) To attend and speak at all meetings of the association  
34 and its executive board, except in some cases where the  
35 executive board is authorized to meet in closed, executive  
36 session.

37 (c) To request a special meeting of the association upon  
38 petition of at least 10 percent of the homeowners.

39 (d) To inspect, examine, photocopy and audit financial  
40 and other records of the association.

41 (e) To be notified of all changes in the community's rules  
42 and regulations and other actions by the association or board  
43 that affect you.



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8. QUESTIONS?

Although they may be voluminous, you should take the time to read and understand the documents that will control your ownership of a property in a common-interest community. You may wish to ask your real estate professional, lawyer or other person with experience to explain anything you do not understand. You may also request assistance from the Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels, ~~Nevada Real Estate Division,~~ *Office of the Attorney General*, at (telephone number ~~1-800-752-7272~~ *designated by the Office of the Ombudsman*).

Buyer or prospective buyer's initials: \_\_\_\_\_

Date: \_\_\_\_\_

**Sec. 4.** NRS 116.615 is hereby amended to read as follows:

116.615 1. ~~The~~ *Except as otherwise provided in section 1 of this act, the* provisions of this chapter must be administered by the Division, subject to the administrative supervision of the Director of the Department of Business and Industry.

2. The Commission and the Division may do all things necessary and convenient to carry out the provisions of this chapter, including, without limitation, prescribing such forms and adopting such procedures as are necessary to carry out the provisions of this chapter.

3. The Commission, or the Administrator with the approval of the Commission, may adopt such regulations as are necessary to carry out the provisions of this chapter.

4. The Commission may by regulation delegate any authority conferred upon it by the provisions of this chapter to the Administrator to be exercised pursuant to the regulations adopted by the Commission.

5. When regulations are proposed by the Administrator, in addition to other notices required by law, the Administrator shall provide copies of the proposed regulations to the Commission not later than 30 days before the next meeting of the Commission. The Commission shall approve, amend or disapprove any proposed regulations at that meeting.

6. All regulations adopted by the Commission, or adopted by the Administrator with the approval of the Commission, must be published by the Division, posted on its website and offered for sale at a reasonable fee.

**Sec. 5.** NRS 116.625 is hereby amended to read as follows:

116.625 1. The Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels is hereby created within the ~~Division,~~ *Office of the Attorney General*.



1       2. The ~~Administrator~~ *Attorney General* shall appoint the  
2 Ombudsman. The Ombudsman is in the unclassified service of the  
3 State.

4       3. The Ombudsman must be qualified by training and  
5 experience to perform the duties and functions of office.

6       4. In addition to any other duties set forth in this chapter, the  
7 Ombudsman shall:

8       (a) Assist in processing claims submitted to mediation or  
9 arbitration or referred to a program pursuant to NRS 38.300 to  
10 38.360, inclusive;

11       (b) Assist owners in common-interest communities and  
12 condominium hotels to understand their rights and responsibilities  
13 as set forth in this chapter and chapter 116B of NRS and the  
14 governing documents of their associations, including, without  
15 limitation, publishing materials related to those rights and  
16 responsibilities;

17       (c) Assist members of executive boards and officers of  
18 associations to carry out their duties;

19       (d) When appropriate, investigate disputes involving the  
20 provisions of this chapter or chapter 116B of NRS or the governing  
21 documents of an association and assist in resolving such disputes;  
22 and

23       (e) Compile and maintain a registration of each association  
24 organized within the State which includes, without limitation, the  
25 following information:

26       (1) The name, address and telephone number of the  
27 association;

28       (2) The name of each community manager for the common-  
29 interest community or the association of a condominium hotel and  
30 the name of any other person who is authorized to manage the  
31 property at the site of the common-interest community or  
32 condominium hotel;

33       (3) The names, mailing addresses and telephone numbers of  
34 the members of the executive board of the association;

35       (4) The name of the declarant;

36       (5) The number of units in the common-interest community  
37 or condominium hotel;

38       (6) The total annual assessment made by the association;

39       (7) The number of foreclosures which were completed on  
40 units within the common-interest community or condominium hotel  
41 and which were based on liens for the failure of the unit's owner to  
42 pay any assessments levied against the unit or any fines imposed  
43 against the unit's owner; and



(8) Whether the study of the reserves of the association has been conducted pursuant to NRS 116.31152 or 116B.605 and, if so, the date on which it was completed.

