
SENATE BILL NO. 100—SENATORS SCHNEIDER, O’CONNELL
AND CEGAVSKE

FEBRUARY 12, 2003

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes to provisions governing
common-interest communities. (BDR 10-29)

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

~

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

AN ACT relating to common-interest communities; allowing a unit’s owner to display a flag of the United States within the boundaries of his unit; creating the Commission for Common-Interest Communities to hear and take action on complaints related to such communities; requiring community managers to be certified by the Real Estate Division of the Department of Business and Industry; limiting the circumstances under which an association may commence a civil action; revising the amount of a fine that may be imposed for a continuing violation of the governing documents of an association; requiring the removal of a member of the executive board of an association to be conducted by secret ballot; revising the circumstances under which an association may foreclose on its lien for unpaid assessments; changing the time within which certain information must be provided to a prospective purchaser of a unit; making various other changes concerning common-interest communities; and providing other matters properly relating thereto.

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



1 **Section 1.** Chapter 116 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 31, inclusive, of this
3 act.

4 **Sec. 2.** *“Certificate” means a certificate for the management*
5 *of a common-interest community issued by the Division pursuant*
6 *to NRS 116.31139.*

7 **Sec. 3.** *“Commission” means the Commission for Common-*
8 *Interest Communities created by section 9 of this act.*

9 **Sec. 4.** *“Community manager” means a person who holds a*
10 *certificate or permit and provides for the management of a*
11 *common-interest community.*

12 **Sec. 5.** *“Division” means the Real Estate Division of the*
13 *Department of Business and Industry.*

14 **Sec. 6.** *“Management of a common-interest community”*
15 *means the physical, administrative or financial maintenance and*
16 *management of a common-interest community, or the supervision*
17 *of those activities for a fee, commission or other valuable*
18 *consideration.*

19 **Sec. 7.** *“Permit” means a permit to engage in property*
20 *management issued pursuant to the provisions of chapter 645 of*
21 *NRS.*

22 **Sec. 8. 1.** *Notwithstanding any provision of the governing*
23 *documents to the contrary, and except as otherwise provided in*
24 *subsection 2, a unit’s owner may display a flag of the United*
25 *States within the boundaries of his unit.*

26 **2.** *An association may adopt rules reasonably restricting the*
27 *placement and manner of display of a flag of the United States by*
28 *a unit’s owner.*

29 **3.** *As used in this section, “flag of the United States” means a*
30 *flag of the United States made of fabric, cloth or paper displayed*
31 *from a staff or pole or in a window. The term does not include a*
32 *depiction or emblem of the flag of the United States made of*
33 *lights, paint, roofing, siding, paving materials, flora, balloons or*
34 *any other similar building, landscaping or decorative component.*

35 **Sec. 9. 1.** *The Commission for Common-Interest*
36 *Communities, consisting of five members appointed by the*
37 *Governor, is hereby created.*

38 **2.** *The Governor shall appoint to the Commission:*

39 **(a)** *Two members who are units’ owners residing in this state,*
40 *one of whom is serving or has served as a member of the executive*
41 *board of an association;*

42 **(b)** *One member who is in the business of developing common-*
43 *interest communities in this state;*

44 **(c)** *One member who holds a permit or certificate; and*



1 (d) *One member who has experience with or knowledge of*
2 *matters related to common-interest communities, other than*
3 *property management.*
4 3. *At least three members of the Commission must be*
5 *residents of a county whose population is 400,000 or more. Each*
6 *member of the Commission must have resided in a common-*
7 *interest community or have been actively engaged in a business*
8 *related to common-interest communities for not less than 3 years*
9 *immediately preceding the date of his appointment.*
10 4. *After the initial terms, each member of the Commission*
11 *shall serve a term of 3 years. Each member may serve no more*
12 *than two consecutive full terms. If a vacancy occurs during a*
13 *member's term, the Governor shall appoint a person qualified*
14 *under this section to replace the member for the remainder of the*
15 *unexpired term.*
16 5. *While engaged in the business of the Commission, each*
17 *member is entitled to receive:*
18 (a) *A salary of not more than \$80 per day, as established by the*
19 *Commission; and*
20 (b) *The per diem allowance and travel expenses provided for*
21 *state officers and employees generally.*
22 **Sec. 10.** 1. *The Commission shall, at the first meeting of*
23 *each fiscal year, elect from its members a Chairman, a Vice*
24 *Chairman and a Secretary.*
25 2. *The Commission shall meet at least once each calendar*
26 *quarter and at other times on the call of the Chairman or a*
27 *majority of its members.*
28 3. *A majority of the members of the Commission constitutes a*
29 *quorum for the transaction of all business.*
30 **Sec. 11.** 1. *A person who is aggrieved by any act committed*
31 *in violation of the provisions of this chapter may, within 2 years*
32 *after the alleged violation and after submitting the complaint for*
33 *resolution to the Ombudsman for Owners in Common-Interest*
34 *Communities, file a written complaint with the Commission*
35 *specifying the relevant facts. The Commission may prescribe*
36 *forms and adopt procedures for the filing of such a complaint.*
37 2. *Except as otherwise provided in this subsection, the*
38 *Commission shall, upon the receipt of such a complaint, conduct*
39 *an investigation to determine whether disciplinary action is*
40 *warranted. The Commission shall not investigate or take action on*
41 *a complaint that has been submitted to mediation or arbitration*
42 *pursuant to the provisions of NRS 38.300 to 38.360, inclusive.*
43 3. *The Commission may require any person who knowingly*
44 *files a false or fraudulent complaint with the Commission to pay a*
45 *fine of not more than \$1,000.*



1 **Sec. 12. 1.** *To carry out its duties, the Commission, or any*
2 *member thereof, may issue subpoenas to compel the attendance of*
3 *witnesses and the production of books, records and other papers.*

4 2. *If any person fails to comply with a subpoena issued by the*
5 *Commission pursuant to this section within 10 days after its*
6 *issuance, the Commission may petition the district court for an*
7 *order of the court compelling compliance with the subpoena.*

8 3. *Upon such a petition, the court shall enter an order*
9 *directing the person subpoenaed to appear before the court at a*
10 *time and place to be fixed by the court in its order, the time to be*
11 *not more than 10 days after the date of the order, and to show*
12 *cause why he has not complied with the subpoena. A certified copy*
13 *must be served upon the person subpoenaed.*

14 4. *If it appears to the court that the subpoena was regularly*
15 *issued by the Commission, the court shall enter an order*
16 *compelling compliance with the subpoena, and upon failure to*
17 *obey the order, the person must be dealt with as for contempt of*
18 *court.*

19 **Sec. 13. 1.** *If the Commission determines that a complaint*
20 *received pursuant to section 11 of this act is not frivolous, the*
21 *Secretary of the Commission shall fix a time and place for a*
22 *hearing on the complaint and cause a notice of the hearing and a*
23 *formal complaint prepared by the Commission to be served on the*
24 *person who is alleged to have committed the violation. The notice*
25 *must be served at least 20 days before the date fixed for the*
26 *hearing.*

27 2. *The Commission shall hold a hearing on the complaint*
28 *within 90 days after the complaint is filed with the Commission.*
29 *The hearing may be continued by the Commission upon its own*
30 *motion or upon written request, for good cause shown.*

31 3. *Written notice may be served to the person alleged to have*
32 *committed the violation by personal delivery or by mailing it by*
33 *registered or certified mail to his last known address.*

34 4. *If the person alleged to have committed the violation*
35 *submits a written request, the Commission shall furnish him with*
36 *copies of any communications, reports and affidavits in the*
37 *possession of the Commission relating to the complaint.*

38 5. *A person may be represented by an attorney at any*
39 *proceeding or hearing conducted pursuant to this section or*
40 *section 14 of this act.*

41 **Sec. 14. 1.** *All money received by the Commission must be*
42 *deposited in a bank or other financial institution in this state and*
43 *paid out on the order of the Commission for its expenses.*

44 2. *The Commission may delegate to an independent hearing*
45 *officer or panel the authority of the Commission to take any*



1 *disciplinary action pursuant to sections 11 to 17, inclusive, of this*
2 *act, including the authority to impose and collect fines and*
3 *penalties. Fines and penalties imposed by an independent hearing*
4 *officer or panel must be deposited in an account for the*
5 *Commission in a bank or other financial institution in this state.*

6 *3. If a hearing officer or panel is not authorized to take*
7 *disciplinary action and determine the amount of any fine or*
8 *penalty imposed pursuant to subsection 2, the Commission shall*
9 *deposit the money collected from the imposition of fines with the*
10 *State Treasurer for credit to the State General Fund. If the money*
11 *is so deposited, the Commission may present a claim to the State*
12 *Board of Examiners for recommendation to the Interim Finance*
13 *Committee if money is required to pay attorney's fees or the costs*
14 *of an investigation, or both.*

15 **Sec. 15.** *1. The Commission shall render a decision on a*
16 *complaint within 20 days after the final hearing thereon.*

17 *2. The Commission shall notify all parties to the complaint of*
18 *its decision in writing by certified mail, return receipt requested.*

19 **Sec. 16.** *1. If the Commission determines, after notice and*
20 *hearing, that:*

21 *(a) Any person has violated a provision of this chapter, the*
22 *Commission may:*

23 *(1) Issue an order to cease and desist from engaging in*
24 *such conduct;*

25 *(2) Issue an order to take affirmative action to correct*
26 *conditions resulting from the unlawful conduct;*

27 *(3) Impose a fine of not more than \$5,000 for each*
28 *violation; or*

29 *(4) Take any combination of the actions authorized by*
30 *subparagraphs (1), (2) and (3).*

31 *(b) A member or officer of an executive board of an*
32 *association has knowingly and willfully violated a provision of this*
33 *chapter, the Commission may remove him from his office if it*
34 *determines that the removal is in the best interest of the*
35 *association.*

36 *2. If the Commission takes any disciplinary action pursuant*
37 *to subsection 1, it may recover from the person against whom*
38 *the action is taken the costs of the proceedings incurred by the*
39 *Commission, including, without limitation, the cost of the*
40 *investigation and reasonable attorney's fees.*

