

Amendment No. CA25

Conference Committee Amendment to Senate Bill No. 182 Second Reprint	(BDR 10-795)
<b>Proposed by:</b> Conference Committee	
<b>Amends:</b> Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes	

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) green bold dashed underlining is newly added transitory language.

NMB/BAW



Date: 5/31/2009

S.B. No. 182—Makes various changes relating to common-interest communities.  
(BDR 10-795)



SENATE BILL NO. 182—SENATOR SCHNEIDER

MARCH 9, 2009

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to common-interest communities.  
(BDR 10-795)

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; clarifying various provisions of existing law relating to certain provisions of governing documents that violate statutory provisions, elections and the authority of an association to levy certain assessments under certain circumstances; revising certain provisions governing the authority of an association to impose fines under certain circumstances; making various other changes to the provisions governing common-interest communities; providing penalties; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

1 **Section 3** of this bill provides that a person who knowingly, willfully and with the intent  
2 to fraudulently alter the outcome of the election of a member to the executive board of an  
3 association or other votes of the units' owners engages in certain acts pertaining to the ballot  
4 or the casting of votes in such election is guilty of a category D felony. (NRS 116.31034)  
5 Existing law prohibits a community manager, an officer or a member of the executive board  
6 from accepting or soliciting compensation that would influence him or appear to be a conflict  
7 of interest. (NRS 116.31185) **Section 4** of this bill provides that a community manager or  
8 member of the executive board who asks for or receives compensation to influence his vote,  
9 opinion or action upon any official matter is guilty of a category D felony. **Section 4** also  
10 provides that a person who offers or gives any gratuity, compensation or reward, or makes a  
11 promise thereof, to a community manager or member of the executive board in exchange for a  
12 vote, opinion or action on any official matter is guilty of a category D felony.

13 Existing law requires each agency to provide by regulation for the filing and prompt  
14 disposition of petitions for declaratory orders and advisory opinions as to the applicability of  
15 any statutory provision, agency regulation or decision of the agency, and the Department of  
16 Business and Industry, which includes the Real Estate Division, has accordingly adopted  
17 regulations for such petitions. (NRS 233B.120; NAC 232.020) However, the Real Estate  
18 Division has not adopted any regulations pertaining to such petitions. **Section 5** of this bill  
19 enacts a specific statutory provision requiring the Real Estate Division to adopt regulations  
20 pertaining to such petitions.

21 Existing law contains provisions concerning units or common elements of an association  
22 that are acquired by eminent domain. (NRS 116.1107) **Section 7** of this bill clarifies that

23 existing law does not authorize an association to exercise the power of eminent domain.  
24 **Section 8** of this bill clarifies that any provision contained in a declaration, bylaw or other  
25 governing document of a common-interest community that violates the provisions of chapter  
26 116 of NRS is superseded by the provisions of chapter 116 of NRS, regardless of whether the  
27 provision became effective before the enactment of the statutory provision being violated.  
28 (NRS 116.1206)

29 **Section 8.5** of this bill provides that an association may not charge a fee for entry into the  
30 common-interest community against a person providing services to a unit, a unit's owner or a  
31 tenant of a unit's owner or against a visitor, guest or invitee of a unit's owner or a tenant of a  
32 unit's owner. (NRS 116.2111)

33 **Section 9** of this bill revises existing law to limit an association's power to include certain  
34 provisions in certain contracts involving the association. (NRS 116.3102)

35 Existing law authorizes an executive board to impose fines under certain circumstances.  
36 (NRS 116.31031) **Section 12** of this bill limits the imposition of fines against a unit's owner  
37 for violations of the governing documents by a tenant or an invitee of the unit's owner or the  
38 tenant.

39 **Sections 13, 14 and 16** of this bill revise provisions relating to certain elections and  
40 meetings of an association by: (1) requiring members of the executive board to be units'  
41 owners; (2) providing that officers of an association are not required to be units' owners,  
42 unless the governing documents provide otherwise; (3) providing certain rights for candidates  
43 for election to an executive board; (4) reducing the votes necessary for removal of a member  
44 of an executive board; (5) prohibiting an association from interfering with the collection of  
45 signatures for a special meeting or removal election; and (6) providing immunity from  
46 criminal or civil liability for an association, its officers, employees and agents for the  
47 disclosure or publication of certain information pursuant to certain duties required of the  
48 association or its officers, employees and agents. **Section 14 also provides that punitive**  
49 **damages may not be recovered against the members of the executive board or the**  
50 **officers of an association for acts or omissions that occur in their capacity as members or**  
51 **officers.** (NRS 116.31034, 116.31036, 116.3108)

52 **Section 15** of this bill clarifies existing law concerning the respective duties of an  
53 association and the units' owners regarding the maintenance, repair and replacement of the  
54 common elements and the units. (NRS 116.3107)

55 **Sections 17-19** of this bill revise provisions relating to board meetings and hearings by:  
56 (1) requiring that meetings of the executive board be audio recorded and available in a certain  
57 manner; (2) requiring that certain written complaints be placed on the agenda; and (3)  
58 providing due process protections to units' owners at certain hearings. (NRS 116.31083,  
59 116.31085, 116.31087) **Section 17** also revises existing law to allow public comments to be  
60 made at both the beginning and the end of a meeting. (NRS 116.31083)

61 Existing law provides that an association has the statutory obligation to: (1) fund  
62 adequately its reserves; (2) include in its annual budget a statement concerning its reserves  
63 and whether it will be necessary to impose any special assessments; and (3) review its study of  
64 the reserves on an annual basis and make any appropriate adjustments necessary to ensure that  
65 the reserves are always funded adequately. (NRS 116.3115, 116.31151, 116.31152) **Section**  
66 **21** of this bill clarifies existing law by explicitly stating that notwithstanding any provision of  
67 the governing documents to the contrary, the executive board may, without seeking or  
68 obtaining the approval of units' owners, impose any necessary and reasonable assessments to  
69 establish adequate reserves. This section also provides that any such assessments imposed  
70 must be based on the study of the reserves of the association conducted pursuant to  
71 NRS 116.31152.

72 **Section 22** of this bill authorizes the filing of a civil action to recover certain fees,  
73 administrative penalties and interest that were imposed erroneously. (NRS 116.31155)

74 **Existing law provides that an executive board of an association must, upon written**  
75 **request of a unit's owner, make available certain records and papers of the association,**  
76 **except for certain personnel records, records of other units' owners or contracts between**  
77 **the association and an attorney.** (NRS 116.31175) **Section 23.5 of this bill removes from**  
78 **the exemptions for the production of records those records which pertain to a contract**  
79 **between the association and an attorney.**

80 **Sections 24, 26 and 28** of this bill provide certain additional rights to units' owners by:  
81 (1) increasing the scope and definition of prohibited retaliatory action; (2) authorizing the  
82 exhibition of certain political signs in certain areas; and (3) mandating notice before  
83 interruption of utility service to a unit's owner. (NRS 116.31183, 116.325, 116.345)

84 **Section 25** of this bill expands the prohibition against certain contracts between an  
85 association and a member of the executive board or officer to include contracts involving  
86 financing. (NRS 116.31187) **Section 27** of this bill: (1) provides that existing law concerning  
87 drought tolerant landscaping must be construed broadly; and (2) clarifies the definition of  
88 "drought tolerant landscaping." (NRS 116.330) **Section 29** of this bill provides that if a  
89 community manager fails or refuses to comply with the governing documents of the  
90 association or the provisions of chapter 116 of NRS, any person or class of persons may bring  
91 a civil action for damages or other relief. (NRS 116.4117)

92 **Section 30** of this bill increases the membership of the Commission by adding two  
93 members who are units' owners but who are not required to have served as members of an  
94 executive board. (NRS 116.600) **Section 31** of this bill revises provisions relating to the  
95 Commission's duties by providing for the use of training officers to perform certain duties.  
96 (NRS 116.605)

97 **Section 36** of this bill clarifies that if the Commission or hearing officer orders an audit  
98 of an association, the audit is conducted at the expense of the association. (NRS 116.790)

99 Existing law provides that a written affidavit, supporting documentation and information  
100 compiled as the result of an investigation of an alleged violation are confidential unless and  
101 until a formal complaint is filed. (NRS 116.757, 116A.270) **Sections 33 and 37** of this bill  
102 clarify existing law to provide that such confidential information must not be disclosed to any  
103 person, including a person who is the subject of an investigation or complaint, unless and until  
104 a formal complaint is filed.

