

Commission for Common-Interest Communities and Condominium Hotels

Nevada Revised Statutes (NRS) 116.600 through 116.795:

Commission members: The Commission for Common-Interest Communities and Condominium Hotels (CICCH) consists of seven members appointed by the Governor, which includes the following:

- One member who is a unit's owner as defined in NRS 116.095 and who has served on an executive board as defined in NRS 116.045;
- Two members who are units' owners but who are not required to have served as members of an executive board;
- One member who is in the business of developing common-interest communities (CICs) in Nevada;
- One member who holds a certificate for the management of a CIC or the management of an association of a condominium hotel issued by the Real Estate Division (RED) of the Department of Business and Industry (B&I) as defined in NRS 116.013;
- One member who is a certified public accountant licensed to practice in Nevada pursuant to the provisions of Chapter 628 of NRS ("Accountants"); and
- One member who is an attorney licensed to practice in Nevada.

Each member must be a resident of Nevada. At least four members must reside in Clark County. Each member must have resided in a CIC for a minimum of three years prior to appointment to the Commission.

Operations of the Commission:

- The RED shall provide training to Commission members (NRS 116.605);
- The Commission shall elect its own officers and meet at least quarterly (NRS 116.610);
- The Commission, or the Administrator of the RED with the approval of the Commission, may adopt regulations necessary to carry out the provisions of Chapter 116 of NRS ("Common-Interest Ownership [Uniform Act]") (NRS 116.615); and

Exhibit J - SUNSET Document consists of 118 pages. Due to size limitations, pages 1-22 provided. A copy of the complete document can be found on the Subcommittee's meeting page and is available through the Research Library (775/684-6827 or e-mail at library@lcb.state.nv.us). Meeting Date: 02-23-16
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- The Attorney General shall act as the attorney for the RED and advise on matters submitted by the Commission or the RED (NRS 116.620).

Ombudsman: The Office of the Ombudsman for Owners in CICCH is created in the RED (NRS 116.625).

Account: The Account for CICCH is established in the State General Fund (NRS 116.630).

Powers and Duties of the Commission: The Commission:

- May issue subpoenas (NRS 116.660);
- Shall conduct hearings and other proceedings as are required by the provisions of Chapter 116 (NRS 116.665);
- May establish standards for subsidizing proceedings for mediation, arbitration, or similar programs and for educational programs to benefit units' owners, executive boards, and associations. It may also work with similar entities in Nevada or other jurisdictions to develop uniform procedures (NRS 116.670); and
- May appoint hearing panels (NRS 116.675).

Investigations (NRS 116.745 through 116.795):

The Commission and each hearing panel has jurisdiction to take appropriate action against any party who commits a violation (NRS 116.750).

Condominium Hotels (NRS 116B): Powers of the Commission are enumerated in NRS 116B as they pertain to condominium hotels. *Nevada Revised Statutes* 116B.800 provides that the Commission, the RED, and the Director of B&I have jurisdiction over the enforcement of Chapter 116B of NRS ("Condominium Hotel Act").

Background:

Legislation: Senate Bill 100 (Chapter 385, *Statutes of Nevada 2003*) was sponsored by the Senate Committee on Commerce and Labor. According to the record of hearings on S.B. 100, residents of CICs sought to establish a commission appointed by the Governor that would be empowered to settle disputes that concern many homeowner's associations. Such a commission would be able to make firm decisions that would end most disputes. A commission would also educate board members as to their role.

Assembly Bill 431 (Chapter 441, *Statutes of Nevada 2007*) added condominium hotels to the purview of the Commission.

Senate Bill 182 (Chapter 491, *Statutes of Nevada 2009*) expanded the membership of the Commission to include the two members who are unit owners and increased the number of Commission members from Clark County to the current requirement of four members.

Legislative history: A legislative history of S.B. 100 is available here: <http://www.leg.state.nv.us/Division/Research/Library/LegHistory/LHs/2003/SB100,2003.pdf>.

No legislative history of A.B. 431 has been compiled.

A legislative history of S.B. 182 is available here: <http://www.leg.state.nv.us/Division/Research/Library/LegHistory/LHs/2009/SB182,2009.pdf>.

Assembly Bill 233 (2015), as introduced, proposed to repeal existing law governing CICs, including the Commission. The Legislative Counsel's Digest indicates that would result in the enforcement of matters relating to CICs through private civil action. The measure was amended by the Assembly Committee on Judiciary to transfer the Office of the Ombudsman to the Office of the Attorney General, while maintaining the Commission. The bill was rereferred to the Assembly Committee on Ways and Means, which did not report it from committee.

Members: Members of the Commission are listed on the RED's website. They are also listed on the Commission's review form.

Reports to the Legislature: No reports to the Legislature are required pursuant to NRS 116 or NRS 116B. Senate Bill 310 (Chapter 507, *Statutes of Nevada 2007*) repealed NRS 622.110, which had required each regulatory body to submit a biennial report of its activities to the Director of the Legislative Counsel Bureau.

Records:

- Research Library holdings:
 - *Nevada Real Estate Division: Quarterly Summary of Disciplinary Actions* (Fiscal Year 2003 and FY 2004); and
 - *Community Insights*, Office of the Ombudsman for the Owners in Common-Interest Communities (2004 through current).