41 **Sec. 17.** *1. If the Commission determines that any person*
42 *has violated or will violate a provision of this chapter, the*
43 *Commission may bring an action in the district court for the*
44 *county in which the person resides or, if the person does not reside*
45 *in this state, in any court of competent jurisdiction in this state, to*



1 *enjoin him from engaging in the violation or from doing any act*
2 *in furtherance of the violation.*

3 *2. The action must be brought in the name of the State of*
4 *Nevada.*

5 *3. An injunction:*

6 *(a) May be issued without proof of actual damage sustained by*
7 *any person.*

8 *(b) Does not prevent the criminal prosecution and punishment*
9 *of a person who violates the provisions of this chapter.*

10 **Sec. 18.** *If a matter governed by this chapter is also governed*
11 *by chapter 82 of NRS and there is a conflict between the*
12 *provisions of this chapter and the provisions of chapter 82 of NRS,*
13 *the provisions of this chapter prevail.*

14 **Sec. 19.** *In conducting any meetings, a rural agricultural*
15 *residential common-interest community must comply with the*
16 *provisions set forth in chapter 241 of NRS concerning open*
17 *meetings which are generally applicable to public bodies.*

18 **Sec. 20.** *An application for a certificate to act as a*
19 *community manager must:*

20 *1. Include the social security number of the applicant; and*

21 *2. Be accompanied by the statement required pursuant to*
22 *section 21 of this act.*

23 **Sec. 21.** *1. An applicant for a certificate to act as a*
24 *community manager must submit to the Division the statement*
25 *prescribed by the Welfare Division of the Department of Human*
26 *Resources pursuant to NRS 425.520. The statement must be*
27 *completed and signed by the applicant.*

28 *2. The Division shall include the statement required pursuant*
29 *to subsection 1 in:*

30 *(a) The application or any other forms that must be submitted*
31 *for the issuance of the certificate; or*

32 *(b) A separate form prescribed by the Division.*

33 *3. A certificate may not be issued if the applicant:*

34 *(a) Fails to submit the statement required pursuant to*
35 *subsection 1; or*

36 *(b) Indicates on the statement submitted pursuant to*
37 *subsection 1 that he is subject to a court order for the support of a*
38 *child and is not in compliance with the order or a plan approved*
39 *by the district attorney or other public agency enforcing the order*
40 *for the repayment of the amount owed pursuant to the order.*

41 *4. If an applicant indicates on the statement submitted*
42 *pursuant to subsection 1 that he is subject to a court order for the*
43 *support of a child and is not in compliance with the order or a*
44 *plan approved by the district attorney or other public agency*
45 *enforcing the order for the repayment of the amount owed*



1 *pursuant to the order, the Division shall advise the applicant to*
2 *contact the district attorney or other public agency enforcing the*
3 *order to determine the actions that the applicant may take to*
4 *satisfy the arrearage.*

5 **Sec. 22.** *1. If the Division receives a copy of a court order*
6 *issued pursuant to NRS 425.540 that provides for the suspension*
7 *of all professional, occupational and recreational licenses,*
8 *certificates and permits issued to the holder of a certificate to act*
9 *as a community manager, the Division shall deem the certificate to*
10 *be suspended at the end of the 30th day after the date the court*
11 *order was issued unless the Division receives a letter issued to the*
12 *holder of the certificate by the district attorney or other public*
13 *agency pursuant to NRS 425.550 stating that the holder of the*
14 *certificate has complied with a subpoena or warrant or has*
15 *satisfied the arrearage pursuant to NRS 425.560.*

16 *2. The Division shall reinstate a certificate that has been*
17 *suspended by a district court pursuant to NRS 425.540 if the*
18 *Division receives a letter issued by the district attorney or other*
19 *public agency pursuant to NRS 425.550 to the holder of the*
20 *certificate that he has complied with the subpoena or warrant or*
21 *has satisfied the arrearage pursuant to NRS 425.560.*

22 **Sec. 23.** *1. If the executive board of an association receives*
23 *a written complaint from a unit's owner alleging that the board*
24 *has violated any provision of this chapter or any provision of the*
25 *governing documents of the association, the executive board shall,*
26 *if action is required by the board, place the subject of the*
27 *complaint on the agenda of the next regularly scheduled meeting*
28 *of the executive board.*

29 *2. The executive board, or an authorized representative of the*
30 *association, shall, within 10 days after receiving such a complaint,*
31 *acknowledge the receipt of the complaint and notify the unit's*
32 *owner that, if action is required by the board, the subject of the*
33 *complaint will be placed on the agenda of the next regularly*
34 *scheduled meeting of the executive board.*

35 **Sec. 24.** *An officer or member of the executive board of an*
36 *association or a person engaged in the management of a common-*
37 *interest community shall not solicit or accept any form of*
38 *compensation, gratuity or other remuneration that would*
39 *improperly influence or would appear to a reasonable person to*
40 *influence improperly the decisions made by those persons, or*
41 *would result or would appear to a reasonable person to result in a*
42 *conflict of interest.*

43 **Sec. 25.** *A member of an executive board of an association*
44 *shall not take any retaliatory action against a unit's owner*
45 *because the unit's owner has:*



- 1 1. *Complained in good faith about any alleged violation of*
- 2 *this chapter or the governing documents of the association; or*
- 3 2. *Requested in good faith to review the books, records and*
- 4 *papers of the association.*

5 **Sec. 26.** *1. An officer or a member of the executive board*

6 *of an association shall not:*

- 7 (a) *On or after October 1, 2003, enter into a contract or renew*
- 8 *a contract with the association to provide goods or services to the*
- 9 *association; or*

- 10 (b) *Otherwise accept any commission, personal profit or*
- 11 *compensation of any kind from the association for providing*
- 12 *goods or services to the association.*

13 2. *Except as otherwise provided in NRS 116.3105, the*

14 *provisions of this section do not prohibit:*

- 15 (a) *The payment of a salary or other income to an officer or a*
- 16 *member of an executive board of an association for acting in his*
- 17 *official capacity.*

- 18 (b) *A declarant from entering into a contract with an*
- 19 *association or the payment of any consideration to the declarant*
- 20 *for any goods or services furnished by the declarant to the*
- 21 *association.*

- 22 (c) *The declarant from serving as an officer or a member of*
- 23 *the executive board of the association.*

24 3. *As used in this section, "declarant" includes any agent,*

25 *employee or affiliate of a declarant.*

26 **Sec. 27.** *1. Notwithstanding any other provision of this*

27 *chapter, in a common-interest community that has at least 2,000*

28 *units, some or all the authority of the members of a master*

29 *association may be exercised by delegates, including, without*

30 *limitation, the voting rights of the members of the master*

31 *association, if the declaration so provides.*

32 2. *For the purpose of determining whether a common-*

33 *interest community has at least 2,000 units, units that a declarant*

34 *has reserved the right to create pursuant to NRS 116.2105 and for*

35 *which developmental rights exist must be included.*

36 **Sec. 28.** *1. If a common-interest community is developed in*

37 *separate phases and the declarant, including a successor declarant*

38 *who does not control the association established by the initial*

39 *declarant, is constructing any common elements that will be added*

40 *to the association's common elements, the declarant is responsible*

41 *for:*

- 42 (a) *Paying all expenses related to the common elements which*
- 43 *are incurred before the conveyance of the common elements to the*
- 44 *association; and*



1 **(b) Except as otherwise provided in NRS 116.31038, delivering**
2 **to the association the declarant's share of the amount specified in**
3 **the study of reserves completed pursuant to subsection 2.**

4 **2. Before conveying the common elements to the association,**
5 **the declarant shall deliver to the association a study of the reserves**
6 **for the additional common elements which satisfies the**
7 **requirements of NRS 116.31152.**

8 **Sec. 29. 1. Except as otherwise provided in subsection 2, in**
9 **a county whose population is 400,000 or more, a person who**
10 **owns, or directly or indirectly has an interest in, one or more units**
11 **within a planned community that are restricted to residential use**
12 **by the declaration, may use that unit or one of those units for a**
13 **transient commercial use only if:**

14 **(a) The governing documents of the association and any**
15 **master association do not prohibit such use; and**

16 **(b) Persons entitled to cast at least a majority of the votes in**
17 **the association and any master association approve the transient**
18 **commercial use of the unit.**

19 **2. A declarant who owns, or directly or indirectly has an**
20 **interest in, one or more units within a planned community under**
21 **the governing documents of the association that are restricted to**
22 **residential use by the declaration, may not use that unit or one of**
23 **those units for a transient commercial use.**

24 **3. The association and any master association may establish**
25 **requirements for such use pursuant to subsection 1, including the**
26 **payment of additional fees that are related to any increase in**
27 **services or other costs associated with the transient commercial**
28 **use of the unit.**

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

30 **(a) "Remuneration" means any compensation, money, rent or**
31 **other valuable consideration given in return for the occupancy,**
32 **possession or use of a unit.**

33 **(b) "Transient commercial use" means the use of a unit, for**
34 **remuneration, as a hostel, hotel, inn, motel, resort, vacation rental**
35 **or other form of transient lodging if the term of the occupancy,**
36 **possession or use of the unit is for less than 30 consecutive**
37 **calendar days.**

38 **Sec. 30. The executive board of a master association of any**
39 **common-interest community that was created before January 1,**
40 **1975, and is located in a county whose population is 400,000 or**
41 **more may record an amendment to the declaration pursuant to**
42 **which the master association reallocates the costs of administering**
43 **the common elements of the master association among the units of**
44 **the common-interest community uniformly and based upon the**
45 **actual costs associated with each unit.**



* S B 1 0 0 *

1 **Sec. 31.** *Notwithstanding any other provision of this chapter,*
2 *if a declaration, any recorded instrument related to a common-*
3 *interest community or any contract to which an association is a*
4 *party provides for the imposition of an assessment, fine, penalty or*
5 *other charge for any failure to adhere to a schedule for the*
6 *completion of the design, commencement of the construction or*
7 *completion of the construction of a unit or an improvement within*
8 *the unit, or for the issuance of any necessary permit for the*
9 *occupancy of the unit or the use of the improvement, the*
10 *assessment, fine, penalty or other charge is enforceable if that*
11 *schedule and the maximum amount of the assessment, fine,*
12 *penalty or other charge are set forth in the declaration, recorded*
13 *instrument or contract.*

14 **Sec. 32.** NRS 116.1103 is hereby amended to read as follows:
15 116.1103 ~~[In]~~ *As used in the declaration and bylaws [(NRS*
16 *116.3106), unless specifically provided otherwise or] of an*
17 *association and in this chapter, unless* the context otherwise
18 requires, ~~[and in this chapter,]~~ the words and terms defined in NRS
19 116.110305 to 116.110393, inclusive, *and sections 2 to 7, inclusive,*
20 *of this act* have the meanings ascribed to them in those sections.