105 **Section 39** of this bill provides that the Commission must adopt regulations requiring an  
106 applicant for a certificate as a community manager or the applicant's employer to post a bond.  
107 **Section 39 also provides for the issuance of temporary certificates for community**  
108 **managers for a period of 1 year under certain circumstances.** (NRS 116A.410)

109 **Section 40** of this bill revises existing law to provide that upon selection or appointment  
110 of an arbitrator, the arbitrator must provide certain information concerning the procedures  
111 of the arbitration and applicable law to each party to the arbitration, and each party must  
112 return to the arbitrator an acknowledgment of the information provided by the arbitrator.  
113 (NRS 38.330)

---

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 thereto the  
2 provisions set forth as sections 2 to 5, inclusive, of this act.

3 **Sec. 2.** (Deleted by amendment.)

4 **Sec. 3. 1. A person shall not knowingly, willfully and with the intent to**  
5 **fraudulently alter the true outcome of an election of a member of the executive**  
6 **board or any other vote of the units' owners engage in, attempt to engage in, or**  
7 **conspire with another person to engage in, any of the following acts:**

8 (a) *Changing or falsifying a voter's ballot so that the ballot does not reflect*  
9 *the voter's true ballot.*

10 (b) *Forging or falsely signing a voter's ballot.*

11 (c) *Fraudulently casting a vote for himself or for another person that the*  
12 *person is not authorized to cast.*

13 (d) *Rejecting, failing to count, destroying, defacing or otherwise invalidating*  
14 *the valid ballot of another voter.*

15 (e) *Submitting a counterfeit ballot.*

1           2. *A person who violates this section is guilty of a category D felony and*  
2 *shall be punished as provided in NRS 193.130.*

3           **Sec. 4.** *1. Except as otherwise provided in subsection 3, a community*  
4 *manager or member of the executive board who asks for or receives, directly or*  
5 *indirectly, any compensation, gratuity or reward, or any promise thereof, upon an*  
6 *agreement or understanding that his vote, opinion or action upon any matter*  
7 *then pending or which may be brought before him in his capacity as a community*  
8 *manager or member of the executive board, will be influenced thereby, is guilty*  
9 *of a category D felony and shall be punished as provided in NRS 193.130.*

10           2. *Except as otherwise provided in subsection 3, a person who offers or*  
11 *gives, directly or indirectly, any compensation, gratuity or reward, or any promise*  
12 *thereof, upon an agreement or understanding that the vote, opinion or action of a*  
13 *community manager or member of the executive board upon any matter then*  
14 *pending or which may be brought before the community manager or member of the*  
15 *executive board in his capacity as a community manager or member of the*  
16 *executive board will be influenced thereby, is guilty of a category D felony and*  
17 *shall be punished as provided in NRS 193.130.*

18           3. *The provisions of this section do not prohibit:*

19           (a) *An employee of a declarant or an affiliate of a declarant who is a member*  
20 *of an executive board from asking for or receiving, directly or indirectly, any*  
21 *compensation, gratuity or reward, or any promise thereof, from the declarant or*  
22 *affiliate.*

23           (b) *A declarant or an affiliate of a declarant whose employee is a member of*  
24 *an executive board from offering or giving, directly or indirectly, any*  
25 *compensation, gratuity or reward, or any promise thereof, to the employee who is*  
26 *a member of the executive board.*

27           (c) *A community manager from asking for or receiving, directly or indirectly,*  
28 *or an employer of a community manager from offering or giving, directly or*  
29 *indirectly, any compensation for work performed by the community manager*  
30 *pursuant to the laws of this State.*

31           **Sec. 5.** *1. The Division shall provide by regulation for the filing and*  
32 *prompt disposition of petitions for declaratory orders and advisory opinions as to*  
33 *the applicability or interpretation of:*

34           (a) *Any provision of this chapter or chapter 116A or 116B of NRS;*

35           (b) *Any regulation adopted by the Commission, the Administrator or the*  
36 *Division; or*

37           (c) *Any decision of the Commission, the Administrator or the Division or any*  
38 *of its sections.*

39           2. *Declaratory orders disposing of petitions filed pursuant to this section*  
40 *have the same status as agency decisions.*

41           3. *A petition filed pursuant to this section must:*

42           (a) *Set forth the name and address of the petitioner; and*

43           (b) *Contain a clear and concise statement of the issues to be decided by the*  
44 *Division in its declaratory order or advisory opinion.*

45           4. *A petition filed pursuant to this section is submitted for consideration by*  
46 *the Division when it is filed with the Administrator.*

47           5. *The Division shall:*

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

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

52           **Sec. 6.** (Deleted by amendment.)

1       **Sec. 7.** NRS 116.1107 is hereby amended to read as follows:

2       116.1107 1. If a unit is acquired by eminent domain or part of a unit is  
3 acquired by eminent domain leaving the unit's owner with a remnant that may not  
4 practically or lawfully be used for any purpose permitted by the declaration, the  
5 award must include compensation to the unit's owner for that unit and its allocated  
6 interests, whether or not any common elements are acquired. Upon acquisition,  
7 unless the decree otherwise provides, that unit's allocated interests are  
8 automatically reallocated to the remaining units in proportion to the respective  
9 allocated interests of those units before the taking, and the association shall  
10 promptly prepare, execute and record an amendment to the declaration reflecting  
11 the reallocations. Any remnant of a unit remaining after part of a unit is taken under  
12 this subsection is thereafter a common element.

13       2. Except as otherwise provided in subsection 1, if part of a unit is acquired  
14 by eminent domain, the award must compensate the unit's owner for the reduction  
15 in value of the unit and its interest in the common elements, whether or not any  
16 common elements are acquired. Upon acquisition, unless the decree otherwise  
17 provides:

18       (a) That unit's allocated interests are reduced in proportion to the reduction in  
19 the size of the unit, or on any other basis specified in the declaration; and

20       (b) The portion of the allocated interests divested from the partially acquired  
21 unit are automatically reallocated to that unit and to the remaining units in  
22 proportion to the respective allocated interests of those units before the taking, with  
23 the partially acquired unit participating in the reallocation on the basis of its  
24 reduced allocated interests.

25       3. If part of the common elements is acquired by eminent domain, the portion  
26 of the award attributable to the common elements taken must be paid to the  
27 association. Unless the declaration provides otherwise, any portion of the award  
28 attributable to the acquisition of a limited common element must be equally divided  
29 among the owners of the units to which that limited common element was allocated  
30 at the time of acquisition.

31       4. The judicial decree must be recorded in every county in which any portion  
32 of the common-interest community is located.

33       5. *The provisions of this section do not authorize an association to exercise  
34 the power of eminent domain pursuant to chapter 37 of NRS, and an association  
35 may not exercise the power of eminent domain, as provided in NRS 37.0097.*

36       **Sec. 8.** NRS 116.1206 is hereby amended to read as follows:

37       116.1206 1. Any provision contained in a declaration, bylaw or other  
38 governing document of a common-interest community that violates the provisions  
39 of this chapter ~~[shall]~~ :

40       (a) *Shall* be deemed to conform with those provisions by operation of law, and  
41 any such declaration, bylaw or other governing document is not required to be  
42 amended to conform to those provisions.

43       (b) *Is superseded by the provisions of this chapter, regardless of whether the  
44 provision contained in the declaration, bylaw or other governing document  
45 became effective before the enactment of the provision of this chapter that is  
46 being violated.*

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

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

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

4 3. An amendment to the declaration, bylaws or plats and plans authorized by  
5 this section to be made under this chapter must be adopted in conformity with the  
6 applicable provisions of chapter 117 or 278A of NRS and with the procedures and  
7 requirements specified by those instruments. If an amendment grants to any person  
8 any rights, powers or privileges permitted by this chapter, all correlative  
9 obligations, liabilities and restrictions in this chapter also apply to that person.

10 **Sec. 8.5.** NRS 116.2111 is hereby amended to read as follows:

11 116.2111 1. Except as otherwise provided in this section and subject to the  
12 provisions of the declaration and other provisions of law, a unit's owner:

13 (a) May make any improvements or alterations to his unit that do not impair  
14 the structural integrity or mechanical systems or lessen the support of any portion  
15 of the common-interest community;

16 (b) May not change the appearance of the common elements, or the exterior  
17 appearance of a unit or any other portion of the common-interest community,  
18 without permission of the association; and

19 (c) After acquiring an adjoining unit or an adjoining part of an adjoining unit,  
20 may remove or alter any intervening partition or create apertures therein, even if the  
21 partition in whole or in part is a common element, if those acts do not impair the  
22 structural integrity or mechanical systems or lessen the support of any portion of  
23 the common-interest community. Removal of partitions or creation of apertures  
24 under this paragraph is not an alteration of boundaries.