- State Library holdings:
 - Same
- State Archives: none

Current contact: Joseph Decker (J.D.), Administrator, RED, Department of B&I

Website: <http://red.nv.gov/Content/CIC/Commission/>

W161090

ADMINISTRATION AND ENFORCEMENT OF CHAPTER

ADMINISTRATIVE REGULATIONS.

Administration and enforcement, NAC 116.500-116.635

Fees of Real Estate Division, NAC 116A.515, 116A.525

General Provisions

REVISER'S NOTE.

Ch. 385, Stats. 2003, which created the Commission for Common-Interest Communities (now the Commission for Common-Interest Communities and Condominium Hotels) and which transferred certain responsibilities and duties to that Commission, contains the following provisions not included in NRS:

"Sec. 89. 1. Notwithstanding the provisions of this act and except as otherwise provided in subsection 2, during the period from October 1, 2003, until January 1, 2004, the Real Estate Commission, the Real Estate Administrator, the Ombudsman for Owners in Common-Interest Communities and the Real Estate Division of the Department of Business and Industry shall continue to exercise all the powers and perform all the duties that, before October 1, 2003, were assigned to them pursuant to the provisions of chapter 116 of NRS.

2. During the period described in subsection 1, the Commission for Common-Interest Communities [now the Commission for Common-Interest Communities and Condominium Hotels], the Real Estate Administrator, the Ombudsman for Owners in Common-Interest Communities [now the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels] and the Real Estate Division of the Department of Business and Industry may exercise any power and perform any duty assigned to them pursuant to the provisions of chapter 116 of NRS, as amended by this act, if the exercise of the power or the performance of the duty is necessary as an organizational, preparatory or preliminary measure to prepare them to carry out those provisions.

Sec. 91. 1. Any administrative regulations adopted by an officer or an agency whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency remain in force until amended by the officer or agency to which the responsibility for the adoption of the regulations has been transferred.

2. Any contracts or other agreements entered into by an officer or agency whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency are binding upon the officer or agency to which the responsibility for the administration of the provisions of the contract or other agreement has been transferred. Such contracts and other agreements may be enforced by the officer or agency to which the responsibility for the enforcement of the provisions of the contract or other agreement has been transferred.

3. Any action taken by an officer or agency whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency remains in effect as if taken by the officer or agency to which the responsibility for the enforcement of such actions has been transferred."

NRS 116.600 Commission for Common-Interest Communities and Condominium Hotels: Creation; appointment and qualifications of members; terms of office; compensation.

1. The Commission for Common-Interest Communities and Condominium Hotels is hereby created.

2. The Commission consists of seven members appointed by the Governor. The Governor shall appoint to the Commission:

(a) One member who is a unit's owner residing in this State and who has served as a member of an executive board in this State;

(b) Two members who are units' owners residing in this State but who are not required to have served as members of an executive board;

(c) One member who is in the business of developing common-interest communities in this State;

(d) One member who holds a certificate;

(e) One member who is a certified public accountant licensed to practice in this State pursuant to the provisions of chapter 628 of NRS; and

(f) One member who is an attorney licensed to practice in this State.

3. Each member of the Commission must be a resident of this State. At least four members of the Commission must be residents of a county whose population is 700,000 or more.

4. Each member of the Commission must have resided in a common-interest community or have been actively

engaged in a business or profession related to common-interest communities for not less than 3 years immediately preceding the date of the member's appointment.

5. After the initial terms, each member of the Commission serves a term of 3 years. Each member may serve not more than two consecutive full terms. If a vacancy occurs during a member's term, the Governor shall appoint a person qualified under this section to replace the member for the remainder of the unexpired term.

6. While engaged in the business of the Commission, each member is entitled to receive:

(a) A salary of not more than \$80 per day, as established by the Commission; and

(b) The per diem allowance and travel expenses provided for state officers and employees generally.

(Added to NRS by 2003, 2209; A 2005, 2619; 2007, 2272; 2009, 2899; 2011, 1146)

NRS CROSS REFERENCES.

Residency requirements, vacancies in office, NRS 232A.020

REVISER'S NOTES.

Ch. 385, Stats. 2003, the source of this section, contains the following provision not included in NRS:

"As soon as practicable after July 1, 2003, the Governor shall appoint to the Commission for Common-Interest Communities [now the Commission for Common-Interest Communities and Condominium Hotels]:

1. One member whose term begins on October 1, 2003, and expires on October 1, 2004.

2. Two members whose terms begin on October 1, 2003, and expire on October 1, 2005.

3. Two members whose terms begin on October 1, 2003, and expire on October 1, 2006."

Ch. 491, Stats. 2009, which amended this section, contains the following provision not included in NRS:

"The Governor shall appoint to the Commission for Common-Interest Communities and Condominium Hotels pursuant to NRS 116.600, as amended by section 30 of this act:

1. One member who is a unit's owner residing in this State whose term begins on October 1, 2009, and expires on October 1, 2010; and

2. One member who is a unit's owner residing in this State whose term begins on October 1, 2009, and expires on October 1, 2011."

NRS 116.605 Commission for Common-Interest Communities and Condominium Hotels: Courses of instruction for members.

1. The Division shall employ one or more training officers who are qualified by training and experience to provide to each member of the Commission courses of instruction concerning rules of procedure and substantive law appropriate for members of the Commission. Such courses of instruction may be made available to the staff of the Division as well as to community managers.