21 **Sec. 33.** NRS 116.110305 is hereby amended to read as
22 follows:

23 116.110305 “Administrator” means the Administrator of the
24 ~~[Real Estate Division of the Department of Business and Industry.]~~
25 *Division.*

26 **Sec. 34.** NRS 116.11145 is hereby amended to read as
27 follows:

28 116.11145 1. To carry out the purposes of this chapter, the
29 Real Estate Commission, or any member thereof ~~[]~~ *acting on*
30 *behalf of the Real Estate Commission,* may issue subpoenas to
31 compel the attendance of witnesses and the production of books,
32 records and other papers.

33 2. If any person fails to comply with a subpoena issued by the
34 *Real Estate* Commission pursuant to this section, ~~[within 10 days~~
35 ~~after its issuance,]~~ the *Real Estate* Commission may petition the
36 district court for an order of the court compelling compliance with
37 the subpoena.

38 3. Upon such a petition, the court shall enter an order directing
39 the person subpoenaed to appear before the court at a time and place
40 to be fixed by the court in its order, the time to be not more than 10
41 days after the ~~[date]~~ *service* of the order, and *to* show cause why he
42 has not complied with the subpoena. A certified copy must be
43 served upon the person subpoenaed.

44 4. If it appears to the court that the subpoena was regularly
45 issued by the *Real Estate* Commission, the court shall enter an order



1 compelling compliance with the subpoena, and upon failure to obey
2 the order, the person shall be dealt with as for contempt of court.

3 **Sec. 35.** NRS 116.1116 is hereby amended to read as follows:
4 116.1116 1. The Office of the Ombudsman for Owners in
5 Common-Interest Communities is hereby created within the ~~[Real~~
6 ~~Estate Division of the Department of Business and Industry.]~~
7 *Division.*

8 2. The Administrator shall appoint the Ombudsman for Owners
9 in Common-Interest Communities. The Ombudsman for Owners in
10 Common-Interest Communities is in the unclassified service of the
11 State.

12 3. The Ombudsman for Owners in Common-Interest
13 Communities must be qualified by training and experience to
14 perform the duties and functions of his office.

15 4. The Ombudsman for Owners in Common-Interest
16 Communities shall:

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

19 (b) Assist owners in common-interest communities to
20 understand their rights and responsibilities as set forth in this
21 chapter and the governing documents of their associations,
22 including, without limitation, publishing materials related to those
23 rights and responsibilities;

24 (c) Assist persons appointed or elected to serve ~~[on]~~ *as officers*
25 *or members of* executive boards of associations to carry out their
26 duties; ~~[and]~~

27 (d) *Assist in resolving complaints filed with the Office of the*
28 *Ombudsman or the Division alleging a violation of the provisions*
29 *of this chapter or the governing documents of an association; and*

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

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

34 (2) The name of the person engaged in ~~[property~~
35 ~~management—for]~~ *the management of* the common-interest
36 community or the name of the person who manages the property at
37 the site of the common-interest community;

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

40 (4) The name of the declarant;

41 (5) The number of units in the common-interest community;
42 ~~[and]~~

43 (6) The total annual assessment made by the association ~~[.];~~

44 (7) *The number of liens foreclosed on units within the*
45 *common-interest community for the failure to pay assessments*



1 *levied against those units or fines imposed against units' owners;*
2 *and*

3 *(8) Whether a study of the reserves of the association exists*
4 *and, if so, the date on which it was completed.*

5 **Sec. 36.** NRS 116.1117 is hereby amended to read as follows:

6 116.1117 1. There is hereby created the Account for ~~the~~
7 ~~Ombudsman for Owners in~~ Common-Interest Communities in the
8 State General Fund. The Account must be administered by the
9 Administrator.

10 2. The fees collected pursuant to NRS 116.31155 must be
11 credited to the Account.

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

15 4. The money in the Account must be used solely to ~~defray~~ :

16 (a) *Defray* the costs and expenses of administering the Office of
17 the Ombudsman for Owners in Common-Interest Communities ;
18 and ~~for the payment of fees for a mediator or an arbitrator pursuant~~
19 ~~to NRS 38.330.~~

20 (b) *Subsidize proceedings for mediation and arbitration*
21 *conducted pursuant to NRS 38.300 to 38.360, inclusive.*

22 **Sec. 37.** NRS 116.1201 is hereby amended to read as follows:

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

26 2. This chapter does not apply to:

27 (a) Associations created for the limited purpose of maintaining:

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

30 (2) Facilities for flood control; or

31 (3) A rural agricultural residential common-interest
32 community.

33 (b) A planned community in which all units are restricted
34 exclusively to nonresidential use unless the declaration provides that
35 ~~the~~ *this* chapter does apply to that planned community. This
36 chapter applies to a planned community containing both units that
37 are restricted exclusively to nonresidential use and other units that
38 are not so restricted ~~if~~ only if the declaration so provides or *if* the
39 real estate comprising the units that may be used for residential
40 purposes would be a planned community in the absence of the units
41 that may not be used for residential purposes.

42 (c) Common-interest communities or units located outside of
43 this state, but the provisions of NRS 116.4102 to 116.4108,
44 inclusive, apply to all contracts for the disposition thereof signed in



1 this state by any party unless exempt under subsection 2 of
2 NRS 116.4101.

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

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

10 3. The provisions of this chapter do not:

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

14 (b) Require a common-interest community created before
15 January 1, 1992, to comply with the provisions of NRS 116.2101 to
16 116.2122, inclusive;

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

20 (d) Prohibit a common-interest community created before
21 ~~[January 1, 1992,]~~ *October 1, 1999*, from providing for a
22 representative form of government.

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

25 5. For the purposes of this section, the Administrator shall
26 establish, by regulation, the criteria for determining whether an
27 association is created for the limited purpose of maintaining the
28 landscape of the common elements of a common-interest
29 community, maintaining facilities for flood control or maintaining a
30 rural agricultural residential common-interest community.

31 **Sec. 38.** NRS 116.1206 is hereby amended to read as follows:

32 116.1206 1. Any *provision contained in a* declaration, bylaw
33 or other governing document of a common-interest community
34 ~~[created before January 1, 1992,]~~ *in effect on October 1, 2003*, that
35 does not conform to the provisions of this chapter ~~[shall]~~ :

36 (a) *Shall* be deemed to conform with those provisions by
37 operation of law ~~[, and any such declaration, bylaw or other~~
38 ~~governing document is not required to be amended to conform to~~
39 ~~those provisions.] ; and~~

40 (b) *May be changed to conform to those provisions and may be*
41 *so changed by a vote of the executive board of the association*
42 *without compliance with the procedural requirements generally*
43 *applicable to the adoption of an amendment to the declaration,*
44 *bylaws or other governing document.*



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

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

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

11 3. An amendment to the declaration, bylaws or plats and plans
12 authorized by this section to be made under this chapter must be
13 adopted in conformity with the applicable provisions of chapter 117
14 or 278A of NRS and with the procedures and requirements specified
15 by those instruments. If an amendment grants to any person any
16 rights, powers or privileges permitted by this chapter, all correlative
17 obligations, liabilities and restrictions in this chapter also apply to
18 that person.

19 **Sec. 39.** NRS 116.2103 is hereby amended to read as follows:

20 116.2103 1. ~~[All provisions of the declaration and bylaws are~~
21 ~~severable.]~~ *The inclusion in a governing document of an*
22 *association of a provision that violates any provision of this*
23 *chapter does not render any other provision of the governing*
24 *document invalid or otherwise unenforceable if the other*
25 *provisions can be given effect in accordance with their original*
26 *intent and the provisions of this chapter.*

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

30 3. In the event of a conflict between the provisions of the
31 declaration and the bylaws, the declaration prevails except to the
32 extent the declaration is inconsistent with this chapter.

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

38 **Sec. 40.** NRS 116.2105 is hereby amended to read as follows:

39 116.2105 1. The declaration must contain:

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

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



- 1 (c) A sufficient description of the real estate included in the
2 common-interest community;
- 3 (d) A statement of the maximum number of units that the
4 declarant reserves the right to create;
- 5 (e) In a condominium or planned community, a description of
6 the boundaries of each unit created by the declaration, including the
7 unit's identifying number or, in a cooperative, a description, which
8 may be by plats or plans, of each unit created by the declaration,
9 including the unit's identifying number, its size or number of rooms,
10 and its location within a building if it is within a building containing
11 more than one unit;
- 12 (f) A description of any limited common elements, other than
13 those specified in subsections 2 and 4 of NRS 116.2102, as provided
14 in paragraph (g) of subsection 2 of NRS 116.2109 and, in a planned
15 community, any real estate that is or must become common
16 elements;
- 17 (g) A description of any real estate, except real estate subject to
18 developmental rights, that may be allocated subsequently as limited
19 common elements, other than limited common elements specified in
20 subsections 2 and 4 of NRS 116.2102, together with a statement that
21 they may be so allocated;
- 22 (h) A description of any developmental rights ~~{(NRS~~
23 ~~116.11034)}~~ and other special declarant's rights ~~{(NRS~~
24 ~~116.110385)}~~ reserved by the declarant, together with a legally
25 sufficient description of the real estate to which each of those rights
26 applies ~~{}~~ and a time within which each of those rights must be
27 exercised;
- 28 (i) If any developmental right may be exercised with respect to
29 different parcels of real estate at different times, a statement to that
30 effect together with:
- 31 (1) Either a statement fixing the boundaries of those portions
32 and regulating the order in which those portions may be subjected to
33 the exercise of each developmental right or a statement that no
34 assurances are made in those regards; and
- 35 (2) A statement whether, if any developmental right is
36 exercised in any portion of the real estate subject to that
37 developmental right, that developmental right must be exercised in
38 all or in any other portion of the remainder of that real estate;
- 39 (j) Any other conditions or limitations under which the rights
40 described in paragraph (h) may be exercised or will lapse;
- 41 (k) An allocation to each unit of the allocated interests in the
42 manner described in NRS 116.2107 ~~{}~~ *and a statement of whether*
43 *voting by delegates is required or permitted pursuant to section 27*
44 *of this act;*
- 45 (l) Any restrictions:



- 1 (1) On use, occupancy and alienation of the units; and
- 2 (2) On the amount for which a unit may be sold or on the
- 3 amount that may be received by a unit's owner on sale,
- 4 condemnation or casualty to the unit or to the common-interest
- 5 community, or on termination of the common-interest community;

6 (m) The file number and book or other information to show
 7 where easements and licenses are recorded appurtenant to or
 8 included in the common-interest community or to which any portion
 9 of the common-interest community is or may become subject by
 10 virtue of a reservation in the declaration; and

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

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

15 **Sec. 41.** NRS 116.2111 is hereby amended to read as follows:

16 116.2111 ~~Subject~~

17 *1. Except as otherwise provided in this section and subject to*
 18 *the provisions of the declaration and other provisions of law, a*
 19 *unit's owner:*

20 ~~1.1~~ *(a) May make any improvements or alterations to his unit*
 21 *that do not impair the structural integrity or mechanical systems or*
 22 *lessen the support of any portion of the common-interest*
 23 *community;*

24 ~~1.2~~ *(b) May not change the appearance of the common*
 25 *elements, or the exterior appearance of a unit or any other portion of*
 26 *the common-interest community, without permission of the*
 27 *association; and*

28 ~~1.3~~ *(c) After acquiring an adjoining unit or an adjoining part of*
 29 *an adjoining unit, may remove or alter any intervening partition or*
 30 *create apertures therein, even if the partition in whole or in part is a*
 31 *common element, if those acts do not impair the structural integrity*
 32 *or mechanical systems or lessen the support of any portion of the*
 33 *common-interest community. Removal of partitions or creation of*
 34 *apertures under this ~~subsection~~ paragraph is not an alteration of*
 35 *boundaries.*

36 *2. An association may not:*

37 *(a) Require the removal of any structure, fixture or other*
 38 *improvement made to a unit if it was approved by the association*
 39 *in writing before it was installed or constructed in accordance with*
 40 *the procedures set forth in the governing documents of the*
 41 *association.*

42 *(b) Unreasonably restrict, prohibit or otherwise impede the*
 43 *lawful rights of a unit's owner to have reasonable access to his*
 44 *unit.*



1 (c) *Unreasonably restrict, prohibit or withhold approval for a*
2 *unit's owner to add to a unit:*

3 (1) *An apparatus required for the use of solar energy;*

4 (2) *Improvements such as ramps, railings or elevators that*
5 *are necessary or desirable to increase the unit's owner's access to*
6 *his unit if an occupant of the unit is disabled; or*

7 (3) *Shutters or additional locks that are desirable to*
8 *decrease the cost of electrical energy or to make a unit's owner*
9 *feel safe in his unit.*

10 3. *Any improvement or alteration made pursuant to*
11 *subsection 2 that is visible from any other portion of the common-*
12 *interest community must be installed, constructed or added in*
13 *accordance with the procedures set forth in the governing*
14 *documents of the association and must be selected or designed to*
15 *the maximum extent practicable to be compatible with the style of*
16 *the common-interest community.*

17 **Sec. 42.** NRS 116.31031 is hereby amended to read as
18 follows:

19 116.31031 1. If a unit's owner, or a tenant or guest of a unit's
20 owner, does not comply with a provision of the governing
21 documents of an association, the executive board of the association
22 may, if the governing documents so provide:

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

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

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

32 (b) Require the unit's owner, or the tenant or guest of the unit's
33 owner, to pay a fine for each failure to comply . ~~that does not~~
34 ~~threaten the health and welfare of the common interest community.~~
35 The fine must be commensurate with the severity of the violation . ~~but~~
36 *If the failure to comply does not threaten the health, safety or*
37 *welfare of the common-interest community, the fine* must not
38 exceed \$100 for each violation . ~~for a total amount of \$500,~~
39 ~~whichever is less.~~

40 2. If a fine is imposed pursuant to subsection 1 and the
41 violation is not cured within 14 days or a longer period as may be
42 established by the executive board, the violation shall be deemed a
43 continuing violation. Thereafter, the executive board may impose an
44 additional fine for the violation for each 7-day period or portion
45 thereof that the violation is not cured ~~but~~ , *but in no event may the*



1 *cumulative total amount of the additional fine exceed \$1,000 per*
2 *calendar year for each continuing violation.* Any additional fine
3 *for each continuing violation* may be imposed without notice and
4 an opportunity to be heard.

5 3. Except as otherwise provided in subsection 2, the imposition
6 of a fine pursuant to this section must comply with the requirements
7 of subsection 6 of NRS 116.31065.

8 **Sec. 43.** NRS 116.31034 is hereby amended to read as
9 follows:

10 116.31034 1. Except as otherwise provided in subsection 5 of
11 NRS 116.212, not later than the termination of any period of
12 declarant's control, the units' owners shall elect an executive board
13 of at least three members, at least a majority of whom must be units'
14 owners. The executive board shall elect the officers. The members
15 and officers of the executive board shall take office upon election.

16 2. The term of office of a member of the executive board may
17 not exceed 2 years. A member of the executive board may be
18 elected to succeed himself. The governing documents of the
19 association must ~~set~~ :

20 (a) *Set* forth the month during which elections for the members
21 of the executive board must be held after the termination of any
22 period of the declarant's control.

23 (b) *Provide for terms of office that are staggered. The*
24 *provisions of this paragraph do not apply to members of the*
25 *executive board appointed by the declarant.*

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

35 4. *A person may not be an officer or member of the executive*
36 *board if he or any member of his immediate family engages in the*
37 *management of the common-interest community.*

38 5. An officer, employee, agent or director of a corporate owner
39 of a unit, a trustee or designated beneficiary of a trust that owns a
40 unit, a partner of a partnership that owns a unit, *a member or*
41 *manager of a limited-liability company that owns a unit,* and a
42 fiduciary of an estate that owns a unit may be an officer or member
43 of the executive board. In all events where the person serving or
44 offering to serve as an officer or member of the executive board is



1 not the record owner, he shall file proof in the records of the
2 association that:

3 (a) He is associated with the corporate owner, trust, partnership,
4 *limited-liability company* or estate as required by this subsection;
5 and

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

8 ~~{5.—The}~~

9 **6. *Except as otherwise provided in section 27 of this act, the***
10 election of any member of the executive board must be conducted
11 by secret written ballot. The secretary or other officer specified in
12 the bylaws of the association shall cause to be sent, prepaid by
13 United States mail to the mailing address of each unit within the
14 common-interest community or to any other mailing address
15 designated in writing by the unit's owner, a secret ballot and a return
16 envelope.

17 ~~{6.}~~ **7.** Each member of the executive board shall, within 30
18 days after his appointment or election, certify in writing that he has
19 read and understands the governing documents of the association
20 and the provisions of this chapter to the best of his ability.

21 **Sec. 44.** NRS 116.31036 is hereby amended to read as
22 follows:

23 116.31036 1. Notwithstanding any provision of the
24 declaration or bylaws to the contrary, the units' owners, by a two-
25 thirds vote of all persons ~~{present and}~~ entitled to vote at any
26 meeting of the units' owners at which a quorum is present, may
27 remove any member of the executive board with or without cause,
28 other than a member appointed by the declarant.

29 2. ***The removal of any member of the executive board must be***
30 ***conducted by secret written ballot. The secretary or other officer***
31 ***specified in the bylaws of the association shall cause to be sent,***
32 ***prepaid by United States mail to the mailing address of each unit***
33 ***within the common-interest community or to any other mailing***
34 ***address designated in writing by the unit's owner, a secret ballot***
35 ***and a return envelope.***

36 3. If a member of an executive board is sued for liability for
37 actions undertaken in his role as a member of the board, the
38 association shall indemnify him for his losses or claims, and
39 undertake all costs of defense, unless it is proven that he acted with
40 willful or wanton misfeasance or with gross negligence. After such
41 proof, the association is no longer liable for the cost of defense, and
42 may recover costs already expended from the member of the
43 executive board who so acted. Members of the executive board are
44 not personally liable to the victims of crimes occurring on the
45 property. Punitive damages may not be recovered against the



1 association, but may be recovered from persons whose activity gave
2 rise to the damages.

3 *4. The provisions of this section do not prohibit the*
4 *Commission from taking any disciplinary action against a member*
5 *of an executive board pursuant to section 16 or 17 of this act.*

6 **Sec. 45.** NRS 116.3106 is hereby amended to read as follows:

7 116.3106 1. The bylaws of the association must provide:

8 (a) The number of members of the executive board and the titles
9 of the officers of the association;

10 (b) For election by the executive board of a president, treasurer,
11 secretary and any other officers of the association the bylaws
12 specify;

13 (c) The qualifications, powers and duties, terms of office and
14 manner of electing and removing officers of the association and
15 members of the executive board and filling vacancies;

16 (d) Which, if any, of its powers the executive board or officers
17 may delegate to other persons or to a ~~managing agent;~~ *person*
18 *engaged in the management of a common-interest community;*

19 (e) Which of its officers may prepare, execute, certify and
20 record amendments to the declaration on behalf of the association;

21 (f) Procedural rules for conducting meetings of the association;
22 ~~and~~

23 (g) A method for amending the bylaws ~~;~~ *and*

24 *(h) Procedural rules for conducting elections.*

25 2. Except as otherwise provided in the declaration, the bylaws
26 may provide for any other matters the association deems necessary
27 and appropriate.