25 2. An association may not:

26 (a) Unreasonably restrict, prohibit or otherwise impede the lawful rights of a  
27 unit's owner to have reasonable access to his unit.

28 (b) *Charge any fee for a person to enter the common-interest community to*  
29 *provide services to a unit, a unit's owner or a tenant of a unit's owner or for any*  
30 *visitor to the common-interest community or invitee of a unit's owner or a tenant*  
31 *of a unit's owner to enter the common-interest community.*

32 (c) Unreasonably restrict, prohibit or withhold approval for a unit's owner to  
33 add to a unit:

34 (1) Improvements such as ramps, railings or elevators that are necessary to  
35 improve access to the unit for any occupant of the unit who has a disability;

36 (2) Additional locks to improve the security of the unit;

37 (3) Shutters to improve the security of the unit or to reduce the costs of  
38 energy for the unit; or

39 (4) A system that uses wind energy to reduce the costs of energy for the  
40 unit if the boundaries of the unit encompass 2 acres or more within the common-  
41 interest community.

42 ~~(d)~~ (d) With regard to approving or disapproving any improvement or  
43 alteration made to a unit, act in violation of any state or federal law.

44 3. Any improvement or alteration made pursuant to subsection 2 that is  
45 visible from any other portion of the common-interest community must be installed,  
46 constructed or added in accordance with the procedures set forth in the governing  
47 documents of the association and must be selected or designed to the maximum  
48 extent practicable to be compatible with the style of the common-interest  
49 community.

50 4. A unit's owner may not add to the unit a system that uses wind energy as  
51 described in subparagraph 4 of paragraph ~~(b)~~ (c) of subsection 2 unless he first

1 obtains the written consent of each owner of property within 300 feet of any  
2 boundary of the unit.

3 **Sec. 9.** NRS 116.3102 is hereby amended to read as follows:

4 116.3102 1. Except as otherwise provided in subsection 2, and subject to the  
5 provisions of the declaration, the association may do any or all of the following:

6 (a) Adopt and amend bylaws, rules and regulations.

7 (b) Adopt and amend budgets for revenues, expenditures and reserves and  
8 collect assessments for common expenses from the units' owners.

9 (c) Hire and discharge managing agents and other employees, agents and  
10 independent contractors.

11 (d) Institute, defend or intervene in litigation or administrative proceedings in  
12 its own name on behalf of itself or two or more units' owners on matters affecting  
13 the common-interest community.

14 (e) Make contracts and incur liabilities. *Any contract between the association  
15 and a private entity for the furnishing of goods or services must not include a  
16 provision granting the private entity the right of first refusal with respect to  
17 extension or renewal of the contract.*

18 (f) Regulate the use, maintenance, repair, replacement and modification of  
19 common elements.

20 (g) Cause additional improvements to be made as a part of the common  
21 elements.

22 (h) Acquire, hold, encumber and convey in its own name any right, title or  
23 interest to real estate or personal property, but:

24 (1) Common elements in a condominium or planned community may be  
25 conveyed or subjected to a security interest only pursuant to NRS 116.3112; and

26 (2) Part of a cooperative may be conveyed, or all or part of a cooperative  
27 may be subjected to a security interest, only pursuant to NRS 116.3112.

28 (i) Grant easements, leases, licenses and concessions through or over the  
29 common elements.

30 (j) Impose and receive any payments, fees or charges for the use, rental or  
31 operation of the common elements, other than limited common elements described  
32 in subsections 2 and 4 of NRS 116.2102, and for services provided to the units'  
33 owners.

34 (k) Impose charges for late payment of assessments.

35 (l) Impose construction penalties when authorized pursuant to  
36 NRS 116.310305.

37 (m) Impose reasonable fines for violations of the governing documents of the  
38 association only if the association complies with the requirements set forth in  
39 NRS 116.31031.

40 (n) Impose reasonable charges for the preparation and recordation of any  
41 amendments to the declaration or any statements of unpaid assessments, and  
42 impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109,  
43 for preparing and furnishing the documents and certificate required by that section.

44 (o) Provide for the indemnification of its officers and executive board and  
45 maintain directors' and officers' liability insurance.

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

48 (q) Exercise any other powers conferred by the declaration or bylaws.

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

51 (s) Direct the removal of vehicles improperly parked on property owned or  
52 leased by the association, as authorized pursuant to NRS 487.038, or improperly



1 parked on any road, street, alley or other thoroughfare within the common-interest  
2 community in violation of the governing documents. In addition to complying with  
3 the requirements of NRS 487.038 and any requirements in the governing  
4 documents, if a vehicle is improperly parked as described in this paragraph, the  
5 association must post written notice in a conspicuous place on the vehicle or  
6 provide oral or written notice to the owner or operator of the vehicle at least 48  
7 hours before the association may direct the removal of the vehicle, unless the  
8 vehicle:

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

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

14 (t) Exercise any other powers necessary and proper for the governance and  
15 operation of the association.

16 2. The declaration may not impose limitations on the power of the association  
17 to deal with the declarant which are more restrictive than the limitations imposed  
18 on the power of the association to deal with other persons.

19 **Sec. 10.** (Deleted by amendment.)

20 **Sec. 11.** (Deleted by amendment.)

21 **Sec. 12.** NRS 116.31031 is hereby amended to read as follows:

22 116.31031 1. Except as otherwise provided in this section, if a unit's owner  
23 or a tenant or ~~guest~~ *an invitee* of a unit's owner *or a tenant* violates any provision  
24 of the governing documents of an association, the executive board may, if the  
25 governing documents so provide:

26 (a) Prohibit, for a reasonable time, the unit's owner or the tenant or ~~guest~~ *the*  
27 *invitee* of the unit's owner *or the tenant* from:

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

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

33 (b) Impose a fine against the unit's owner or the tenant or ~~guest~~ *the invitee* of  
34 the unit's owner *or the tenant* for each violation, except that a fine may not be  
35 imposed for a violation that is the subject of a construction penalty pursuant to NRS  
36 116.310305. If the violation poses an imminent threat of causing a substantial  
37 adverse effect on the health, safety or welfare of the units' owners or residents of  
38 the common-interest community, the amount of the fine must be commensurate  
39 with the severity of the violation and must be determined by the executive board in  
40 accordance with the governing documents. If the violation does not pose an  
41 imminent threat of causing a substantial adverse effect on the health, safety or  
42 welfare of the units' owners or residents of the common-interest community, the  
43 amount of the fine must be commensurate with the severity of the violation and  
44 must be determined by the executive board in accordance with the governing  
45 documents, but the amount of the fine must not exceed \$100 for each violation or a  
46 total amount of \$1,000, whichever is less. The limitations on the amount of the fine  
47 do not apply to any interest, charges or costs that may be collected by the  
48 association pursuant to this section if the fine becomes past due.

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

1 *(a) Participated in or authorized the violation;*

2 *(b) Had prior notice of the violation; or*

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

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

5 (a) Not less than 30 days before the violation, the person against whom the fine  
6 will be imposed had been provided with written notice of the applicable provisions  
7 of the governing documents that form the basis of the violation; and

8 (b) Within a reasonable time after the discovery of the violation, the person  
9 against whom the fine will be imposed has been provided with:

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

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

13 ~~[3-]~~ 4. The executive board must schedule the date, time and location for the  
14 hearing on the violation so that the person against whom the fine will be imposed is  
15 provided with a reasonable opportunity to prepare for the hearing and to be present  
16 at the hearing.

17 ~~[4-]~~ 5. The executive board must hold a hearing before it may impose the  
18 fine, unless the person against whom the fine will be imposed:

19 (a) Pays the fine;

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

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

23 ~~[5-]~~ 6. If a fine is imposed pursuant to subsection 1 and the violation is not  
24 cured within 14 days, or within any longer period that may be established by the  
25 executive board, the violation shall be deemed a continuing violation. Thereafter,  
26 the executive board may impose an additional fine for the violation for each 7-day  
27 period or portion thereof that the violation is not cured. Any additional fine may be  
28 imposed without notice and an opportunity to be heard.