2. The training officer shall:

(a) Prepare and make available a manual containing the policies and procedures to be followed by executive boards and community managers; and

(b) Perform any other duties as directed by the Division.

3. Each member of the Commission must attend the courses of instruction described in subsection 1 not later than 6 months after the date that the member is first appointed to the Commission.

(Added to NRS by 2003, 2209; A 2009, 2899)

NRS 116.610 Commission for Common-Interest Communities and Condominium Hotels: Election of officers; meetings; quorum.

1. At the first meeting of each fiscal year, the Commission shall elect from its members a Chair, a Vice Chair and a Secretary.

2. The Commission shall meet at least once each calendar quarter and at other times on the call of the Chair or a majority of its members.

3. A majority of the members of the Commission constitutes a quorum for the transaction of all business.

(Added to NRS 2003, 2210)

NRS CROSS REFERENCES.

Meetings, NRS ch. 241

NRS 116.615 Administration of chapter; regulations of Commission and Real Estate Administrator; delegation of authority; publications.

1. 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.
(Added to NRS by 2003, 2210; A 2005, 2619)

NRS 116.620 Employment of personnel by Real Estate Division; duties of Attorney General; legal opinions by Attorney General.

1. Except as otherwise provided in this section and within the limits of legislative appropriations, the Division may employ experts, attorneys, investigators, consultants and other personnel as are necessary to carry out the provisions of this chapter.
2. The Attorney General shall act as the attorney for the Division in all actions and proceedings brought against or by the Division pursuant to the provisions of this chapter.
3. The Attorney General shall render to the Commission and the Division opinions upon all questions of law relating to the construction or interpretation of this chapter, or arising in the administration thereof, that may be submitted to the Attorney General by the Commission or the Division.
(Added to NRS by 2003, 2210)

NRS 116.623 Petitions for declaratory orders or advisory opinions: Regulations; scope; contents of petition; filing; period for response.

1. The Division shall provide by regulation for the filing and prompt disposition of petitions for declaratory orders and advisory opinions as to the applicability or interpretation of:
 - (a) Any provision of this chapter or chapter 116A or 116B of NRS;
 - (b) Any regulation adopted by the Commission, the Administrator or the Division; or
 - (c) Any decision of the Commission, the Administrator or the Division or any of its sections.
2. Declaratory orders disposing of petitions filed pursuant to this section have the same status as agency decisions.
3. A petition filed pursuant to this section must:
 - (a) Set forth the name and address of the petitioner; and
 - (b) Contain a clear and concise statement of the issues to be decided by the Division in its declaratory order or advisory opinion.
4. A petition filed pursuant to this section is submitted for consideration by the Division when it is filed with the Administrator.

5. The Division shall:

(a) Respond to a petition filed pursuant to this section within 60 days after the date on which the petition is submitted for consideration; and

(b) Upon issuing its declaratory order or advisory opinion, mail a copy of the declaratory order or advisory opinion to the petitioner.

(Added to NRS by 2009, 2876)

NRS 116.625 Ombudsman for Owners in Common-Interest Communities and Condominium Hotels: Creation of office; appointment; qualifications; powers and duties.

1. The Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels is hereby created within the Division.

2. The Administrator shall appoint the Ombudsman. The Ombudsman is in the unclassified service of the State.

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

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

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

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

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

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

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

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

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

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

(4) The name of the declarant;

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

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

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

(Added to NRS by 1997, 3112; A 1999, 2997; 2003, 1302, 2222; 2007, 2273; 2013, 2300)

ADMINISTRATIVE REGULATIONS.

"Annual assessment" interpreted, NAC 116.525

NRS 116.630 Account for Common-Interest Communities and Condominium Hotels: Creation; administration; sources; uses.

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

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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.

(Added to NRS by 1997, 3113; A 1999, 8, 2998; 2003, 2223; 2007, 2274; 2010, 26th Special Session, 79; 2013, 2301)

NRS 116.635 Immunity. The Commission and its members, each hearing panel and its members, the Administrator, the Ombudsman, the Division, and the experts, attorneys, investigators, consultants and other personnel of the Commission 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.

(Added to NRS by 2003, 2211)

NRS 116.640 Service of notice and other information upon Commission. Any notice or other information that is required to be served upon the Commission pursuant to the provisions of this chapter may be delivered to the principal office of the Division.

(Added to NRS by 2003, 2210)

NRS 116.643 Authority for Commission or Real Estate Administrator to adopt regulations requiring additional disclosures for sale of unit. The Commission, or the Administrator with the approval of the Commission, may adopt regulations to require any additional disclosures in the case of a sale of a unit as it deems necessary.

(Added to NRS by 2009, 2908)

NRS 116.645 Authority for Real Estate Division to conduct business electronically; regulations; fees; use of unsworn declaration; exclusions.

1. The Administrator may adopt regulations which establish procedures for the Division to conduct business electronically pursuant to title 59 of NRS with persons who are regulated pursuant to this chapter and with any other persons with whom the Division conducts business. The regulations may include, without limitation, the establishment of fees to pay the costs of conducting business electronically with the Division.

2. In addition to the process authorized by NRS 719.280, if the Division is conducting business electronically with a person and a law requires a signature or record to be notarized, acknowledged, verified or made under oath, the Division may allow the person to substitute a declaration that complies with the provisions of NRS 53.045 or NRS 53.250 to 53.390, inclusive, to satisfy the legal requirement.