28 3. The bylaws must be written in plain English.

29 **Sec. 46.** NRS 116.31065 is hereby amended to read as
30 follows:

31 116.31065 The rules adopted by an association:

32 1. Must be reasonably related to the purpose for which they are
33 adopted.

34 2. Must be sufficiently explicit in their prohibition, direction or
35 limitation to inform a unit's owner, or a tenant or guest of a unit's
36 owner, of any action or omission required for compliance.

37 3. Must not be adopted to evade any obligation of the
38 association.

39 4. Must be consistent with the governing documents of
40 the association and must not arbitrarily restrict conduct or require
41 the construction of any capital improvement by a unit's owner that
42 is not required by the governing documents of the association.

43 5. Must be uniformly enforced under the same or similar
44 circumstances against all units' owners. ~~Any rule that is not so~~
45 ~~uniformly enforced may not be enforced against any unit's owner.~~



1 6. May be enforced by the assessment of a fine only if:
2 (a) The ~~[person alleged to have violated the rule has received~~
3 ~~notice of the alleged violation that informs him of his opportunity to~~
4 ~~request a hearing on the alleged violation.] association has given~~
5 ~~written notice by regular mail to the unit's owner that:~~

6 (1) Sets forth the alleged violation and any required
7 corrective action; and

8 (2) Includes a statement that he is entitled to a hearing on
9 the alleged violation before the imposition of the fine;

10 (b) The person alleged to have violated the rule is afforded an
11 opportunity to cure the alleged violation before the imposition of
12 the fine; and

13 (c) At least 30 days before the alleged violation, the ~~[person~~
14 ~~alleged to have violated the rule] unit's owner~~ was given written
15 notice of the rule or any amendment to the rule.

16 **Sec. 47.** NRS 116.31083 is hereby amended to read as
17 follows:

18 116.31083 1. A meeting of the executive board of an
19 association must be held at least once every 90 days.

20 2. Except in an emergency or unless the bylaws of an
21 association require a longer period of notice, the secretary or other
22 officer specified in the bylaws of the association shall, not less than
23 10 days before the date of a meeting of the executive board, cause
24 notice of the meeting to be given to the units' owners. Such notice
25 must be:

26 (a) Sent prepaid by United States mail to the mailing address of
27 each unit within the common-interest community or to any other
28 mailing address designated in writing by the unit's owner;

29 (b) If the association offers to send notice by electronic mail,
30 sent by electronic mail at the request of the unit's owner to an
31 electronic mail address designated in writing by the unit's owner; or

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

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

42 4. The notice of a meeting of the executive board of an
43 association must state the time and place of the meeting and include
44 a copy of the agenda for the meeting or the date on which and the
45 locations where copies of the agenda may be conveniently obtained



1 by the units' owners of the association. The notice must include
2 notification of the right of a unit's owner to:

3 (a) Have a copy of the minutes or a summary of the minutes of
4 the meeting distributed to him upon request and, if required by the
5 executive board, upon payment to the association of the cost of
6 making the distribution.

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

9 5. The agenda of the meeting of the executive board of an
10 association must comply with the provisions of subsection 3 of NRS
11 116.3108. The period required to be devoted to comments by units'
12 owners and discussion of those comments must be scheduled for the
13 beginning of each meeting. In an emergency, the executive board
14 may take action on an item which is not listed on the agenda as an
15 item on which action may be taken.

16 6. At least once every 90 days, unless the declaration or bylaws
17 of the association impose more stringent standards, the executive
18 board shall review at one of its meetings:

19 (a) A current reconciliation of the operating account of the
20 association;

21 (b) A current reconciliation of the reserve account of the
22 association;

23 (c) The actual revenues and expenses for the reserve account,
24 compared to the budget for that account for the current year;

25 (d) The latest account statements prepared by the financial
26 institutions in which the accounts of the association are maintained;

27 (e) An income and expense statement, prepared on at least a
28 quarterly basis, for the operating and reserve accounts of the
29 association; and

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

32 7. ~~The~~ *Except as otherwise provided in this subsection, the*
33 *minutes of a meeting of the executive board of an association must*
34 ~~be~~ :

35 (a) *Include:*

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

37 (2) *Those members of the executive board who were present*
38 *and those members who were absent;*

39 (3) *The substance of all matters proposed, discussed or*
40 *decided and, at the request of any member of the executive board,*
41 *a record of each member's vote on any matter decided by vote; and*

42 (4) *The substance of remarks made by any unit's owner*
43 *who addresses the executive board if he requests that the minutes*
44 *reflect his remarks or, if he has prepared written remarks, a copy*
45 *of his prepared remarks if he submits a copy for inclusion;*



1 *(b) Be maintained by the association until the common-interest*
2 *community is terminated; and*

3 *(c) Be* made available to the units' owners in accordance with
4 the provisions of subsection 5 of NRS 116.3108.

5 *The executive board of an association may establish reasonable*
6 *limitations on materials, remarks or other information to be*
7 *included in the minutes of its meetings.*

8 8. *A unit's owner may record on audiotape or any other*
9 *means of sound reproduction a meeting of the executive board,*
10 *unless the board is meeting in executive session, if the members of*
11 *the board and units' owners who are in attendance are notified of*
12 *the intent of the unit's owner to record the meeting.*

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

- 15 (a) Could not have been reasonably foreseen;
- 16 (b) Affects the health, welfare and safety of the units' owners of
17 the association;
- 18 (c) Requires the immediate attention of, and possible action by,
19 the executive board; and
- 20 (d) Makes it impracticable to comply with the provisions of
21 subsection 2 or 5.

22 **Sec. 48.** NRS 116.31085 is hereby amended to read as
23 follows:

24 116.31085 1. Except as otherwise provided in this section, a
25 unit's owner may attend any meeting of the units' owners of the
26 association or of the executive board and speak at any such meeting.
27 The executive board may establish reasonable limitations on the
28 time a unit's owner may speak at such a meeting.

29 2. An executive board may meet in executive session to:

- 30 (a) Consult with the attorney for the association on matters
31 relating to proposed or pending litigation if the contents of the
32 discussion would otherwise be governed by the privilege set forth in
33 NRS 49.035 to 49.115, inclusive;
- 34 (b) Discuss ~~matters relating to personnel;~~ *an employee of the*
35 *association or an employee of a person engaged in the*
36 *management of the common-interest community who is working*
37 *solely for the association;* or
- 38 (c) Discuss a violation of the governing documents alleged to
39 have been committed by a unit's owner, including, without
40 limitation, the failure to pay an assessment, except as otherwise
41 provided in subsection 3.

42 3. An executive board shall meet in executive session to hold a
43 hearing on an alleged violation of the governing documents unless
44 the ~~unit's owner~~ *person* who allegedly committed the violation
45 requests in writing that the hearing be conducted by the executive



1 board at an open meeting. The ~~{unit's owner}~~ *person* who is alleged
2 to have committed the violation may attend the ~~{hearing}~~ *executive*
3 *session* and testify concerning the alleged violation, but may be
4 excluded by the executive board from any other portion of the
5 ~~{hearing}~~ *executive session*, including, without limitation, the
6 deliberations of the executive board.

7 4. Except as otherwise provided in this subsection, any matter
8 discussed in executive session must be generally noted in the
9 minutes of the meeting of the executive board. The executive board
10 shall maintain minutes of any decision made pursuant to subsection
11 3 and, upon request, provide a copy of the decision to the ~~{unit's~~
12 ~~owner}~~ *person* who was the subject of the ~~{hearing}~~ *executive*
13 *session* or to his designated representative.

14 5. Except as otherwise provided in subsection 3, a unit's owner
15 is not entitled to attend or speak at a meeting of the executive board
16 held in executive session.

17 **Sec. 49.** NRS 116.3109 is hereby amended to read as follows:

18 116.3109 1. Except as otherwise provided in this section and
19 unless the bylaws provide otherwise, a quorum is present throughout
20 any meeting of the association if persons entitled to cast 20 percent
21 of the votes that may be cast for election of the executive board are
22 present in person or by proxy at the beginning of the meeting.

23 2. *If the governing documents of an association provide for a*
24 *quorum at a meeting of the association that is greater than 20*
25 *percent of the votes that may be cast for election of the executive*
26 *board, and such a meeting for which proper notice has been given*
27 *cannot be held because a quorum is not present, the units' owners*
28 *in attendance, either in person or by proxy in accordance with the*
29 *governing documents of the association, may adjourn the meeting*
30 *to a time that is not less than 48 hours or more than 30 days from*
31 *the date of the meeting. At the subsequent meeting, a quorum is*
32 *present if persons entitled to cast 20 percent of the votes that may*
33 *be cast for election of the executive board are present in person or*
34 *by proxy. If fewer units' owners than that required by the quorum*
35 *requirement contained in the governing documents are present at*
36 *the subsequent meeting in person or by proxy in accordance with*
37 *the governing documents, only those matters included on the*
38 *agenda of the original meeting may be voted upon.*

39 3. Unless the bylaws specify a larger percentage, a quorum is
40 deemed present throughout any meeting of the executive board if
41 persons entitled to cast 50 percent of the votes on that board are
42 present at the beginning of the meeting.

43 ~~{3.}~~ 4. For the purposes of ~~{determining whether a quorum is~~
44 ~~present for the election of}~~ *electing* any member of the executive



1 board, *a quorum is not required and* only the secret written ballots
2 that are returned to the association may be counted.

3 **Sec. 50.** NRS 116.311 is hereby amended to read as follows:

4 116.311 1. If only one of several owners of a unit is present
5 at a meeting of the association, that owner is entitled to cast all the
6 votes allocated to that unit. If more than one of the owners are
7 present, the votes allocated to that unit may be cast only in
8 accordance with the agreement of a majority in interest of the
9 owners, unless the declaration expressly provides otherwise. There
10 is majority agreement if any one of the owners cast the votes
11 allocated to that unit without protest made promptly to the person
12 presiding over the meeting by any of the other owners of the unit.