**Sec. 6.** NRS 116.630 is hereby amended to read as follows:

116.630 1. There is hereby created the Account for Common-Interest Communities and Condominium Hotels in the State General Fund. The Account must be administered by the Administrator.

2. Except as otherwise provided in subsection 3, all money received by the Commission, a hearing panel or the Division pursuant to this chapter or chapter 116B of NRS, including, without limitation, the fees collected pursuant to NRS 116.31155 and 116B.620, must be deposited into the Account.

3. If the Commission imposes a fine or penalty, the Commission shall deposit the money collected from the imposition of the fine or penalty with the State Treasurer for credit to the State General Fund. If the money is so deposited, the Commission may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is required to pay attorney's fees or the costs of an investigation, or both.

4. The interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account.

5. The money in the Account must be used solely to defray:

(a) The costs and expenses of the Commission and the Office of the Ombudsman;

(b) If authorized by the Commission or any regulations adopted by the Commission, the costs and expenses of subsidizing proceedings for mediation, arbitration and a program conducted pursuant to NRS 38.300 to 38.360, inclusive; and

(c) If authorized by the Legislature or by the Interim Finance Committee if the Legislature is not in session, the costs and expenses of administering the Division.

*6. To the extent that money in the Account is available for that purpose, the Administrator shall pay any claims submitted by the Office of the Attorney General pursuant to section 1 of this act to reimburse the costs and expenses of the Office of the Ombudsman.*

**Sec. 7.** NRS 116.635 is hereby amended to read as follows:

116.635 The Commission and its members, each hearing panel and its members, the Administrator, the *Ombudsman, the Office of the Ombudsman*, the Division, and the experts, attorneys, investigators, consultants and other personnel of the Commission, *the Office of the Ombudsman* and the Division are immune from any civil liability for any decision or action taken in good faith and



1 without malicious intent in carrying out the provisions of this  
2 chapter.

3 **Sec. 8.** NRS 116.750 is hereby amended to read as follows:

4 116.750 1. In carrying out the provisions of NRS 116.745 to  
5 116.795, inclusive, the Division and the *Office of the* Ombudsman  
6 have jurisdiction to investigate and the Commission and each  
7 hearing panel has jurisdiction to take appropriate action against any  
8 person who commits a violation, including, without limitation:

9 (a) Any association and any officer, employee or agent of an  
10 association.

11 (b) Any member of an executive board.

12 (c) Any community manager who holds a certificate and any  
13 other community manager.

14 (d) Any person who is registered as a reserve study specialist, or  
15 who conducts a study of reserves, pursuant to chapter 116A of NRS.

16 (e) Any declarant or affiliate of a declarant.

17 (f) Any unit's owner.

18 (g) Any tenant of a unit's owner if the tenant has entered into an  
19 agreement with the unit's owner to abide by the governing  
20 documents of the association and the provisions of this chapter and  
21 any regulations adopted pursuant thereto.

22 2. The jurisdiction set forth in subsection 1 applies to any  
23 officer, employee or agent of an association or any member of an  
24 executive board who commits a violation and who:

25 (a) Currently holds his or her office, employment, agency or  
26 position or who held the office, employment, agency or position at  
27 the commencement of proceedings against him or her.

28 (b) Resigns his or her office, employment, agency or position:

29 (1) After the commencement of proceedings against him or  
30 her; or

31 (2) Within 1 year after the violation is discovered or  
32 reasonably should have been discovered.

33 **Sec. 9.** NRS 116.757 is hereby amended to read as follows:

34 116.757 1. Except as otherwise provided in this section and  
35 NRS 239.0115, a written affidavit filed with the Division pursuant  
36 to NRS 116.760, all documents and other information filed with the  
37 written affidavit and all documents and other information compiled  
38 as a result of an investigation conducted to determine whether to file  
39 a formal complaint with the Commission are confidential. The  
40 Division *and the Office of the Ombudsman* shall not disclose any  
41 information that is confidential pursuant to this subsection, in whole  
42 or in part, to any person, including, without limitation, a person who  
43 is the subject of an investigation or complaint, unless and until a  
44 formal complaint is filed pursuant to subsection 2 and the disclosure  
45 is required pursuant to subsection 2.