3. The Division may refuse to conduct business electronically with a person who has failed to pay money which

the person owes to the Division or the Commission.
(Added to NRS by 2003, 1301; A 2011, 15)

NRS CROSS REFERENCES.

Unsworn Foreign Declarations Act, Uniform, NRS 53.250-53.390

General Powers and Duties of Commission

NRS 116.660 Issuance and enforcement of subpoenas.

1. To carry out the purposes of this chapter, the Commission, or any member thereof acting on behalf of the Commission or acting on behalf of a hearing panel, may issue subpoenas to compel the attendance of witnesses and the production of books, records and other papers.

2. If any person fails to comply with a subpoena issued by the Commission or any member thereof pursuant to this section within 20 days after the date of service of the subpoena, the Commission may petition the district court for an order of the court compelling compliance with the subpoena.

3. Upon such a petition, the court shall enter an order directing the person subpoenaed to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 20 days after the date of service of the order, and show cause why the person has not complied with the subpoena. A certified copy must be served upon the person subpoenaed.

4. If it appears to the court that the subpoena was regularly issued by the Commission or any member thereof pursuant to this section, the court shall enter an order compelling compliance with the subpoena, and upon failure to obey the order the person shall be dealt with as for contempt of court.

(Added to NRS by 1999, 2996; A 2003, 2222)—(Substituted in revision for NRS 116.11145)

NRS 116.662 Witnesses: Payment of fees and mileage.

1. Each witness who is subpoenaed and appears at a hearing is entitled to receive for his or her attendance the same fees and mileage allowed by law to a witness in a civil case.

2. The fees and mileage for the witness:

(a) Must be paid by the party at whose request the witness is subpoenaed; or

(b) If the appearance of the witness is not requested by any party but the witness is subpoenaed at the request of the Commission or a hearing panel, must be paid by the Division.

(Added to NRS by 2005, 2586)

NRS 116.665 Conducting hearings and other proceedings; collection of information; development and promotion of educational guidelines; accreditation of programs of education and research.

1. The Commission shall conduct such hearings and other proceedings as are required by the provisions of this chapter.

2. The Commission shall collect and maintain or cause to be collected and maintained accurate information relating to:

(a) The number and kind of common-interest communities in this State;

(b) The effect of the provisions of this chapter and any regulations adopted pursuant thereto on the development and construction of common-interest communities, the residential lending market for units within common-interest communities and the operation and management of common-interest communities;

(c) Violations of the provisions of this chapter and any regulations adopted pursuant thereto;

(d) The accessibility and use of, and the costs related to, the arbitration, mediation and program procedures set forth in NRS 38.300 to 38.360, inclusive, and the decisions rendered and awards made pursuant to those procedures;

(e) The number of foreclosures which were completed on units within common-interest communities and which were based on liens for the failure of the unit's owner to pay any assessments levied against the unit or any fines imposed against the unit's owner;

(f) The study of the reserves required by NRS 116.31152; and

(g) Other issues that the Commission determines are of concern to units' owners, associations, community managers, developers and other persons affected by common-interest communities.

3. The Commission shall develop and promote:

(a) Educational guidelines for conducting the elections of the members of an executive board, the meetings of an executive board and the meetings of the units' owners of an association; and

(b) Educational guidelines for the enforcement of the governing documents of an association through liens, penalties and fines.

4. The Commission shall recommend and approve for accreditation programs of education and research relating to common-interest communities, including, without limitation:

(a) The management of common-interest communities;

(b) The sale and resale of units within common-interest communities;

(c) Alternative methods that may be used to resolve disputes relating to common-interest communities; and

(d) The enforcement, including by foreclosure, of liens on units within common-interest communities for the failure of the unit's owner to pay any assessments levied against the unit or any fines imposed against the unit's owner.

(Added to NRS by 2003, 2211; A 2013, 2301)

ADMINISTRATIVE REGULATIONS.

Education of community managers, NAC 116A.175-116A.305

NRS 116.670 Establishment of standards for subsidizing arbitration, mediation and educational programs; acceptance of gifts, grants and donations; agreements and cooperation with other entities. The Commission may:

1. By regulation, establish standards for subsidizing proceedings for mediation, arbitration and a program conducted pursuant to NRS 38.300 to 38.360, inclusive, to ensure that such proceedings are not lengthy and are affordable and readily accessible to all parties;

2. By regulation, establish standards for subsidizing educational programs for the benefit of units' owners, members of executive boards and officers of associations;

3. Accept any gifts, grants or donations; and

4. Enter into agreements with other entities that are required or authorized to carry out similar duties in this State or in other jurisdictions and cooperate with such entities to develop uniform procedures for carrying out the provisions of this chapter and for accumulating information needed to carry out those provisions.

(Added to NRS by 2003, 2212; A 2013, 2302)

ADMINISTRATIVE REGULATIONS.

Subsidization of proceedings for binding arbitration, NAC 116.520

NRS 116.675 Appointment of hearing panels; delegation of powers and duties; appeals to Commission.

1. The Commission may appoint one or more hearing panels. Each hearing panel must consist of one or more independent hearing officers. An independent hearing officer may be, without limitation, a member of the Commission or an employee of the Commission.