29 ~~[6-]~~ 7. If the governing documents so provide, the executive board may  
30 appoint a committee, with not less than three members, to conduct hearings on  
31 violations and to impose fines pursuant to this section. While acting on behalf of  
32 the executive board for those limited purposes, the committee and its members are  
33 entitled to all privileges and immunities and are subject to all duties and  
34 requirements of the executive board and its members.

35 ~~[7-]~~ 8. The provisions of this section establish the minimum procedural  
36 requirements that the executive board must follow before it may impose a fine. The  
37 provisions of this section do not preempt any provisions of the governing  
38 documents that provide greater procedural protections.

39 ~~[8-]~~ 9. Any past due fine:

40 (a) Bears interest at the rate established by the association, not to exceed the  
41 legal rate per annum.

42 (b) May include any costs of collecting the past due fine at a rate established  
43 by the association. If the past due fine is for a violation that does not threaten the  
44 health, safety or welfare of the residents of the common-interest community, the  
45 rate established by the association for the costs of collecting the past due fine:

46 (1) May not exceed \$20, if the outstanding balance is less than \$200.

47 (2) May not exceed \$50, if the outstanding balance is \$200 or more, but is  
48 less than \$500.

49 (3) May not exceed \$100, if the outstanding balance is \$500 or more, but is  
50 less than \$1,000.

51 (4) May not exceed \$250, if the outstanding balance is \$1,000 or more, but  
52 is less than \$5,000.

1 (5) May not exceed \$500, if the outstanding balance is \$5,000 or more.

2 (c) May include any costs incurred by the association during a civil action to  
3 enforce the payment of the past due fine.

4 ~~9-~~ 10. As used in this section:

5 (a) "Costs of collecting" includes, without limitation, any collection fee, filing  
6 fee, recording fee, referral fee, fee for postage or delivery, and any other fee or cost  
7 that an association may reasonably charge to the unit's owner for the collection of a  
8 past due fine. The term does not include any costs incurred by an association during  
9 a civil action to enforce the payment of a past due fine.

10 (b) "Outstanding balance" means the amount of a past due fine that remains  
11 unpaid before any interest, charges for late payment or costs of collecting the past  
12 due fine are added.

13 **Sec. 12.5.** NRS 116.310315 is hereby amended to read as follows:

14 116.310315 If an association has imposed a fine against a unit's owner or a  
15 tenant or ~~guest~~ *an invitee* of a unit's owner *or a tenant* pursuant to NRS  
16 116.31031 for violations of the governing documents of the association, the  
17 association:

18 1. Shall, in the books and records of the association, account for the fine  
19 separately from any assessment, fee or other charge; and

20 2. Shall not apply, in whole or in part, any payment made by the unit's owner  
21 for any assessment, fee or other charge toward the payment of the outstanding  
22 balance of the fine or any costs of collecting the fine, unless the unit's owner  
23 provides written authorization which directs the association to apply the payment  
24 made by the unit's owner in such a manner.

25 **Sec. 13.** NRS 116.31034 is hereby amended to read as follows:

26 116.31034 1. Except as otherwise provided in subsection 5 of NRS  
27 116.212, not later than the termination of any period of declarant's control, the  
28 units' owners shall elect an executive board of at least three members, ~~at least a~~  
29 ~~majority~~ *all* of whom must be units' owners. ~~Unless the governing documents~~  
30 ~~provide otherwise, the remaining members of the executive board do not have to be~~  
31 ~~units' owners.~~ *The executive board shall elect the officers of the association.*  
32 *Unless the governing documents provide otherwise, the officers of the association*  
33 *are not required to be units' owners.* The members of the executive board and the  
34 officers of the association shall take office upon election.

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

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

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

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

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

1           5. Each person whose name is placed on the ballot as a candidate for a  
2 member of the executive board must:

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

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

11          ↳ The candidate must make all disclosures required pursuant to this subsection in  
12 writing to the association with his candidacy information. The association shall  
13 distribute the disclosures to each member of the association with the ballot in the  
14 manner established in the bylaws of the association.

15          6. Unless a person is appointed by the declarant:

16           (a) A person may not be a member of the executive board or an officer of the  
17 association if the person, his spouse or his parent or child, by blood, marriage or  
18 adoption, performs the duties of a community manager for that association.

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

23           (1) That master association; or

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

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

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

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

38          8. The election of any member of the executive board must be conducted by  
39 secret written ballot unless the declaration of the association provides that voting  
40 rights may be exercised by delegates or representatives as set forth in NRS  
41 116.31105. If the election of any member of the executive board is conducted by  
42 secret written ballot:

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

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

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

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

3 (e) The secret written ballots must be opened and counted at a meeting of the  
4 association. A quorum is not required to be present when the secret written ballots  
5 are opened and counted at the meeting.

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

11 9. *An association shall not adopt any rule or regulation that has the effect*  
12 *of prohibiting or unreasonably interfering with a candidate in his campaign for*  
13 *election as a member of the executive board, except that his campaign may be*  
14 *limited to 90 days before the date that ballots are required to be returned to the*  
15 *association. A candidate may request that the secretary or other officer specified*  
16 *in the bylaws of the association send, 30 days before the date of the election and*  
17 *at the association's expense, to the mailing address of each unit within the*  
18 *common-interest community or to any other mailing address designated in*  
19 *writing by the unit's owner a candidate informational statement. The candidate*  
20 *informational statement:*

21 (a) *Must be no longer than a single, typed page;*

22 (b) *Must not contain any defamatory, libelous or profane information; and*

23 (c) *May be sent with the secret ballot mailed pursuant to subsection 8 or in a*  
24 *separate mailing.*

25 *↪ The association and its directors, officers, employees and agents are immune*  
26 *from criminal or civil liability for any act or omission which arises out of the*  
27 *publication or disclosure of any information related to any person and which*  
28 *occurs in the course of carrying out any duties required pursuant to this*  
29 *subsection.*

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

37 **Sec. 14.** NRS 116.31036 is hereby amended to read as follows:

38 116.31036 1. Notwithstanding any provision of the declaration or bylaws to  
39 the contrary, any member of the executive board, other than a member appointed by  
40 the declarant, may be removed from the executive board, with or without cause, if  
41 at a removal election held pursuant to this section ~~the~~:

42 (a) *The number of votes cast ~~in favor of removal~~ constitutes ~~f~~*  
43 ~~—(a) At~~ *at least 35 percent of the total number of voting members of the*  
44 *association; and*

45 (b) *At least a majority of all votes cast in that removal election ~~is~~ are cast in*  
46 *favor of removal.*

47 2. The removal of any member of the executive board must be conducted by  
48 secret written ballot unless the declaration of the association provides that voting  
49 rights may be exercised by delegates or representatives as set forth in NRS  
50 116.31105. If the removal of a member of the executive board is conducted by  
51 secret written ballot:

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

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

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

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

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

18 3. If a member of an executive board is named as a respondent or sued for  
19 liability for actions undertaken in his role as a member of the board, the association  
20 shall indemnify him for his losses or claims, and undertake all costs of defense,  
21 unless it is proven that he acted with willful or wanton misfeasance or with gross  
22 negligence. After such proof, the association is no longer liable for the cost of  
23 defense, and may recover costs already expended from the member of the executive  
24 board who so acted. Members of the executive board are not personally liable to the  
25 victims of crimes occurring on the property. Punitive damages may not be  
26 recovered against ~~the~~ :

27 ~~(a) The association [ ] [ , but may be recovered from persons whose activity~~  
28 ~~gave rise to the damages.] :~~

29 (b) The members of the executive board for acts or omissions that occur in  
30 their official capacity as members of the executive board; or

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

33 4. The provisions of this section do not prohibit the Commission from taking  
34 any disciplinary action against a member of an executive board pursuant to NRS  
35 116.745 to 116.795, inclusive.

36 **Sec. 15.** NRS 116.3107 is hereby amended to read as follows:

37 116.3107 1. Except to the extent provided by the declaration, subsection 2  
38 and NRS 116.31135, the association ~~is responsible~~ *has the duty to provide* for *the*  
39 maintenance, repair and replacement of the common elements, and each unit's  
40 owner ~~is responsible~~ *has the duty to provide* for *the* maintenance, repair and  
41 replacement of his unit. Each unit's owner shall afford to the association and the  
42 other units' owners, and to their agents or employees, access through his unit  
43 reasonably necessary for those purposes. If damage is inflicted on the common  
44 elements or on any unit through which access is taken, the unit's owner responsible  
45 for the damage, or the association if it is responsible, is liable for the prompt repair  
46 thereof.