2. A formal complaint filed by the Administrator with the Commission and all documents and other information considered by the Commission or a hearing panel when determining whether to impose discipline or take other administrative action pursuant to NRS 116.745 to 116.795, inclusive, are public records.

**Sec. 10.** NRS 116B.645 is hereby amended to read as follows:

116B.645 1. The association or hotel unit owner, as applicable, shall also, after the expiration of the 90 days and before selling the unit:

(a) Give notice of the time and place of the sale in the manner and for a time not less than that required by law for the sale of real property upon execution, except that in lieu of following the procedure for service on a judgment debtor pursuant to NRS 21.130, service must be made on the residential unit owner as follows:

(1) A copy of the notice of sale must be mailed, on or before the date of first publication or posting, by certified or registered mail, return receipt requested, to the residential unit owner or his or her successor in interest at the residential unit owner's address, if known, and to the address of the residential unit; and

(2) A copy of the notice of sale must be served, on or before the date of first publication or posting, in the manner set forth in subsection 2; and

(b) Mail, on or before the date of first publication or posting, a copy of the notice by first-class mail to:

(1) Each person entitled to receive a copy of the notice of default and election to sell notice under NRS 116B.640;

(2) The holder of a recorded security interest or the purchaser of the residential unit, if either of them has notified the association, before the mailing of the notice of sale, of the existence of the security interest, lease or contract of sale, as applicable; and

(3) The Ombudsman.

2. In addition to the requirements set forth in subsection 1, a copy of the notice of sale must be served:

(a) By a person who is 18 years of age or older and who is not a party to or interested in the sale by personally delivering a copy of the notice of sale to an occupant of the residential unit who is of suitable age; or

(b) By posting a copy of the notice of sale in a conspicuous place on the residential unit.

3. Any copy of the notice of sale required to be served pursuant to this section must include:

(a) The amount necessary to satisfy the lien as of the date of the proposed sale; and

(b) The following warning in 14-point bold type:



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1 WARNING! A SALE OF YOUR PROPERTY IS  
2 IMMINENT! UNLESS YOU PAY THE AMOUNT  
3 SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE,  
4 YOU COULD LOSE YOUR UNIT, EVEN IF THE  
5 AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE  
6 THE SALE DATE. IF YOU HAVE ANY QUESTIONS,  
7 PLEASE CALL (name and telephone number of the contact  
8 person for the association or hotel unit owner). IF YOU  
9 NEED ASSISTANCE, PLEASE CALL THE  
10 FORECLOSURE SECTION OF THE OMBUDSMAN'S  
11 OFFICE, ~~NEVADA REAL ESTATE DIVISION,~~ **OFFICE**  
12 **OF THE ATTORNEY GENERAL**, AT (toll-free telephone  
13 number designated by the ~~{Division}~~ **Office of the**  
14 **Ombudsman**) IMMEDIATELY.  
15

16 4. Proof of service of any copy of the notice of sale required to  
17 be served pursuant to this section must consist of:

18 (a) A certificate of mailing which evidences that the notice was  
19 mailed through the United States Postal Service; or

20 (b) An affidavit of service signed by the person who served the  
21 notice stating:

22 (1) The time of service, manner of service and location of  
23 service; and

24 (2) The name of the person served or, if the notice was not  
25 served on a person, a description of the location where the notice  
26 was posted on the residential unit.

27 **Sec. 11.** NRS 116B.765 is hereby amended to read as follows:  
28 116B.765 The information statement required by NRS  
29 116B.735 and 116B.760 must be in substantially the following  
30 form:  
31

32 BEFORE YOU PURCHASE PROPERTY IN A  
33 CONDOMINIUM HOTEL  
34 DID YOU KNOW...

35 1. YOU GENERALLY HAVE 5 DAYS TO CANCEL  
36 THE PURCHASE AGREEMENT?