2. The Commission may by regulation delegate to one or more hearing panels the power of the Commission to conduct hearings and other proceedings, determine violations, impose fines and penalties and take other disciplinary action authorized by the provisions of this chapter.

3. While acting under the authority of the Commission, a hearing panel and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the Commission and its members.

4. A final order of a hearing panel:

(a) May be appealed to the Commission if, not later than 20 days after the date that the final order is issued by the hearing panel, any party aggrieved by the final order files a written notice of appeal with the Commission.

(b) Must be reviewed and approved by the Commission if, not later than 40 days after the date that the final order is issued by the hearing panel, the Division, upon the direction of the Chair of the Commission, provides written notice to all parties of the intention of the Commission to review the final order.

(Added to NRS by 2003, 2210; A 2009, 2899)

NRS 116.680 Use of audio or video teleconference for hearings. The Commission or a hearing panel may conduct a hearing by means of an audio or video teleconference to one or more locations if the audio or video technology used at the hearing provides the persons present at each location with the ability to hear and communicate with the persons present at each other location.

(Added to NRS by 2003, 2211)

Investigation of Violations; Remedial and Disciplinary Action

NRS 116.745 "Violation" defined. As used in NRS 116.745 to 116.795, inclusive, unless the context otherwise requires, "violation" means a violation of:

1. Any provision of this chapter except NRS 116.31184;
2. Any regulation adopted pursuant to this chapter; or
3. Any order of the Commission or a hearing panel.

(Added to NRS by 2003, 2213; A 2005, 2620; 2013, 2530)

NRS 116.750 Jurisdiction of Real Estate Division, Ombudsman, Commission and hearing panels.

1. In carrying out the provisions of NRS 116.745 to 116.795, inclusive, the Division and 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 community manager who holds a certificate and any other community manager.

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

(e) Any declarant or affiliate of a declarant.

(f) Any unit's owner.

(g) 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 documents of the association and the provisions of this chapter and any regulations adopted pursuant thereto.

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

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

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

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

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

(Added to NRS by 2003, 2213; A 2005, 2620; 2009, 2932)

NRS 116.755 Rights, remedies and penalties are cumulative and not exclusive; limitations on power of Commission and hearing panels regarding internal activities of association.

1. The rights, remedies and penalties provided by NRS 116.745 to 116.795, inclusive, are cumulative and do not abrogate and are in addition to any other rights, remedies and penalties that may exist at law or in equity.

2. If the Commission, a hearing panel or another agency or officer elects to take a particular action or pursue a particular remedy or penalty authorized by NRS 116.745 to 116.795, inclusive, or another specific statute, that election is not exclusive and does not preclude the Commission, the hearing panel or another agency or officer from taking any other actions or pursuing any other remedies or penalties authorized by NRS 116.745 to 116.795, inclusive, or another specific statute.

3. In carrying out the provisions of NRS 116.745 to 116.795, inclusive, the Commission or a hearing panel shall not intervene in any internal activities of an association except to the extent necessary to prevent or remedy a violation.

(Added to NRS by 2003, 2214)

NRS 116.757 Confidentiality of records: Certain records relating to complaint or investigation deemed confidential; certain records relating to disciplinary action deemed public records.

1. Except as otherwise provided in this section and NRS 239.0115, a written affidavit filed with the Division pursuant to NRS 116.760, all documents and other information filed with the written affidavit and all documents and other information compiled as a result of an investigation conducted to determine whether to file a formal complaint with the Commission are confidential. The Division shall not disclose any information that is confidential pursuant to this subsection, in whole or in part, to any person, including, without limitation, a person who is the subject of an investigation or complaint, unless and until a formal complaint is filed pursuant to subsection 2 and the disclosure 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.

(Added to NRS by 2005, 2586; A 2007, 2070; 2009, 2900)

NRS CROSS REFERENCES.

Application to court for order allowing inspection or copying of certain records, NRS 239.0115

NRS 116.760 Right of person aggrieved by alleged violation to file affidavit with Real Estate Division; procedure for filing affidavit; administrative fine for filing false or fraudulent affidavit.

1. Except as otherwise provided in this section, a person who is aggrieved by an alleged violation may, not later than 1 year after the person discovers or reasonably should have discovered the alleged violation, file with the Division a written affidavit that sets forth the facts constituting the alleged violation. The affidavit may allege any actual damages suffered by the aggrieved person as a result of the alleged violation.

2. An aggrieved person may not file such an affidavit unless the aggrieved person has provided the respondent by certified mail, return receipt requested, with written notice of the alleged violation set forth in the affidavit. The notice must:

(a) Be mailed to the respondent's last known address.

(b) Specify, in reasonable detail, the alleged violation, any actual damages suffered by the aggrieved person as a result of the alleged violation, and any corrective action proposed by the aggrieved person.

3. A written affidavit filed with the Division pursuant to this section must be:

(a) On a form prescribed by the Division.

(b) Be accompanied by evidence that:

(1) The respondent has been given a reasonable opportunity after receiving the written notice to correct the alleged violation; and

(2) Reasonable efforts to resolve the alleged violation have failed.

4. The Commission or a hearing panel may impose an administrative fine of not more than \$1,000 against any person who knowingly files a false or fraudulent affidavit with the Division.