47 2. In addition to the liability that a declarant as a unit's owner has under this  
48 chapter, the declarant alone is liable for all expenses in connection with real estate  
49 subject to developmental rights. No other unit's owner and no other portion of the  
50 common-interest community is subject to a claim for payment of those expenses.  
51 Unless the declaration provides otherwise, any income or proceeds from real estate  
52 subject to developmental rights inures to the declarant.

1 3. In a planned community, if all developmental rights have expired with  
2 respect to any real estate, the declarant remains liable for all expenses of that real  
3 estate unless, upon expiration, the declaration provides that the real estate becomes  
4 common elements or units.

5 **Sec. 16.** NRS 116.3108 is hereby amended to read as follows:

6 116.3108 1. A meeting of the units' owners must be held at least once each  
7 year. If the governing documents do not designate an annual meeting date of the  
8 units' owners, a meeting of the units' owners must be held 1 year after the date of  
9 the last meeting of the units' owners. If the units' owners have not held a meeting  
10 for 1 year, a meeting of the units' owners must be held on the following March 1.

11 2. Special meetings of the units' owners may be called by the president, by a  
12 majority of the executive board or by units' owners constituting at least 10 percent,  
13 or any lower percentage specified in the bylaws, of the total number of voting  
14 members of the association. The same number of units' owners may also call a  
15 removal election pursuant to NRS 116.31036. To call a special meeting or a  
16 removal election, the units' owners must submit a written petition which is signed  
17 by the required percentage of the total number of voting members of the association  
18 pursuant to this section and which is mailed, return receipt requested, or served by a  
19 process server to the executive board or the community manager for the  
20 association. If the petition calls for a special meeting, the executive board shall set  
21 the date for the special meeting so that the special meeting is held not less than 15  
22 days or more than 60 days after the date on which the petition is received. If the  
23 petition calls for a removal election and:

24 (a) The voting rights of the units' owners will be exercised by delegates or  
25 representatives as set forth in NRS 116.31105, the executive board shall set the date  
26 for the removal election so that the removal election is held not less than 15 days or  
27 more than 60 days after the date on which the petition is received; or

28 (b) The voting rights of the units' owners will be exercised through the use of  
29 secret written ballots pursuant to NRS 116.31036, the secret written ballots for the  
30 removal election must be sent in the manner required by NRS 116.31036 not less  
31 than 15 days or more than 60 days after the date on which the petition is received,  
32 and the executive board shall set the date for the meeting to open and count the  
33 secret written ballots so that the meeting is held not more than 15 days after the  
34 deadline for returning the secret written ballots.

35 *↳ The association shall not adopt any rule or regulation which prevents or*  
36 *unreasonably interferes with the collection of the required percentage of*  
37 *signatures for a petition pursuant to this subsection.*

38 3. Not less than 15 days or more than 60 days in advance of any meeting of  
39 the units' owners, the secretary or other officer specified in the bylaws shall cause  
40 notice of the meeting to be hand-delivered, sent prepaid by United States mail to  
41 the mailing address of each unit or to any other mailing address designated in  
42 writing by the unit's owner or, if the association offers to send notice by electronic  
43 mail, sent by electronic mail at the request of the unit's owner to an electronic mail  
44 address designated in writing by the unit's owner. The notice of the meeting must  
45 state the time and place of the meeting and include a copy of the agenda for the  
46 meeting. The notice must include notification of the right of a unit's owner to:

47 (a) Have a copy of the minutes or a summary of the minutes of the meeting  
48 provided to the unit's owner upon request and, if required by the executive board,  
49 upon payment to the association of the cost of providing the copy to the unit's  
50 owner.

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

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

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

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

11 (c) A period devoted to comments by units' owners and discussion of those  
12 comments. Except in emergencies, no action may be taken upon a matter raised  
13 under this item of the agenda until the matter itself has been specifically included  
14 on an agenda as an item upon which action may be taken pursuant to paragraph (b).

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

21 6. The secretary or other officer specified in the bylaws shall cause minutes to  
22 be recorded or otherwise taken at each meeting of the units' owners. Not more than  
23 30 days after each such meeting, the secretary or other officer specified in the  
24 bylaws shall cause the minutes or a summary of the minutes of the meeting to be  
25 made available to the units' owners. A copy of the minutes or a summary of the  
26 minutes must be provided to any unit's owner upon request and, if required by the  
27 executive board, upon payment to the association of the cost of providing the copy  
28 to the unit's owner.

29 7. Except as otherwise provided in subsection 8, the minutes of each meeting  
30 of the units' owners must include:

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

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

34 (c) The substance of remarks made by any unit's owner at the meeting if he  
35 requests that the minutes reflect his remarks or, if he has prepared written remarks,  
36 a copy of his prepared remarks if he submits a copy for inclusion.

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

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

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

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

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

52 (a) Could not have been reasonably foreseen;



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

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

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

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

7 116.31083 1. A meeting of the executive board must be held at least once  
8 every 90 days.

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

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

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

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

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

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

34 (a) Have a copy of the *audio recording, the minutes or a summary of the*  
35 *minutes of the meeting provided to the unit's owner upon request and, if required*  
36 *by the executive board, upon payment to the association of the cost of providing the*  
37 *copy to the unit's owner.*

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

40 5. The agenda of the meeting of the executive board must comply with the  
41 provisions of subsection 4 of NRS 116.3108. ~~The~~ A period required to be devoted  
42 to comments by the units' owners and discussion of those comments must be  
43 scheduled for *both the beginning and the end* of each meeting. *During the period*  
44 *devoted to comments by the units' owners and discussion of those comments at*  
45 *the beginning of each meeting, comments by the units' owners and discussion of*  
46 *those comments must be limited to items listed on the agenda.* In an emergency,  
47 the executive board may take action on an item which is not listed on the agenda as  
48 an item on which action may be taken.

49 6. At least once every 90 days, unless the declaration or bylaws of the  
50 association impose more stringent standards, the executive board shall review, at a  
51 minimum, the following financial information at one of its meetings:

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

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

9 7. The secretary or other officer specified in the bylaws shall cause *each*

10 *meeting of the executive board to be audio recorded and the* minutes to be

11 recorded or otherwise taken at each meeting of the executive board ~~{ }~~, *but if the*

12 *executive board is meeting in executive session, the meeting must not be audio*

13 *recorded.* Not more than 30 days after each such meeting, the secretary or other

14 officer specified in the bylaws shall cause the *audio recording of the meeting, the*

15 *minutes* ~~{of} of the meeting and~~ a summary of the minutes of the ~~{meetings}~~

16 *meeting* to be made available to the units' owners. A copy of the *audio recording,*

17 *the* minutes or a summary of the minutes must be provided to any unit's owner

18 upon request and, if required by the executive board, upon payment to the

19 association of the cost of providing the copy to the unit's owner.

20 8. Except as otherwise provided in subsection 9 and NRS 116.31085, the

21 minutes of each meeting of the executive board must include:

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

32 9. The executive board may establish reasonable limitations on materials,

33 remarks or other information to be included in the minutes of its meetings.

34 10. The association shall maintain the minutes of each meeting of the

35 executive board until the common-interest community is terminated.

36 11. A unit's owner may record on audiotape or any other means of sound

37 reproduction a meeting of the executive board, unless the executive board is

38 meeting in executive session, if the unit's owner, before recording the meeting,

39 provides notice of his intent to record the meeting to the members of the executive

40 board and the other units' owners who are in attendance at the meeting.

41 12. As used in this section, "emergency" means any occurrence or

42 combination of occurrences that:

- 43 (a) Could not have been reasonably foreseen;
- 44 (b) Affects the health, welfare and safety of the units' owners or residents of
- 45 the common-interest community;
- 46 (c) Requires the immediate attention of, and possible action by, the executive
- 47 board; and
- 48 (d) Makes it impracticable to comply with the provisions of subsection 2 or 5.

49 **Sec. 18.** NRS 116.31085 is hereby amended to read as follows:

50 116.31085 1. Except as otherwise provided in this section, a unit's owner

51 may attend any meeting of the units' owners or of the executive board and speak at

1 any such meeting. The executive board may establish reasonable limitations on the  
2 time a unit's owner may speak at such a meeting.