37 When you enter into a purchase agreement to buy a home or  
38 unit in a condominium hotel, in most cases you should  
39 receive either a public offering statement, if you are the  
40 original purchaser of the home or unit, or a resale package, if  
41 you are not the original purchaser. The law generally provides  
42 for a 5-day period in which you have the right to cancel the  
43 purchase agreement. The 5-day period begins on different  
44 starting dates, depending on whether you receive a public  
45 offering statement or a resale package. Upon receiving a



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1 public offering statement or a resale package, you should  
2 make sure you are informed of the deadline for exercising  
3 your right to cancel. In order to exercise your right to cancel,  
4 the law generally requires that you hand deliver the notice of  
5 cancellation to the seller within the 5-day period, or mail the  
6 notice of cancellation to the seller by prepaid United States  
7 mail within the 5-day period. For more information regarding  
8 your right to cancel, see NRS 116B.755, if you received a  
9 public offering statement, or NRS 116B.760, if you received  
10 a resale package.

11 2. YOU ARE AGREEING TO RESTRICTIONS ON  
12 HOW YOU CAN USE YOUR PROPERTY?

13 These restrictions are contained in a document known as the  
14 Declaration of Covenants, Conditions and Restrictions. The  
15 CC&Rs become a part of the title to your property. They bind  
16 you and every future owner of the property whether or not  
17 you have read them or had them explained to you. The  
18 CC&Rs, together with other "governing documents" (such as  
19 association bylaws and rules and regulations), are intended to  
20 preserve the character and value of properties in the  
21 condominium hotel, but may also restrict what you can do to  
22 improve or change your property and limit how you use and  
23 enjoy your property. By purchasing a property encumbered  
24 by CC&Rs, you are agreeing to limitations that could affect  
25 your lifestyle and freedom of choice. You should review the  
26 CC&Rs, and other governing documents before purchasing to  
27 make sure that these limitations and controls are acceptable to  
28 you. Certain provisions in the CC&Rs and other governing  
29 documents may be superseded by contrary provisions of  
30 chapter 116B of the Nevada Revised Statutes. The Nevada  
31 Revised Statutes are available at the Internet address  
32 <http://www.leg.state.nv.us/nrs/>.

33 3. YOU WILL HAVE TO PAY OWNERS'  
34 ASSESSMENTS AND CHARGES FOR AS LONG AS  
35 YOU OWN YOUR PROPERTY?

36 As an owner in a condominium hotel, you are responsible for  
37 paying your share of expenses relating to the common  
38 elements and shared components. The obligation to pay these  
39 expenses binds you and every future owner of the property.  
40 Owners' fees are usually assessed for these expenses  
41 monthly. You have to pay dues whether or not you agree with  
42 the way the association or the hotel unit owner is managing  
43 the property or spending the assessments or charges. The  
44 hotel unit owner executive board of the association may have  
45 the power to change and increase the amount of the



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assessment or charges and to levy special assessments or special charges against your property to meet extraordinary expenses.

4. IF YOU FAIL TO PAY OWNERS' ASSESSMENTS OR CHARGES, YOU COULD LOSE YOUR HOME?

If you do not pay these assessments or charges when due, the hotel unit owner or the association usually has the power to collect them by selling your property in a nonjudicial foreclosure sale. If fees become delinquent, you may also be required to pay penalties and the association's or hotel unit owner's costs, as applicable, and attorney's fees to become current. If you dispute the obligation or its amount, your only remedy to avoid the loss of your home may be to file a lawsuit and ask a court to intervene in the dispute.

5. YOU MAY BECOME A MEMBER OF A HOMEOWNERS' ASSOCIATION THAT HAS THE POWER TO AFFECT HOW YOU USE AND ENJOY YOUR PROPERTY?

Many condominium hotels have a homeowners' association. In a new development, the association will usually be controlled by the developer until a certain number of units have been sold. After the period of developer control, the association may be controlled by property owners like yourself who are elected by homeowners to sit on an executive board and other boards and committees formed by the association. The association, and its executive board, are responsible for assessing homeowners for the cost of operating the association and the common elements of the condominium hotel. Because homeowners sitting on the executive board and other boards and committees of the association may not have the experience or professional background required to understand and carry out the responsibilities of the association properly, the association may hire professional condominium association managers to carry out these responsibilities.