(Added to NRS by 2003, 2214; A 2005, 2620)

NRS 116.765 Referral of affidavit to Ombudsman for assistance in resolving alleged violation; report by Ombudsman; investigation by Real Estate Division; determination of whether to file complaint with Commission.

1. Upon receipt of an affidavit that complies with the provisions of NRS 116.760, the Division shall refer the affidavit to the Ombudsman.

2. The Ombudsman shall give such guidance to the parties as the Ombudsman deems necessary to assist the parties to resolve the alleged violation.

3. If the parties are unable to resolve the alleged violation with the assistance of the Ombudsman, the Ombudsman shall provide to the Division a report concerning the alleged violation and any information collected by the Ombudsman during his or her efforts to assist the parties to resolve the alleged violation.

4. Upon receipt of the report from the Ombudsman, the Division shall conduct an investigation to determine whether good cause exists to proceed with a hearing on the alleged violation.

5. If, after investigating the alleged violation, the Division determines that the allegations in the affidavit are not frivolous, false or fraudulent and that good cause exists to proceed with a hearing on the alleged violation, the Administrator shall file a formal complaint with the Commission and schedule a hearing on the complaint before the Commission or a hearing panel.

(Added to NRS by 2003, 2215)

NRS 116.770 Procedure for hearing complaints: Time for holding hearing; continuances; notices; evidence; answers; defaults.

1. Except as otherwise provided in subsection 2, if the Administrator files a formal complaint with the Commission, the Commission or a hearing panel shall hold a hearing on the complaint not later than 90 days after the date that the complaint is filed.

2. The Commission or the hearing panel may continue the hearing upon its own motion or upon the written request of a party to the complaint, for good cause shown, including, without limitation, the existence of proceedings for mediation or arbitration or a civil action involving the facts that constitute the basis of the complaint.

3. The Division shall give the respondent written notice of the date, time and place of the hearing on the complaint at least 30 days before the date of the hearing. The notice must be:

(a) Delivered personally to the respondent or mailed to the respondent by certified mail, return receipt requested, to his or her last known address.

(b) Accompanied by:

(1) A copy of the complaint; and

(2) Copies of all communications, reports, affidavits and depositions in the possession of the Division that are relevant to the complaint.

4. At any hearing on the complaint, the Division may not present evidence that was obtained after the notice was given to the respondent pursuant to this section, unless the Division proves to the satisfaction of the Commission or the hearing panel that:

(a) The evidence was not available, after diligent investigation by the Division, before such notice was given to the respondent; and

(b) The evidence was given or communicated to the respondent immediately after it was obtained by the Division.

5. The respondent must file an answer not later than 30 days after the date that notice of the complaint is delivered or mailed by the Division. The answer must:

(a) Contain an admission or a denial of the allegations contained in the complaint and any defenses upon which the respondent will rely; and

(b) Be delivered personally to the Division or mailed to the Division by certified mail, return receipt requested.

6. If the respondent does not file an answer within the time required by subsection 5, the Division may, after giving the respondent written notice of the default, request the Commission or the hearing panel to enter a finding of default against the respondent. The notice of the default must be delivered personally to the respondent or mailed to the respondent by certified mail, return receipt requested, to his or her last known address.

(Added to NRS by 2003, 2215)

NRS 116.775 Representation by attorney. Any party to the complaint may be represented by an attorney at any hearing on the complaint.

(Added to NRS by 2003, 2216)

NRS 116.780 Decisions on complaints.

1. After conducting its hearings on the complaint, the Commission or the hearing panel shall render a final decision on the merits of the complaint not later than 20 days after the date of the final hearing.

2. The Commission or the hearing panel shall notify all parties to the complaint of its decision in writing by certified mail, return receipt requested, not later than 60 days after the date of the final hearing. The written decision must include findings of fact and conclusions of law.

(Added to NRS by 2003, 2216)

NRS 116.785 Remedial and disciplinary action: Orders to cease and desist and to correct violations; administrative fines; removal from office or position; payment of costs; exemptions from liability.

1. If the Commission or the hearing panel, after notice and hearing, finds that the respondent has committed a violation, the Commission or the hearing panel may take any or all of the following actions:

(a) Issue an order directing the respondent to cease and desist from continuing to engage in the unlawful conduct that resulted in the violation.

(b) Issue an order directing the respondent to take affirmative action to correct any conditions resulting from the violation.

(c) Impose an administrative fine of not more than \$1,000 for each violation.

2. If the respondent is a member of an executive board or an officer of an association, the Commission or the hearing panel may order the respondent removed from his or her office or position if the Commission or the hearing panel, after notice and hearing, finds that:

(a) The respondent has knowingly and willfully committed a violation; and

(b) The removal is in the best interest of the association.

3. If the respondent violates any order issued by the Commission or the hearing panel pursuant to this section, the Commission or the hearing panel, after notice and hearing, may impose an administrative fine of not more than \$1,000 for each violation.

4. If the Commission or the hearing panel takes any disciplinary action pursuant to this section, the Commission or the hearing panel may order the respondent to pay the costs of the proceedings incurred by the Division, including, without limitation, the cost of the investigation and reasonable attorney's fees.