13 2. Except as otherwise provided in this section, votes allocated
14 to a unit may be cast pursuant to a proxy executed by a unit's owner.
15 A unit's owner may give a proxy only to a member of his immediate
16 family, a tenant of the unit's owner who resides in the common-
17 interest community or another unit's owner who resides in the
18 common-interest community. If a unit is owned by more than one
19 person, each owner of the unit may vote or register protest to the
20 casting of votes by the other owners of the unit through an executed
21 proxy. A unit's owner may revoke a proxy given pursuant to this
22 section only by actual notice of revocation to the person presiding
23 over a meeting of the association. A proxy is void if:

24 (a) It is not dated or purports to be revocable without notice;

25 (b) It does not designate the votes that must be cast on behalf of
26 the unit's owner who executed the proxy; or

27 (c) The holder of the proxy does not disclose at the beginning of
28 the meeting for which the proxy is executed the number of proxies
29 pursuant to which he will be casting votes . ~~[and the voting~~
30 ~~instructions received for each proxy.]~~

31 A proxy terminates immediately after the conclusion of the meeting
32 for which it was executed. A vote may not be cast pursuant to a
33 proxy for the election *or removal* of a member of the executive
34 board of an association.

35 3. Only a vote cast in person, by secret ballot or by proxy, may
36 be counted.

37 4. If the declaration requires that votes on specified matters
38 affecting the common-interest community be cast by lessees rather
39 than units' owners of leased units:

40 (a) The provisions of subsections 1 and 2 apply to lessees as if
41 they were units' owners;

42 (b) Units' owners who have leased their units to other persons
43 may not cast votes on those specified matters; and



1 (c) Lessees are entitled to notice of meetings, access to records
2 ~~and~~ and other rights respecting those matters as if they were units'
3 owners.

4 Units' owners must also be given notice, in the manner provided in
5 NRS 116.3108, of all meetings at which lessees are entitled to vote.

6 5. No votes allocated to a unit owned by the association may
7 be cast.

8 6. Votes cast for the election *or removal* of a member of the
9 executive board of an association must be counted in public.

10 **Sec. 51.** NRS 116.31139 is hereby amended to read as
11 follows:

12 116.31139 1. An association may employ a ~~person engaged~~
13 ~~in property management for the common interest community;~~
14 *community manager*.

15 2. Except as otherwise provided in this section, a ~~person~~
16 ~~engaged in property management for a common interest~~
17 community *manager* must:

18 (a) Hold a permit ; ~~to engage in property management that is~~
19 ~~issued pursuant to the provisions of chapter 645 of NRS;~~ or

20 (b) Hold a certificate issued by the ~~Real Estate Commission~~
21 *Division* pursuant to subsection 3.

22 3. The ~~Real Estate Commission~~ *Division* shall provide by
23 regulation for the issuance of certificates for ~~the management of~~
24 ~~common interest communities to persons~~ *community managers*
25 who are not otherwise authorized to engage in property management
26 pursuant to the provisions of chapter 645 of NRS. The regulations:

27 (a) Must establish the qualifications for the issuance of such a
28 certificate, including the education and experience required to obtain
29 such a certificate;

30 (b) May require applicants to pass an examination in order to
31 obtain a certificate;

32 (c) Must establish standards of practice for ~~persons engaged in~~
33 ~~property management for a common interest community;~~
34 *community managers*;

35 (d) Must establish the grounds for initiating disciplinary action
36 against a person to whom a certificate has been issued, including,
37 without limitation, the grounds for placing conditions, limitations or
38 restrictions on a certificate and for the suspension or revocation of a
39 certificate; and

40 (e) Must establish rules of practice and procedure for conducting
41 disciplinary hearings.

42 The ~~Real Estate Division of the Department of Business and~~
43 ~~Industry~~ *Division* may investigate the ~~property~~ *community*
44 managers to whom certificates have been issued to ensure their
45 compliance with the standards of practice adopted pursuant to this



1 subsection and collect a fee for the issuance of a certificate by the
2 ~~Commission~~ *Division* in an amount not to exceed the
3 administrative costs of issuing the certificate.

4 4. The provisions of subsection 2 do not apply to:

5 (a) A person who is engaged in ~~property management for~~ *the*
6 *management of* a common-interest community on October 1,
7 ~~1999,~~ *2003*, and is granted an exemption from the requirements of
8 subsection 2 by the Administrator upon demonstration that he is
9 qualified and competent to engage in ~~property management for~~ *the*
10 *management of* a common-interest community.

11 (b) A financial institution.

12 (c) An attorney licensed to practice in this state.

13 (d) A trustee.

14 (e) An employee of a corporation who manages only the
15 property of the corporation ~~[-]~~, *unless that corporation is also an*
16 *association.*

17 (f) A declarant.

18 (g) A receiver.

19 ~~[5. — As used in this section, “property management” means the~~
20 ~~physical, administrative or financial maintenance and management~~
21 ~~of real property, or the supervision of those activities for a fee,~~
22 ~~commission or other compensation or valuable consideration.]~~

23 *(h) An officer or member of the executive board of an*
24 *association who acts solely as an officer or member of the*
25 *executive board.*

26 **Sec. 52.** NRS 116.311391 is hereby amended to read as
27 follows:

28 116.311391 The expiration or revocation of a certificate ~~for~~
29 ~~the management of a common interest community~~ by operation of
30 law or by order or decision of the Real Estate Commission or a court
31 of competent jurisdiction, or the voluntary surrender of such a
32 certificate by the holder of the certificate, does not:

33 1. Prohibit the ~~Real Estate Division of the Department of~~
34 ~~Business and Industry~~ *Division* or Real Estate Commission from
35 initiating or continuing an investigation of, or action or disciplinary
36 proceeding against, the holder of the certificate as authorized
37 pursuant to the provisions of this chapter or the regulations adopted
38 pursuant thereto; or

39 2. Prevent the imposition or collection of any fine or penalty
40 authorized pursuant to the provisions of this chapter or the
41 regulations adopted pursuant thereto against the holder of the
42 certificate.

43 **Sec. 53.** NRS 116.3115 is hereby amended to read as follows:

44 116.3115 1. Until the association makes an assessment for
45 common expenses, the declarant shall pay all common expenses.



1 After an assessment has been made by the association, assessments
2 must be made at least annually, based on a budget adopted at least
3 annually by the association in accordance with the requirements set
4 forth in NRS 116.31151. Unless the declaration imposes more
5 stringent standards, the budget must include a budget for the daily
6 operation of the association and the money for the reserve required
7 by paragraph (b) of subsection 2.

8 2. Except for assessments under subsections 4 to 7, inclusive:

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

12 (b) The association shall establish an adequate reserve, funded
13 on a reasonable basis, for the repair, replacement and restoration of
14 the major components of the common elements. The reserve may be
15 used only for those purposes, including, without limitation,
16 repairing, replacing and restoring roofs, roads and sidewalks, and
17 must not be used for daily maintenance.

18 3. Any past due assessment for common expenses or
19 installment thereof bears interest at the rate established by the
20 association not exceeding 18 percent per year.

21 4. To the extent required by the declaration:

22 (a) Any common expense associated with the maintenance,
23 repair, restoration or replacement of a limited common element
24 must be assessed against the units to which that limited common
25 element is assigned, equally $\frac{1}{n}$ or in any other proportion the
26 declaration provides;

27 (b) Any common expense or portion thereof benefiting fewer
28 than all of the units must be assessed exclusively against the units
29 benefited; and

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

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

36 6. If any common expense is caused by the misconduct of any
37 unit's owner, the association may assess that expense exclusively
38 against his unit.

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

43 8. If liabilities for common expenses are reallocated,
44 assessments for common expenses and any installment thereof not



1 yet due must be recalculated in accordance with the reallocated
2 liabilities.

3 9. The association shall provide written notice to the owner of
4 each unit of a meeting at which an assessment for a capital
5 improvement or the commencement of a civil action is to be
6 considered or action is to be taken on such an assessment at least 21
7 calendar days before the meeting. Except as otherwise provided in
8 this subsection, the association may commence a civil action only
9 upon a vote or written agreement of the owners of units to which at
10 least a majority of the votes of the members of the association are
11 allocated. The provisions of this subsection do not apply to a civil
12 action that is commenced:

- 13 (a) To enforce the payment of an assessment;
- 14 (b) To enforce the declaration, bylaws or rules of the
15 association; *or*
- 16 (c) To proceed with a counterclaim . ~~;~~ *or*

17 ~~—(d) To protect the health, safety and welfare of the members of
18 the association. If a civil action is commenced pursuant to this
19 paragraph without the required vote or agreement, the action must
20 be ratified within 90 days after the commencement of the action by
21 a vote or written agreement of the owners of the units to which at
22 least a majority of votes of the members of the association are
23 allocated. If the association, after making a good faith effort, cannot
24 obtain the required vote or agreement to commence or ratify such a
25 civil action, the association may thereafter seek to dismiss the action
26 without prejudice for that reason only if a vote or written agreement
27 of the owners of the units to which at least a majority of votes of the
28 members of the association are allocated was obtained at the time
29 the approval to commence or ratify the action was sought.]~~

30 10. At least 10 days before an association commences ~~for seeks
31 to ratify the commencement of~~ a civil action, the association shall
32 provide a written statement to all units' owners that includes:

- 33 (a) A reasonable estimate of the costs of the civil action,
34 including reasonable attorney's fees;
- 35 (b) An explanation of the potential benefits of the civil action
36 and the potential adverse consequences if the association does not
37 commence the action or if the outcome of the action is not favorable
38 to the association; and
- 39 (c) All disclosures that are required to be made upon the sale of
40 the property.

41 11. No person other than a unit's owner may request the
42 dismissal of a civil action commenced by the association on the
43 ground that the association failed to comply with any provision of
44 this section.



1 **Sec. 54.** NRS 116.31152 is hereby amended to read as
2 follows:

- 3 116.31152 1. The executive board of an association shall:
4 (a) Cause to be conducted, at least once every 5 years, a study
5 of the reserves required to repair, replace and restore the major
6 components of the common elements;
7 (b) Review the results of that study at least annually to
8 determine if those reserves are sufficient; and
9 (c) Make any adjustments it deems necessary to maintain the
10 required reserves.