Homeowners' associations operate on democratic principles. Some decisions require all homeowners to vote, some decisions are made by the executive board or other boards or committees established by the association or governing documents. Although the actions of the association and its executive board are governed by state laws, the CC&Rs and other documents that govern the condominium hotel, decisions made by these persons will affect your use and enjoyment of your property, your lifestyle and freedom of choice, and your cost of living in the condominium hotel.



1 You may not agree with decisions made by the association or  
2 its governing bodies even though the decisions are ones  
3 which the association is authorized to make. Decisions may  
4 be made by a few persons on the executive board or  
5 governing bodies that do not necessarily reflect the view of  
6 the majority of residential unit in the condominium hotel. If  
7 you do not agree with decisions made by the association, its  
8 executive board or other governing bodies, your remedy is  
9 typically to attempt to use the democratic processes of the  
10 association to seek the election of members of the executive  
11 board or other governing bodies that are more responsive to  
12 your needs. If you have a dispute with the association, its  
13 executive board or other governing bodies, you may be able  
14 to resolve the dispute through the complaint, investigation  
15 and intervention process administered by the Office of the  
16 Ombudsman for Owners in Common-Interest Communities  
17 and Condominium Hotels, the Nevada Real Estate Division  
18 and the Commission for Common-Interest Communities and  
19 Condominium Hotels. However, to resolve some disputes,  
20 you may have to mediate or arbitrate the dispute and, if  
21 mediation or arbitration is unsuccessful, you may have to file  
22 a lawsuit and ask a court to resolve the dispute. In addition to  
23 your personal cost in mediation or arbitration, or to prosecute  
24 a lawsuit, you may be responsible for paying your share of  
25 the association's cost in defending against your claim.

26 6. YOU ARE REQUIRED TO PROVIDE  
27 PROSPECTIVE PURCHASERS OF YOUR PROPERTY  
28 WITH INFORMATION ABOUT LIVING IN YOUR  
29 CONDOMINIUM HOTEL?

30 The law requires you to provide a prospective purchaser of  
31 your property with a copy of the condominium hotel's  
32 governing documents, including the CC&Rs, association  
33 bylaws, and rules and regulations, as well as a copy of this  
34 document. You are also required to provide a copy of the  
35 association's current year-to-date financial statement,  
36 including, without limitation, the most recent audited or  
37 reviewed financial statement, a copy of the association's  
38 operating budget and information regarding the amount of the  
39 monthly assessment for common expenses, including the  
40 amount set aside as reserves for the repair, replacement and  
41 restoration of common elements. You are also required to  
42 provide a copy of the current year-to-date statement of the  
43 shared expenses charged to your unit by the declarant or hotel  
44 unit owner, as applicable. You are also required to inform  
45 prospective purchasers of any outstanding judgments or



lawsuits pending against the association of which you are aware. For more information regarding these requirements, see NRS 116B.725 to 116B.795, inclusive.

7. YOU HAVE CERTAIN RIGHTS REGARDING OWNERSHIP IN A CONDOMINIUM HOTEL THAT ARE GUARANTEED YOU BY THE STATE?

Pursuant to provisions of this chapter, you have the right:

(a) To be notified of all meetings of the association and its executive board, except in cases of emergency.

(b) To attend and speak at all meetings of the association and its executive board, except in some cases where the executive board is authorized to meet in closed, executive session.

(c) To request a special meeting of the association.

(d) To inspect, examine, photocopy and audit financial and other records of the association.

(e) To be notified of all changes in the condominium hotel's rules and regulations and other actions by the association or board that affect you.

8. QUESTIONS?

Although they may be voluminous, you should take the time to read and understand the documents that will control your ownership of a property in a condominium hotel. You may wish to ask your real estate professional, lawyer or other person with experience to explain anything you do not understand. You may also request assistance from the Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels, ~~Nevada Real Estate Division,~~ *Office of the Attorney General*, at (telephone number).