5. Notwithstanding any other provision of this section, unless the respondent has knowingly and willfully committed a violation, if the respondent is a member of an executive board or an officer of an association:

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- (a) The association is liable for all fines and costs imposed against the respondent pursuant to this section; and
 - (b) The respondent may not be held personally liable for those fines and costs.
- (Added to NRS by 2003, 2216)

NRS 116.790 Remedial and disciplinary action: Audit of association; requiring association to hire community manager who holds certificate; appointment of receiver.

1. If the Commission or a hearing panel, after notice and hearing, finds that the executive board or any person acting on behalf of the association has committed a violation, the Commission or the hearing panel may take any or all of the following actions:

- (a) Order an audit of the association, at the expense of the association.
- (b) Require the executive board to hire a community manager who holds a certificate.

2. The Commission, or the Division with the approval of the Commission, may apply to a court of competent jurisdiction for the appointment of a receiver for an association if, after notice and a hearing, the Commission or a hearing officer finds that any of the following violations occurred:

- (a) The executive board, or any member thereof, has been guilty of fraud or collusion or gross mismanagement in the conduct or control of its affairs;
- (b) The executive board, or any member thereof, has been guilty of misfeasance, malfeasance or nonfeasance; or
- (c) The assets of the association are in danger of waste or loss through attachment, foreclosure, litigation or otherwise.

3. In any application for the appointment of a receiver pursuant to this section, notice of a temporary appointment of a receiver may be given to the association alone, by process as in the case of an application for a temporary restraining order or injunction. The hearing thereon may be had after 5 days' notice unless the court directs a longer or different notice and different parties.

4. The court may, if good cause exists, appoint one or more receivers pursuant to this section to carry out the business of the association. The members of the executive board who have not been guilty of negligence or active breach of duty must be preferred in making the appointment.

5. The powers of any receiver appointed pursuant to this section may be continued as long as the court deems necessary and proper. At any time, for sufficient cause, the court may order the receivership terminated.

6. Any receiver appointed pursuant to this section has, among the usual powers, all the functions, powers, tenure and duties to be exercised under the direction of the court as are conferred on receivers and as provided in NRS 78.635, 78.640 and 78.645, whether or not the association is insolvent. Such powers include, without limitation, the powers to:

- (a) Take charge of the estate and effects of the association;
- (b) Appoint an agent or agents;
- (c) Collect any debts and property due and belonging to the association and prosecute and defend, in the name of the association, or otherwise, any civil action as may be necessary or proper for the purposes of collecting debts and property;
- (d) Perform any other act in accordance with the governing documents of the association and this chapter that may be necessary for the association to carry out its obligations; and
- (e) By injunction, restrain the association from exercising any of its powers or doing business in any way except by and through a receiver appointed by the court.

(Added to NRS by 2003, 2217; A 2005, 2621; 2009, 2900)

NRS 116.795 Injunctions.

1. If the Commission or the Division has reasonable cause to believe, based on evidence satisfactory to it, that any person violated or is about to violate any provision of this chapter, any regulation adopted pursuant thereto or any order, decision, demand or requirement of the Commission or Division or a hearing panel, the Commission or

the Division may bring an action in the district court for the county in which the person resides or, if the person does not reside in this State, in any court of competent jurisdiction within or outside this State, to restrain or enjoin that person from engaging in or continuing to commit the violations or from doing any act in furtherance of the violations.

2. The action must be brought in the name of the State of Nevada. If the action is brought in a court of this State, an order or judgment may be entered, when proper, issuing a temporary restraining order, preliminary injunction or final injunction. A temporary restraining order or preliminary injunction must not be issued without at least 5 days' notice to the opposite party.

3. The court may issue the temporary restraining order, preliminary injunction or final injunction without:

(a) Proof of actual damages sustained by any person.

(b) The filing of any bond.

(Added to NRS by 2003, 2217; A 2005, 2622)



**Information Concerning Board or Commission
Subject to Review by the
Sunset Subcommittee of the Legislative Commission**



as required by *Nevada Revised Statutes 232B.230*

Board or commission name:

Commission for Common-Interest Communities and Condominium Hotels

Members' names with expiration date of term, and indicate the number of vacancies:

Scott Sibley-Term expires 10-1-16; Barry Breslow-Term expires 9-30-17; Stephen Aichroth-Term expires 10-1-17; Doris Woods-Term expires 9-30-16; James Rizzi-Term expires 9-30-17; Ken Williams-Term expires 9-30-16; Richard Layton-Term expires 6-30-19. No vacancies

Physical address:

2501 E. Sahara Avenue, Suite 303, Las Vegas, Nevada 89104

Mailing address:

Department of Business and Industry Real Estate Division 2501 E. Sahara Avenue, Suite 303, Las Vegas, Nevada 89104

Web site address (if any):

www.red.nv.gov

Web site developer (if not EITS, please indicate if EITS approved the web site):

EITS approved

Executive director's name and contact information:

Joseph Decker, Real Estate Division Administrator
702-486-4034
jdecker@red.nv.gov

Staff members' names including titles and status as full-time or part-time (attach additional pages as necessary):

Teralyn Thompson, Administration Section Manager, Full time
Claudia Rosolen, Commission Coordinator, Full time
Sharon Jackson, Ombudsman, Full time

Days and hours of operation:

Monday-Friday 8am-5pm

Created by what authority:

NRS 116.600

Authority to adopt regulations (NRS) and citation to regulations (NAC), if applicable:

Authority to adopt regulations: NRS 116.615; NRS 116A.200 and NRS 116B.805
Regulations: NAC 116, NAC 116A and NAC 116B

**Information Concerning Board or Commission
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Itemized list of services offered by the board or commission:

Informal dispute resolution through the Ombudsman's Office; prosecution of violations to NRS and NAC 116, 116A and 116B; and subsidy for the Alternative Dispute Resolution program which is handled by the Real Estate Division.