3 2. An executive board may not meet in executive session to enter into, renew,  
4 modify, terminate or take any other action regarding a contract . ~~[, unless it is a~~  
5 ~~contract between the association and an attorney.]~~

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

7 (a) Consult with the attorney for the association on matters relating to proposed  
8 or pending litigation if the contents of the discussion would otherwise be governed  
9 by the privilege set forth in NRS 49.035 to 49.115, inclusive . ~~[, or to enter into,~~  
10 ~~renew, modify, terminate or take any other action regarding a contract between the~~  
11 ~~association and the attorney.]~~

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

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

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

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

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

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

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

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

38 6. Except as otherwise provided in this subsection, any matter discussed by  
39 the executive board when it meets in executive session must be generally noted in  
40 the minutes of the meeting of the executive board. The executive board shall  
41 maintain minutes of any decision made pursuant to subsection 4 concerning an  
42 alleged violation and, upon request, provide a copy of the decision to the person  
43 who was subject to being sanctioned at the hearing or to his designated  
44 representative.

45 ~~[6.]~~ 7. Except as otherwise provided in subsection 4, a unit's owner is not  
46 entitled to attend or speak at a meeting of the executive board held in executive  
47 session.

48 **Sec. 19.** NRS 116.31087 is hereby amended to read as follows:

49 116.31087 1. If an executive board receives a written complaint from a  
50 unit's owner alleging that the executive board has violated any provision of this  
51 chapter or any provision of the governing documents of the association, the  
52 executive board shall ~~[, if action is required by the executive board,]~~ , *upon the*

1 *written request of the unit's owner*, place the subject of the complaint on the  
2 agenda of the next regularly scheduled meeting of the executive board.

3 2. Not later than 10 business days after the date that the association receives  
4 such a complaint, the executive board or an authorized representative of the  
5 association shall acknowledge the receipt of the complaint and notify the unit's  
6 owner that, if ~~action is required by the executive board,~~ *the unit's owner submits*  
7 *a written request that the subject of the complaint be placed on the agenda of the*  
8 *next regularly scheduled meeting of the executive board*, the subject of the  
9 complaint will be placed on the agenda of the next regularly scheduled meeting of  
10 the executive board.

11 **Sec. 20.** (Deleted by amendment.)

12 **Sec. 21.** NRS 116.3115 is hereby amended to read as follows:

13 116.3115 1. Until the association makes an assessment for common  
14 expenses, the declarant shall pay all common expenses. After an assessment has  
15 been made by the association, assessments must be made at least annually, based on  
16 a budget adopted at least annually by the association in accordance with the  
17 requirements set forth in NRS 116.31151. Unless the declaration imposes more  
18 stringent standards, the budget must include a budget for the daily operation of the  
19 association and a budget for the reserves required by paragraph (b) of subsection 2.

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

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

24 (b) The association shall establish adequate reserves, funded on a reasonable  
25 basis, for the repair, replacement and restoration of the major components of the  
26 common elements. The reserves may be used only for those purposes, including,  
27 without limitation, repairing, replacing and restoring roofs, roads and sidewalks,  
28 and must not be used for daily maintenance. The association may comply with the  
29 provisions of this paragraph through a funding plan that is designed to allocate  
30 the costs for the repair, replacement and restoration of the major components of the  
31 common elements over a period of years if the funding plan is designed in an  
32 actuarially sound manner which will ensure that sufficient money is available when  
33 the repair, replacement and restoration of the major components of the common  
34 elements are necessary. *Notwithstanding any provision of the governing*  
35 *documents to the contrary, to establish adequate reserves pursuant to this*  
36 *paragraph, including, without limitation, to establish or carry out a funding plan,*  
37 *the executive board may, without seeking or obtaining the approval of the units'*  
38 *owners, impose any necessary and reasonable assessments against the units in*  
39 *the common-interest community. Any such assessments imposed by the executive*  
40 *board must be based on the study of the reserves of the association conducted*  
41 *pursuant to NRS 116.31152.*

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

44 4. To the extent required by the declaration:

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

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

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

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

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

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

9           8. If liabilities for common expenses are reallocated, assessments for common  
10 expenses and any installment thereof not yet due must be recalculated in  
11 accordance with the reallocated liabilities.

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

16           **Sec. 22.** NRS 116.31155 is hereby amended to read as follows:

17           116.31155 1. Except as otherwise provided in subsection 2, an association  
18 shall:

19           (a) If the association is required to pay the fee imposed by NRS 78.150,  
20 82.193, 86.263, 87.541, 87A.560 or 88.591, pay to the Administrator a fee  
21 established by regulation of the Administrator for every unit in the association used  
22 for residential use.

23           (b) If the association is organized as a trust or partnership, or as any other  
24 authorized business entity, pay to the Administrator a fee established by regulation  
25 of the Administrator for each unit in the association.

26           2. If an association is subject to the governing documents of a master  
27 association, the master association shall pay the fees required pursuant to this  
28 section for each unit in the association that is subject to the governing documents of  
29 the master association, unless the governing documents of the master association  
30 provide otherwise. The provisions of this subsection do not relieve any association  
31 that is subject to the governing documents of a master association from its ultimate  
32 responsibility to pay the fees required pursuant to this section to the Administrator  
33 if they are not paid by the master association.

34           3. The fees required to be paid pursuant to this section must be:

35           (a) Paid at such times as are established by the Division.

36           (b) Deposited with the State Treasurer for credit to the Account for Common-  
37 Interest Communities and Condominium Hotels created by NRS 116.630.

38           (c) Established on the basis of the actual costs of administering the Office of  
39 the Ombudsman and the Commission and not on a basis which includes any  
40 subsidy beyond those actual costs. In no event may the fees required to be paid  
41 pursuant to this section exceed \$3 per unit.

42           4. The Division shall impose an administrative penalty against an association  
43 or master association that violates the provisions of this section by failing to pay the  
44 fees owed by the association or master association within the times established by  
45 the Division. The administrative penalty that is imposed for each violation must  
46 equal 10 percent of the amount of the fees owed by the association or master  
47 association or \$500, whichever amount is less. The amount of the unpaid fees owed  
48 by the association or master association bears interest at the rate set forth in NRS  
49 99.040 from the date the fees are due until the date the fees are paid in full.

50           5. A unit's owner may not be required to pay any portion of the fees or any  
51 administrative penalties or interest required to be paid pursuant to this section to  
52 both an association and a master association.

1 6. An association that is subject to the governing documents of a master  
2 association may not be required to pay any portion of the fees or any administrative  
3 penalties or interest required to be paid pursuant to this section to the extent they  
4 have already been paid by the master association.

5 7. A master association may not be required to pay any portion of the fees or  
6 any administrative penalties or interest required to be paid pursuant to this section  
7 to the extent they have already been paid by an association that is subject to the  
8 governing documents of the master association.

9 8. Upon the payment of the fees and any administrative penalties and interest  
10 required by this section, the Administrator shall provide to the association or master  
11 association evidence that it paid the fees and the administrative penalties and  
12 interest in compliance with this section.

13 *9. Any person, association or master association which has been requested*  
14 *or required to pay any fees, administrative penalties or interest pursuant to this*  
15 *section and which believes that such fees, administrative penalties or interest has*  
16 *been imposed in error may, without exhausting any available administrative*  
17 *remedies, bring an action in a court of competent jurisdiction to recover:*

18 *(a) Any amount paid in error for any fees, administrative penalties or interest*  
19 *during the immediately preceding 3 years;*

20 *(b) Interest on the amount paid in error at the rate set forth in NRS 99.040;*  
21 *and*

22 *(c) Reasonable costs and attorney's fees.*

23 **Sec. 23.** (Deleted by amendment.)

24 **Sec. 23.5.** NRS 116.31175 is hereby amended to read as follows:

25 116.31175 1. Except as otherwise provided in this subsection, the executive  
26 board of an association shall, upon the written request of a unit's owner, make  
27 available the books, records and other papers of the association for review during  
28 the regular working hours of the association, including, without limitation, all  
29 contracts to which the association is a party and all records filed with a court  
30 relating to a civil or criminal action to which the association is a party. The  
31 provisions of this subsection do not apply to:

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

35 (b) The records of the association relating to another unit's owner, except for  
36 those records described in subsection 2. ~~1. and~~

37 ~~(c) A contract between the association and an attorney.~~

38 2. The executive board of an association shall maintain a general record  
39 concerning each violation of the governing documents, other than a violation  
40 involving a failure to pay an assessment, for which the executive board has imposed  
41 a fine, a construction penalty or any other sanction. The general record:

42 (a) Must contain a general description of the nature of the violation and the  
43 type of the sanction imposed. If the sanction imposed was a fine or construction  
44 penalty, the general record must specify the amount of the fine or construction  
45 penalty.