Buyer or prospective buyer's initials: \_\_\_\_\_

Date: \_\_\_\_\_

**Sec. 12.** NRS 116B.800 is hereby amended to read as follows:

116B.800 ~~The~~ *Except as otherwise provided in section 1 of this act, the* Commission for Common-Interest Communities and Condominium Hotels created by NRS 116.600, the Division and the Director of the Department of Business and Industry have jurisdiction over the enforcement of this chapter as set forth herein.

**Sec. 13.** NRS 116B.805 is hereby amended to read as follows:

116B.805 1. ~~The~~ *Except as otherwise provided in section 1 of this act, the* provisions of this chapter must be administered by the Division, subject to the administrative supervision of the Director of the Department of Business and Industry.



2. The Commission and the Division may do all things necessary and convenient to carry out the provisions of this chapter, including, without limitation, prescribing such forms and adopting such procedures as are necessary to carry out the provisions of this chapter.

3. The Commission, or the Administrator with the approval of the Commission, may adopt such regulations as are necessary to carry out the provisions of this chapter.

4. The Commission may by regulation delegate any authority conferred upon it by the provisions of this chapter to the Administrator to be exercised pursuant to the regulations adopted by the Commission.

5. When regulations are proposed by the Administrator, in addition to other notices required by law, the Administrator shall provide copies of the proposed regulations to the Commission not later than 30 days before the next meeting of the Commission. The Commission shall approve, amend or disapprove any proposed regulations at that meeting.

6. All regulations adopted by the Commission, or adopted by the Administrator with the approval of the Commission, must be published by the Division, posted on its website and offered for sale at a reasonable fee.

**Sec. 14.** NRS 116B.820 is hereby amended to read as follows:

116B.820 The Commission and its members, each hearing panel and its members, the Administrator, the *Ombudsman, the Office of the Ombudsman*, the Division, and the experts, attorneys, investigators, consultants and other personnel of the Commission, *the Office of the Ombudsman* and the Division are immune from any civil liability for any decision or action taken in good faith and without malicious intent in carrying out the provisions of this chapter.

**Sec. 15.** NRS 116B.870 is hereby amended to read as follows:

116B.870 1. In carrying out the provisions of NRS 116B.870 to 116B.920, inclusive, the Division and the *Office of the Ombudsman* have jurisdiction to investigate and the Commission and each hearing panel has jurisdiction to take appropriate action against any person who commits a violation, including, without limitation:

(a) Any association and any officer, employee or agent of an association.

(b) Any member of an executive board.

(c) Any declarant, affiliate of a declarant or hotel unit owner.

(d) Any unit's owner.

(e) Any tenant of a unit's owner if the tenant has entered into an agreement with the unit's owner to abide by the governing



1 documents of the association and the provisions of this chapter and  
2 any regulations adopted pursuant thereto.

3 2. The jurisdiction set forth in subsection 1 applies to any  
4 officer, employee or agent of an association or any member of an  
5 executive board who commits a violation and who:

6 (a) Currently holds his or her office, employment, agency or  
7 position or who held his or her office, employment, agency or  
8 position at the commencement of proceedings against him or her.

9 (b) Resigns his or her office, employment, agency or position:

10 (1) After the commencement of proceedings against him or  
11 her; or

12 (2) Within 1 year after the violation is discovered or  
13 reasonably should have been discovered.

14 **Sec. 16.** 1. Any claim or complaint submitted to or being  
15 processed by the Office of the Ombudsman for Owners in Common-  
16 Interest Communities and Condominium Hotels within the Real  
17 Estate Division of the Department of Business and Industry before  
18 July 1, 2017, shall be deemed to be the responsibility of the Office  
19 of the Ombudsman for Owners in Common-Interest Communities  
20 and Condominium Hotels within the Office of the Attorney General.

21 2. Any person who, on July 1, 2017, is serving as the  
22 Ombudsman for Owners in Common-Interest Communities and  
23 Condominium Hotels may, if he or she is otherwise qualified on that  
24 date, continue to serve in that capacity until his or her successor is  
25 appointed pursuant to NRS 116.625, as amended by section 5 of this  
26 act.

27 **Sec. 17.** This act becomes effective:

28 1. Upon passage and approval for the purpose of adopting any  
29 regulations and performing any preparatory administrative tasks  
30 necessary to carry out the provisions of this act; and

31 2. On July 1, 2017, for all other purposes.