Dates of the immediately preceding six meetings:

November 18-19, 2014; March 3, 2015; June 17, 2015; July 9, 2015; September 22-23, 2015 and November 17-18, 2015.

Statutory tax exemptions, abatements, or money set aside for the board or commission:

Budget account 3820 provides funding for the Real Estate Division Common-Interest Communities program's operations and Commission meetings.

Description of the manner in which the board or commission is funded, including all funding sources:

Pursuant to NRS 116.630
Assessments collected from homeowner associations and community manager licensing fees.

Please identify any forms required by the board or commission to be used by members of the public which are not available for downloading from the web site of the board or commission:

None

**Information Concerning Board or Commission
Subject to Review by the
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List by LCB File No. and date of adoption the five regulations most recently adopted by the board or commission, with any applicable deadline for the adoption of any such regulation:

LCB File No. R052-13 adopted 7-9-15
LCB File No. R050-13 adopted 7-9-15
LCB File No. R049-13 adopted 3-3-15
LCB File No. R152-13 adopted 3-3-15
LCB File No. R125-12 adopted 7-8-14

List any required regulations that have not been adopted, with any applicable deadline for the adoption of any such regulation. Please identify each such regulation by LCB File No., if available, or by reference to the provision of NRS or Statutes of Nevada requiring adoption of the regulation:

LCB File No. R115-15 should be adopted by the Commission before July 1, 2016 pursuant to changes to NRS 116.31155.

Governing structure of the board or commission pursuant to statute:

Commission structure pursuant to NRS 116.600

Duties of the board or commission:

The Commission for Common-Interest Communities and Condominium Hotels acts in an advisory capacity to the Real Estate Division, adopts regulations and conducts disciplinary hearings for complaints filed against homeowner association board members, community managers and reserve study specialist.

Statement of the objectives and programs of the board or commission:

The objective of the Commission is to provide a venue to assist homeowners handle issues that may arise while living in a common-interest community.

**Information Concerning Board or Commission
Subject to Review by the
Sunset Subcommittee of the Legislative Commission**

Does the board or commission have any recommendations for consolidation with another board or commission? If so, which one(s) could be revised to include the charge to the board or commission that is the subject of this review?

None

Does the board or commission believe that its objectives and programs have been effective in accomplishing the purposes for which the board or commission was created? Please explain the response with any information the board or commission believes is relevant:

Please see attached.

Any recommendations for statutory changes which are necessary for the board or commission to carry out its objectives and programs:

None

If additional space is necessary, please attach additional pages and refer to the attachments on the form.

Please include with this form:

1. The operating budget of the board or commission.
2. A statement setting forth the income and expenses of the board or commission for at least 3 years immediately preceding the date on which the board or commission submits this form, including the balances of any fund or account maintained by or on behalf of the board or commission.
3. The most recent legislative audit or other audit of the board or commission, and any efficiency studies or constituent or staff surveys conducted in the past 3 years.
4. Any reports required to be filed with the Legislative or Executive Branch over the past 3 years. Please indicate if any reports were filed late or have not been filed.
5. Copies of the minutes of the immediately preceding six meetings of the board or commission.
6. A copy of the organizational chart showing the governing structure of the board or commission and its staff.
7. A copy of the most recent strategic plan of the board or commission.

Please submit this form electronically to: cstonefield@lcb.state.nv.us. Submit additional documents electronically in a .pdf format.

If the file is too large for emailing, please submit hard copies to:

Carol Stonefield
Research Division
Legislative Counsel Bureau
401 South Carson Street
Carson City, NV 89701

**Statement regarding the Commission for Common-Interest Communities and Condominium
Hotels Review by the Sunset Subcommittee of the Legislative Commission**

Nevada, through the Real Estate Division, has the first homeowner association Ombudsman program ever established in the United States. The Nevada Real Estate Division, Ombudsman program, offers no-cost, informal dispute resolution services to unit-owners who live in a homeowner association and have a complaint against their board or community manager. The informal dispute resolution program does not meet NRS 38 pre-litigation requirements for civil action, but allows the Division to work with unit-owners, boards, community managers and association attorneys in order to resolve problems and focus on mitigating the circumstances surrounding the unit-owner complaint, or to gain further information about NRS 116 violations that might be referred to the investigative unit for prosecution seeking discipline through the Commission for Common-Interest Communities and Condominium Hotels. The informal dispute resolution program handles close to 75% of complaints that are received by the Division in order to first pursue resolution for the complainant (e.g. reducing or eliminating association fines against unit-owners, assisting both parties in understanding the law, and executing agreements between the parties to resolve disputes), prior to assessing potential disciplinary action for misconduct. The Compliance Unit investigates complaints of misconduct for prosecution in front of the Commission for Common-Interest Communities and Condominium Hotels. The Commission's function in providing a forum to adjudicate cases administratively is the key to offering complainants remedies outside of criminal prosecution or civil litigation.