11 2. The study required by subsection 1 must be conducted by a
12 person qualified by training and experience to conduct such a study,
13 including a member of the executive board, a unit's owner or the
14 ~~property~~ **community** manager of the association who is so
15 qualified. The study must include, without limitation:

- 16 (a) A summary of an inspection of the major components of the
17 common elements the association is obligated to repair, replace or
18 restore;
19 (b) An identification of the major components of the common
20 elements that the association is obligated to repair, replace or restore
21 which have a remaining useful life of less than 30 years;
22 (c) An estimate of the remaining useful life of each major
23 component identified pursuant to paragraph (b);
24 (d) An estimate of the cost of repair, replacement or restoration
25 of each major component identified pursuant to paragraph (b) during
26 and at the end of its useful life; and

27 (e) An estimate of the total annual assessment that may be
28 required to cover the cost of repairing, replacement or restoration of
29 the major components identified pursuant to paragraph (b), after
30 subtracting the reserves of the association as of the date of the study.

31 3. The Administrator shall adopt by regulation the
32 qualifications required for conducting a study required by
33 subsection 1.

34 **Sec. 55.** NRS 116.31155 is hereby amended to read as
35 follows:

36 116.31155 1. An association shall:
37 (a) If the association is required to pay the fee imposed by NRS
38 78.150, ~~82.193~~ or ~~82.193~~ **86.263**, pay to the Administrator a fee
39 established by regulation of the Administrator for every unit in the
40 association used for residential use.

41 (b) If the association is organized as a trust or partnership, pay
42 to the Administrator a fee established by regulation of the
43 Administrator for each unit in the association.

44 2. The fees required to be paid pursuant to this section must be:



1 (a) Paid at such times as are established by the ~~Administrator~~
2 *Division*.

3 (b) Deposited with the State Treasurer for credit to the Account
4 for ~~the Ombudsman for Owners in~~ Common-Interest Communities
5 created ~~pursuant to~~ by NRS 116.1117.

6 (c) Established on the basis of the actual cost of administering
7 the Office of the Ombudsman for Owners in Common-Interest
8 Communities and not on a basis which includes any subsidy for the
9 Office. In no event may the fees required to be paid pursuant to this
10 section exceed \$3 per unit.

11 3. A unit's owner may not be required to pay any portion of the
12 fees required to be paid pursuant to this section to a master
13 association and to an association organized pursuant to
14 NRS 116.3101.

15 4. Upon the payment of the fees required by this section, the
16 Administrator shall provide to the association evidence that it paid
17 the fees in compliance with this section.

18 **Sec. 56.** NRS 116.31158 is hereby amended to read as
19 follows:

20 116.31158 1. Each association shall, at the time it pays the
21 fee required by NRS 116.31155, register with the Ombudsman for
22 Owners in Common-Interest Communities on a form prescribed by
23 the Ombudsman.

24 2. The form for registration must include, without limitation,
25 the information required to be maintained pursuant to paragraph
26 ~~(d)~~ (e) of subsection 4 of NRS 116.1116.

27 **Sec. 57.** NRS 116.31162 is hereby amended to read as
28 follows:

29 116.31162 1. Except as otherwise provided in subsection 4,
30 in a condominium, a cooperative where the owner's interest in a unit
31 is real estate as determined pursuant to NRS 116.1105 ~~§~~ or a
32 planned community, the association may foreclose its lien by sale
33 after:

34 (a) The association has mailed by certified or registered mail,
35 return receipt requested, to the unit's owner or his successor in
36 interest, at his address if known ~~§~~ and at the address of the unit, a
37 notice of delinquent assessment which states the amount of the
38 assessments and other sums which are due in accordance with
39 subsection 1 of NRS 116.3116, a description of the unit against
40 which the lien is imposed ~~§~~ and the name of the record owner of
41 the unit;

42 (b) ~~The~~ *Not less than 30 days after mailing the notice of*
43 *delinquent assessment pursuant to paragraph (a), the* association
44 or other person conducting the sale has executed and caused to be
45 recorded, with the county recorder of the county in which the



1 common-interest community or any part of it is situated, a notice of
2 default and election to sell the unit to satisfy the lien, which contains
3 the same information as the notice of delinquent assessment, but
4 must also describe the deficiency in payment and the name and
5 address of the person authorized by the association to enforce the
6 lien by sale; and

7 (c) The unit's owner or his successor in interest has failed to pay
8 the amount of the lien, including costs, fees and expenses incident to
9 its enforcement, for 60 days following the recording of the notice of
10 default and election to sell.

11 2. The notice of default and election to sell must be signed by
12 the person designated in the declaration or by the association for that
13 purpose ~~or~~ or , if no one is designated, by the president of the
14 association.

15 3. The period of 60 days begins on the first day following the
16 later of:

17 (a) The day on which the notice of default is recorded; ~~or~~

18 (b) The day on which a copy of the notice of default is mailed
19 by certified or registered mail, return receipt requested, to the unit's
20 owner or his successor in interest at his address , if known, and at
21 the address of the unit ~~or~~; or

22 (c) *The day on which the association provided written*
23 *certification to the Ombudsman for Owners in Common-Interest*
24 *Communities that notices have been given in accordance with*
25 *subsection 1.*

26 4. The association may not foreclose a lien by sale for the
27 assessment of a fine for a violation of the declaration, bylaws, rules
28 or regulations of the association, unless the violation is of a type that
29 threatens the health, safety or welfare of the residents of the
30 common-interest community.

31 **Sec. 58.** NRS 116.31175 is hereby amended to read as
32 follows:

33 116.31175 1. Except as otherwise provided in this
34 subsection, the executive board of an association shall, upon the
35 written request of a unit's owner, make available the books, records
36 and other papers of the association for review during the regular
37 working hours of the association ~~or~~, *including, without limitation,*
38 *all records filed with a court relating to a civil or criminal action*
39 *to which the association is a party.* The provisions of this
40 subsection do not apply to:

41 (a) The personnel records of the employees of the association ~~or~~
42 *, except for those records relating to the salaries and benefits of*
43 *those employees;* and

44 (b) The records of the association relating to another unit's
45 owner.



1 2. If the executive board refuses to allow a unit's owner to
2 review the books, records or other papers of the association, the
3 Ombudsman for Owners in Common-Interest Communities may:

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

7 (b) If he is denied access to the books, records or other papers,
8 request the *Real Estate* Commission to issue a subpoena for their
9 production.

10 **3. *The books, records and other papers of an association***
11 ***must be maintained for at least 10 years.***

12 **Sec. 59.** NRS 116.4108 is hereby amended to read as follows:

13 116.4108 1. A person required to deliver a public offering
14 statement pursuant to subsection 3 of NRS 116.4102 shall provide a
15 purchaser with a copy of the current public offering statement not
16 later than the date ~~of any contract of sale.~~ ***on which an offer to***
17 ***purchase becomes binding on the purchaser.*** Unless the purchaser
18 has personally inspected the unit, the purchaser may cancel, by
19 written notice, the contract of purchase until midnight of the fifth
20 calendar day following the date of execution of the contract, and the
21 contract for purchase must contain a provision to that effect.

22 2. If a purchaser elects to cancel a contract pursuant to
23 subsection 1, he may do so by hand delivering notice thereof to the
24 offeror or by mailing notice thereof by prepaid United States mail to
25 the offeror or to his agent for service of process. Cancellation is
26 without penalty, and all payments made by the purchaser before
27 cancellation must be refunded promptly.

28 3. If a person required to deliver a public offering statement
29 pursuant to subsection 3 of NRS 116.4102 fails to provide a
30 purchaser to whom a unit is conveyed with a current public offering
31 statement, the purchaser is entitled to actual damages, rescission or
32 other relief, but if the purchaser has accepted a conveyance of the
33 unit, he is not entitled to rescission.

34 **Sec. 60.** NRS 116.4109 is hereby amended to read as follows:

35 116.4109 1. Except in the case of a sale in which delivery of
36 a public offering statement is required, or unless exempt under
37 subsection 2 of NRS 116.4101, a unit's owner shall furnish to a
38 purchaser before ~~execution of any contract for sale of a unit, or~~
39 ~~otherwise before conveyance:~~ ***an offer to purchase a unit becomes***
40 ***binding on the purchaser:***

41 (a) A copy of the declaration, other than any plats and plans, the
42 bylaws, the rules or regulations of the association and the
43 information statement required by NRS 116.41095;



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

4 (c) The current operating budget of the association and a
5 financial statement for the association; and

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

10 2. The association, within 10 days after a request by a unit's
11 owner, shall furnish a certificate containing the information
12 necessary to enable the unit's owner to comply with this section. A
13 unit's owner providing a certificate pursuant to subsection 1 is not
14 liable to the purchaser for any erroneous information provided by
15 the association and included in the certificate.

16 3. Neither a purchaser nor the purchaser's interest in a unit is
17 liable for any unpaid assessment or fee greater than the amount set
18 forth in the certificate prepared by the association. If the association
19 fails to furnish the certificate within the 10 days allowed by
20 subsection 2, the seller is not liable for the delinquent assessment.

21 **Sec. 61.** NRS 116.41095 is hereby amended to read as
22 follows:

23 116.41095 The information statement required by NRS
24 116.4103 and 116.4109 must be in substantially the following form:

25
26 **BEFORE YOU PURCHASE PROPERTY IN A**
27 **COMMON-INTEREST COMMUNITY**
28 **DID YOU KNOW . . .**

29 1. **YOU ARE AGREEING TO RESTRICTIONS ON HOW**
30 **YOU CAN USE YOUR PROPERTY?**

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



1 before purchasing to make sure that these limitations and controls
2 are acceptable to you.

3 2. YOU WILL HAVE TO PAY OWNERS' ASSESSMENTS
4 FOR AS LONG AS YOU OWN YOUR PROPERTY?

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

22 3. IF YOU FAIL TO PAY OWNERS' ASSESSMENTS, YOU
23 COULD LOSE YOUR HOME?