46 (b) Must not contain the name or address of the person against whom the  
47 sanction was imposed or any other personal information which may be used to  
48 identify the person or the location of the unit, if any, that is associated with the  
49 violation.

50 (c) Must be maintained in an organized and convenient filing system or data  
51 system that allows a unit's owner to search and review the general records  
52 concerning violations of the governing documents.

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

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

6 (b) If he is denied access to the books, records or other papers, request the  
7 Commission, or any member thereof acting on behalf of the Commission, to issue a  
8 subpoena for their production.

9 4. The books, records and other papers of an association must be maintained  
10 for at least 10 years. The provisions of this subsection do not apply to:

11 (a) The minutes of a meeting of the units' owners which must be maintained in  
12 accordance with NRS 116.3108; or

13 (b) The minutes of a meeting of the executive board which must be maintained  
14 in accordance with NRS 116.31083.

15 5. The executive board shall not require a unit's owner to pay an amount in  
16 excess of \$10 per hour to review any books, records, contracts or other papers of  
17 the association pursuant to the provisions of this section.

18 **Sec. 24.** NRS 116.31183 is hereby amended to read as follows:

19 116.31183 An executive board, a member of an executive board, *a*  
20 *community manager* or an officer, employee or agent of an association shall not  
21 take, or direct or encourage another person to take, any retaliatory action against a  
22 unit's owner because the unit's owner has:

23 1. Complained in good faith about any alleged violation of any provision of  
24 this chapter or the governing documents of the association;

25 2. *Recommended the selection or replacement of an attorney, community*  
26 *manager or vendor*; or

27 ~~2.~~ 3. Requested in good faith to review the books, records or other papers  
28 of the association.

29 **Sec. 25.** NRS 116.31187 is hereby amended to read as follows:

30 116.31187 1. Except as otherwise provided in this section, a member of an  
31 executive board or an officer of an association shall not:

32 (a) On or after October 1, 2003, enter into a contract or renew a contract with  
33 the association to provide *financing*, goods or services to the association; or

34 (b) Otherwise accept any commission, personal profit or compensation of any  
35 kind from the association for providing *financing*, goods or services to the  
36 association.

37 2. The provisions of this section do not prohibit a declarant, an affiliate of a  
38 declarant or an officer, employee or agent of a declarant or an affiliate of a  
39 declarant from:

40 (a) Receiving any commission, personal profit or compensation from the  
41 association, the declarant or an affiliate of the declarant for any *financing*, goods or  
42 services furnished to the association;

43 (b) Entering into contracts with the association, the declarant or affiliate of the  
44 declarant; or

45 (c) Serving as a member of the executive board or as an officer of the  
46 association.

47 **Sec. 26.** NRS 116.325 is hereby amended to read as follows:

48 116.325 1. The executive board shall not and the governing documents must  
49 not prohibit a unit's owner or an occupant of a unit from exhibiting ~~the~~ *political*  
50 *signs* ~~one or more political signs~~ within such physical portion of the common-  
51 interest community as that owner or occupant has a right to occupy and use  
52 exclusively ~~if the political sign is~~, *subject to the following conditions:*

1 (a) All political signs exhibited must not be larger than 24 inches by 36 inches.

2 (b) If the unit is occupied by a tenant, the unit's owner may not exhibit any  
3 political sign unless the tenant consents, in writing, to the exhibition of the  
4 political sign.

5 (c) All political signs exhibited are subject to any applicable provisions of law  
6 governing the posting of political signs.

7 (d) A unit's owner or an occupant of a unit may exhibit as many political  
8 signs as desired, but may not exhibit more than one political sign for each  
9 candidate, political party or ballot question.

10 2. The provisions of this section establish the minimum rights of a unit's  
11 owner or an occupant of a unit to exhibit ~~the~~ political ~~signs~~ signs. The provisions  
12 of this section do not preempt any provisions of the governing documents that  
13 provide greater rights and do not require the governing documents or the executive  
14 board to impose any restrictions on the exhibition of political signs other than those  
15 established by other provisions of law.

16 3. As used in this section, "political sign" means a sign that expresses support  
17 for or opposition to a candidate, political party or ballot question ~~in~~ in any federal,  
18 state or local election or any election of an association.

19 **Sec. 27.** NRS 116.330 is hereby amended to read as follows:

20 116.330 1. The executive board shall not and the governing documents must  
21 not prohibit a unit's owner from installing or maintaining drought tolerant  
22 landscaping within such physical portion of the common-interest community as that  
23 owner has a right to occupy and use exclusively, including, without limitation, the  
24 front yard or back yard of the unit's owner, except that:

25 (a) Before installing drought tolerant landscaping, the unit's owner must  
26 submit a detailed description or plans for the drought tolerant landscaping for  
27 architectural review and approval in accordance with the procedures, if any, set  
28 forth in the governing documents of the association; and

29 (b) The drought tolerant landscaping must be selected or designed to the  
30 maximum extent practicable to be compatible with the style of the common-interest  
31 community.

32 *↪ The provisions of this subsection must be construed liberally in favor of*  
33 *effectuating the purpose of encouraging the use of drought tolerant landscaping,*  
34 *and the executive board shall not and the governing documents must not*  
35 *unreasonably deny or withhold approval for the installation of drought tolerant*  
36 *landscaping or unreasonably determine that the drought tolerant landscaping is*  
37 *not compatible with the style of the common-interest community.*

38 2. Installation of drought tolerant landscaping within any common element or  
39 conversion of traditional landscaping or cultivated vegetation, such as turf grass, to  
40 drought tolerant landscaping within any common element shall not be deemed to be  
41 a change of use of the common element unless:

42 (a) The common element has been designated as a park, open play space or  
43 golf course on a recorded plat map; or

44 (b) The traditional landscaping or cultivated vegetation is required by a  
45 governing body under the terms of any applicable zoning ordinance, permit or  
46 approval or as a condition of approval of any final subdivision map.

47 3. As used in this section, "drought tolerant landscaping" means landscaping  
48 which conserves water, protects the environment and is adaptable to local  
49 conditions. *The term includes, without limitation, the use of mulches such as*  
50 *decorative rock and artificial turf.*



1       **Sec. 28.** NRS 116.345 is hereby amended to read as follows:

2       116.345 1. An association of a planned community may not restrict,  
3 prohibit or otherwise impede the lawful residential use of any property that is  
4 within or encompassed by the boundaries of the planned community and that is not  
5 designated as part of the planned community.

6       2. Except as otherwise provided in this subsection, an association may not  
7 restrict the access of a person to any of his property. An association may restrict  
8 access to and from a unit within a planned community if the right to restrict such  
9 access was included in the declaration or in a separate recorded instrument at the  
10 time that the owner of the unit acquired title to the unit. The provisions of this  
11 subsection do not prohibit an association from charging the owner of the property a  
12 reasonable and nondiscriminatory fee to operate or maintain a gate or other similar  
13 device designed to control access to the planned community that would otherwise  
14 impede ingress or egress to the property.

15       3. An association may not expand, construct or situate a building or structure  
16 that is not part of any plat or plan of the planned community if the expansion,  
17 construction or situation of the building or structure was not previously disclosed to  
18 the units' owners of the planned community unless the association obtains the  
19 written consent of a majority of the units' owners and residents of the planned  
20 community who own property or reside within 500 feet of the proposed location of  
21 the building or structure.

22       4. *An association may not interrupt any utility service furnished to a unit's*  
23 *owner or a tenant of a unit's owner except for the nonpayment of utility charges*  
24 *when due. The interruption of any utility service pursuant to this subsection must*  
25 *be performed in a manner which is consistent with all laws, regulations and*  
26 *governing documents relating to the interruption of any utility service. An*  
27 *association shall in every case send a written notice of its intent to interrupt any*  
28 *utility service to the unit's owner or the tenant of the unit's owner at least 10 days*  
29 *before the association interrupts any utility service.*

30       5. The provisions of this section do not abrogate any easement, restrictive  
31 covenant, decision of a court, agreement of a party or any contract, governing  
32 document or declaration of covenants, conditions and restrictions, or any other  
33 decision, rule or regulation that a local governing body or other entity that makes  
34 decisions concerning land use or planning is authorized to make or enact that exists  
35 before October 1, 1999, including, without limitation, a zoning ordinance, permit or  
36 approval process or any other requirement of a local government or other entity that  
37 makes decisions concerning land use or planning.