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

31 4. YOU MAY BECOME A MEMBER OF A
32 HOMEOWNER'S ASSOCIATION THAT HAS THE POWER TO
33 AFFECT HOW YOU USE AND ENJOY YOUR PROPERTY?

34 Many common-interest communities have a homeowner's
35 association. In a new development, the association will usually be
36 controlled by the developer until a certain number of units have
37 been sold. After the period of developer control, the association may
38 be controlled by property owners like yourself who are elected by
39 homeowners to sit on an executive board and other boards and
40 committees formed by the association. The association, and its
41 executive board, are responsible for assessing homeowners for the
42 cost of operating the association and the common or shared
43 elements of the community and for the day to day operation and
44 management of the community. Because homeowners sitting on the
45 executive board and other boards and committees of the association



1 may not have the experience or professional background required to
2 understand and carry out the responsibilities of the association
3 properly, the association may hire professional managers to carry
4 out these responsibilities.

5 Homeowner's associations operate on democratic principles. Some
6 decisions require all homeowners to vote, some decisions are made
7 by the executive board or other boards or committees established by
8 the association or governing documents. Although the actions of the
9 association and its executive board are governed by state laws, the
10 C, C & R's and other documents that govern the common-interest
11 community, decisions made by these persons will affect your use
12 and enjoyment of your property, your lifestyle and freedom of
13 choice, and your cost of living in the community. You may not
14 agree with decisions made by the association or its governing bodies
15 even though the decisions are ones which the association is
16 authorized to make. Decisions may be made by a few persons on the
17 executive board or governing bodies that do not necessarily reflect
18 the view of the majority of homeowners in the community. If you do
19 not agree with decisions made by the association, its executive
20 board or other governing bodies, your remedy is typically to attempt
21 to use the democratic processes of the association to seek the
22 election of members of the executive board or other governing
23 bodies that are more responsive to your needs. If persons controlling
24 the association or its management are not complying with state laws
25 or the governing documents, your remedy is typically to seek to
26 mediate or arbitrate the dispute and, if mediation or arbitration is
27 unsuccessful, file a lawsuit and ask a court to resolve the dispute. In
28 addition to your personal cost in mediation or arbitration, or to
29 prosecute a lawsuit, you may be responsible for paying your share
30 of the association's cost in defending against your claim. There is no
31 government agency in this state that investigates or intervenes to
32 resolve disputes in homeowner's associations.

33 5. YOU ARE REQUIRED TO PROVIDE PROSPECTIVE
34 BUYERS OF YOUR PROPERTY WITH INFORMATION
35 ABOUT LIVING IN YOUR COMMON-INTEREST
36 COMMUNITY?

37 The law requires you to provide to a prospective purchaser of your
38 property, before you enter into a purchase agreement, a copy of the
39 community's governing documents, including the C, C & R's,
40 association bylaws, and rules and regulations, as well as a copy of
41 this document. You are also required to provide a copy of the
42 association's current financial statement, operating budget and
43 information regarding the amount of the monthly assessment for
44 common expenses, including the amount set aside as reserves for the
45 repair, replacement and restoration of common elements. You are



1 also required to inform prospective purchasers of any outstanding
2 judgments or lawsuits pending against the association of which you
3 are aware. You are also required to provide a copy of the minutes
4 from the most recent meeting of the homeowner's association or its
5 executive board. For more information regarding these
6 requirements, see Nevada Revised Statutes 116.4103 ~~§~~ and
7 **116.4109.**

8 **6. YOU HAVE CERTAIN RIGHTS REGARDING**
9 **OWNERSHIP IN A COMMON-INTEREST COMMUNITY THAT**
10 **ARE GUARANTEED YOU BY THE STATE?**

11 Pursuant to provisions of chapter 116 of Nevada Revised Statutes,
12 you have the right:

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

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

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

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

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

25 **7. QUESTIONS?**

26 Although they may be voluminous, you should take the time to read
27 and understand the documents that will control your ownership of a
28 property in a common-interest community. You may wish to ask
29 your real estate professional, lawyer or other person with experience
30 to explain anything you do not understand. You may also request
31 assistance from the Ombudsman for Owners in Common-Interest
32 Communities, Nevada Real Estate Division, at (telephone number)
33 ~~§~~, or the **Commission for Common-Interest Communities, at**
34 **(telephone number).**

35 Buyer or prospective buyer's initials: _____

36 Date: _____

37 **Sec. 62.** NRS 38.330 is hereby amended to read as follows:
38 38.330 1. If all parties named in a written claim filed
39 pursuant to NRS 38.320 agree to have the claim submitted for
40 mediation, the parties shall reduce the agreement to writing and
41 shall select a mediator from the list of mediators maintained by the
42 Division pursuant to NRS 38.340. Any mediator selected must be
43 available within the geographic area. If the parties fail to agree upon
44 a mediator, the Division shall appoint a mediator from the list of
45 mediators maintained by the Division. Any mediator appointed must



1 be available within the geographic area. Unless otherwise provided
2 by an agreement of the parties, mediation must be completed within
3 60 days after the parties agree to mediation. Any agreement
4 obtained through mediation conducted pursuant to this section must,
5 within 20 days after the conclusion of mediation, be reduced to
6 writing by the mediator and a copy thereof provided to each party.
7 The agreement may be enforced as any other written agreement.
8 Except as otherwise provided in this section, the parties are
9 responsible for all costs of mediation conducted pursuant to this
10 section.

11 2. If all the parties named in the claim do not agree to
12 mediation, the parties shall select an arbitrator from the list of
13 arbitrators maintained by the Division pursuant to NRS 38.340. Any
14 arbitrator selected must be available within the geographic area. If
15 the parties fail to agree upon an arbitrator, the Division shall appoint
16 an arbitrator from the list maintained by the Division. Any arbitrator
17 appointed must be available within the geographic area. Upon
18 appointing an arbitrator, the Division shall provide the name of the
19 arbitrator to each party.

20 3. The Division may provide for the payment of the fees for a
21 mediator or an arbitrator selected or appointed pursuant to this
22 section from the Account for ~~the Ombudsman for Owners in~~
23 Common-Interest Communities created ~~pursuant to~~ by NRS
24 116.1117, to the extent that money is available in the Account for
25 this purpose.

26 4. Except as otherwise provided in this section and except
27 where inconsistent with the provisions of NRS 38.300 to 38.360,
28 inclusive, the arbitration of a claim pursuant to this section must be
29 conducted in accordance with the provisions of NRS 38.231,
30 38.232, 38.233, 38.236 to 38.239, inclusive, 38.242 and 38.243. At
31 any time during the arbitration of a claim relating to the
32 interpretation, application or enforcement of any covenants,
33 conditions or restrictions applicable to residential property or any
34 bylaws, rules or regulations adopted by an association, the arbitrator
35 may issue an order prohibiting the action upon which the claim is
36 based. An award must be made within 30 days after the conclusion
37 of arbitration, unless a shorter period is agreed upon by the parties to
38 the arbitration.

39 5. If all the parties have agreed to nonbinding arbitration, any
40 party to the arbitration may, within 30 days after a decision and
41 award have been served upon the parties, commence a civil action in
42 the proper court concerning the claim which was submitted for
43 arbitration. Any complaint filed in such an action must contain a
44 sworn statement indicating that the issues addressed in the
45 complaint have been arbitrated pursuant to the provisions of NRS



1 38.300 to 38.360, inclusive. If such an action is not commenced
2 within that period, any party to the arbitration may, within 1 year
3 after the service of the award, apply to the proper court for a
4 confirmation of the award pursuant to NRS 38.239.

5 6. If all the parties agree in writing to binding arbitration, the
6 arbitration must be conducted in accordance with the provisions of
7 *this* chapter . ~~[38 of NRS.]~~ An award procured pursuant to such
8 arbitration may be vacated and a rehearing granted upon application
9 of a party pursuant to the provisions of NRS 38.241.

10 7. If, after the conclusion of arbitration, a party:

11 (a) Applies to have an award vacated and a rehearing granted
12 pursuant to NRS 38.241; or

13 (b) Commences a civil action based upon any claim which was
14 the subject of arbitration,
15 the party shall, if he fails to obtain a more favorable award or
16 judgment than that which was obtained in the initial arbitration, pay
17 all costs and reasonable attorney's fees incurred by the opposing
18 party after the application for a rehearing was made or after the
19 complaint in the civil action was filed.

20 8. Upon request by a party, the Division shall provide a
21 statement to the party indicating the amount of the fees for a
22 mediator or an arbitrator selected or appointed pursuant to this
23 section.

24 9. As used in this section, "geographic area" means an area
25 within 150 miles from any residential property or association which
26 is the subject of a written claim submitted pursuant to NRS 38.320.

27 **Sec. 63.** As soon as practicable after October 1, 2003, the
28 Governor shall appoint to the Commission for Common-Interest
29 Communities:

- 30 1. One member whose term expires on October 1, 2004.
- 31 2. Two members whose terms expire on October 1, 2005.
- 32 3. Two members whose terms expire on October 1, 2006.

33 **Sec. 64.** The State Treasurer shall transfer any balance
34 remaining unexpended on October 1, 2003, in the Account for the
35 Ombudsman for Owners in Common-Interest Communities in the
36 State General Fund to the Account for Common-Interest
37 Communities which is created by NRS 116.1117, as amended by
38 this act.

39 **Sec. 65.** Notwithstanding the provisions of section 51 of this
40 act, a person who engages in business as a community manager is
41 not required to be certified pursuant to the provisions of this act
42 before January 1, 2004.

43 **Sec. 66.** Sections 20, 21 and 22 of this act expire by limitation
44 on the date on which the provisions of 42 U.S.C. § 666 requiring
45 each state to establish procedures under which the state has



1 authority to withhold or suspend, or to restrict the use of
2 professional, occupational and recreational licenses of persons who:

3 1. Have failed to comply with a subpoena or warrant relating to
4 a proceeding to determine the paternity of a child or to establish or
5 enforce an obligation for the support of a child; or

6 2. Are in arrears in the payment for the support of one or more
7 children,

8 are repealed by the Congress of the United States.

Ⓢ