38       **Sec. 29.** NRS 116.4117 is hereby amended to read as follows:

39       116.4117 1. ~~It~~ *Subject to the requirements set forth in subsection 2, if a*  
40 *declarant, community manager or any other person subject to this chapter fails to*  
41 *comply with any of its provisions or any provision of the declaration or bylaws, any*  
42 *person or class of persons suffering actual damages from the failure to comply ~~has~~*  
43 *~~a claim~~ may bring a civil action for damages or other* appropriate relief.

44       2. Subject to the requirements set forth in NRS 38.310 and except as  
45 otherwise provided in NRS 116.3111, a civil action for damages ~~caused by~~ *or*  
46 *other appropriate relief for a failure or refusal to comply with any provision of this*  
47 *chapter or the governing documents of an association may be brought:*

48       (a) By the association against:

49           (1) A declarant; ~~or~~

50           (2) *A community manager; or*

51           (3) A unit's owner.

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

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

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

6 3. ~~Punitive~~ ***Except as otherwise provided in NRS 116.31036, punitive***  
7 damages may be awarded for a willful and material failure to comply with ***any***  
8 ***provision of*** this chapter if the failure is established by clear and convincing  
9 evidence.

10 4. The court may award reasonable attorney's fees to the prevailing party.

11 5. The civil remedy provided by this section is in addition to, and not  
12 exclusive of, any other available remedy or penalty.

13 **Sec. 30.** NRS 116.600 is hereby amended to read as follows:

14 116.600 1. The Commission for Common-Interest Communities and  
15 Condominium Hotels is hereby created.

16 2. The Commission consists of ~~five~~ ***seven*** members appointed by the  
17 Governor. The Governor shall appoint to the Commission:

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

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

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

24 ~~(e)~~ (d) One member who holds a certificate;

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

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

28 3. Each member of the Commission must be a resident of this State. At least  
29 ~~three~~ ***four*** members of the Commission must be residents of a county whose  
30 population is 400,000 or more.

31 4. Each member of the Commission must have resided in a common-interest  
32 community or have been actively engaged in a business or profession related to  
33 common-interest communities for not less than 3 years immediately preceding the  
34 date of his appointment.

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

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

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

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

46 **Sec. 31.** NRS 116.605 is hereby amended to read as follows:

47 116.605 1. The Division shall ***employ one or more training officers who***  
48 ***are qualified by training and experience to*** provide ~~for arrange to have provided~~  
49 to each member of the Commission courses of instruction concerning rules of  
50 procedure and substantive law appropriate for members of the Commission. ***Such***  
51 ***courses of instruction may be made available to the staff of the Division as well***  
52 ***as to community managers.***

1           2. *The training officer shall:*

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

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

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

8           **Sec. 32.** NRS 116.675 is hereby amended to read as follows:

9           116.675 1. The Commission may appoint one or more hearing panels. Each  
10 hearing panel must consist of one or more independent hearing officers. *An*  
11 *independent hearing officer may be, without limitation, a member of the*  
12 *Commission or an employee of the Commission.*

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

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

20           4. A final order of a hearing panel:

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

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

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

29           116.757 1. Except as otherwise provided in this section and NRS 239.0115,  
30 a written affidavit filed with the Division pursuant to NRS 116.760, all documents  
31 and other information filed with the written affidavit and all documents and other  
32 information compiled as a result of an investigation conducted to determine  
33 whether to file a formal complaint with the Commission are confidential. *The*  
34 *Division shall not disclose any information that is confidential pursuant to this*  
35 *subsection, in whole or in part, to any person, including, without limitation, a*  
36 *person who is the subject of an investigation or complaint, unless and until a*  
37 *formal complaint is filed pursuant to subsection 2 and the disclosure is required*  
38 *pursuant to subsection 2.*

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

43           **Sec. 34.** (Deleted by amendment.)

44           **Sec. 35.** (Deleted by amendment.)

45           **Sec. 36.** NRS 116.790 is hereby amended to read as follows:

46           116.790 1. If the Commission or a hearing panel, after notice and hearing,  
47 finds that the executive board or any person acting on behalf of the association has  
48 committed a violation, the Commission or the hearing panel may take any or all of  
49 the following actions:

50           (a) Order an audit of the association  $\text{H}$ , *at the expense of the association.*

51           (b) Require the executive board to hire a community manager who holds a  
52 certificate.

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

5           (a) The executive board, or any member thereof, has been guilty of fraud or  
6 collusion or gross mismanagement in the conduct or control of its affairs;

7           (b) The executive board, or any member thereof, has been guilty of  
8 misfeasance, malfeasance or nonfeasance; or

9           (c) The assets of the association are in danger of waste or loss through  
10 attachment, foreclosure, litigation or otherwise.

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

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

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

23           6. Any receiver appointed pursuant to this section has, among the usual  
24 powers, all the functions, powers, tenure and duties to be exercised under the  
25 direction of the court as are conferred on receivers and as provided in NRS 78.635,  
26 78.640 and 78.645, whether or not the association is insolvent. Such powers  
27 include, without limitation, the powers to:

28           (a) Take charge of the estate and effects of the association;

29           (b) Appoint an agent or agents;

30           (c) Collect any debts and property due and belonging to the association and  
31 prosecute and defend, in the name of the association, or otherwise, any civil action  
32 as may be necessary or proper for the purposes of collecting debts and property;

33           (d) Perform any other act in accordance with the governing documents of the  
34 association and this chapter that may be necessary for the association to carry out  
35 its obligations; and

36           (e) By injunction, restrain the association from exercising any of its powers or  
37 doing business in any way except by and through a receiver appointed by the court.

38           **Sec. 37.** NRS 116A.270 is hereby amended to read as follows:

39           116A.270 1. Except as otherwise provided in this section and NRS  
40 239.0115, a complaint filed with the Division alleging a violation of this chapter or  
41 chapter 116 or 116B of NRS, all documents and other information filed with the  
42 complaint and all documents and other information compiled as a result of an  
43 investigation conducted to determine whether to initiate disciplinary action are  
44 confidential. ~~[and may be disclosed]~~

45           **2. *The Division shall not disclose any information that is confidential***  
46 ***pursuant to subsection 1, in whole or in part ~~[only]~~, to any person, including,***  
47 ***without limitation, a person who is the subject of an investigation or complaint,***  
48 ***unless and until a formal complaint is filed pursuant to subsection 3 and the***  
49 ***disclosure is required pursuant to subsection 3, except that the Division may***  
50 ***disclose the information described in subsection 1*** as necessary in the course of  
51 administering this chapter or to a licensing board or agency or any other  
52 governmental agency, including, without limitation, a law enforcement agency, that

1 is investigating a person who holds a certificate or permit issued pursuant to this  
2 chapter.

3 ~~2.~~ 3. The *formal* complaint or other charging documents filed *by the*  
4 *Administrator* with the Commission to initiate disciplinary action and all  
5 documents and other information considered by the Commission or a hearing panel  
6 when determining whether to impose discipline are public records.

7 **Sec. 38.** NRS 116A.300 is hereby amended to read as follows:

8 116A.300 1. The Commission may appoint one or more hearing panels.  
9 Each hearing panel must consist of one or more independent hearing officers. *An*  
10 *independent hearing officer may be, without limitation, a member of the*  
11 *Commission or an employee of the Commission.*

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

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

19 4. A final order of a hearing panel:

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

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

27 **Sec. 39.** NRS 116A.410 is hereby amended to read as follows:

28 116A.410 1. The Commission shall by regulation provide for the issuance  
29 by the Division of certificates. The regulations:

30 (a) Must establish the qualifications for the issuance of such a certificate,  
31 including, without limitation, the education and experience required to obtain such  
32 a certificate. *The regulations must include, without limitation, provisions that:*

33 *(1) Provide for the issuance of a temporary certificate for a 1-year period*  
34 *to a person who:*

35 *(I) Holds a professional designation in the field of management of a*  
36 *common-interest community from a nationally recognized organization;*

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

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

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

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

45 *(II) Has management experience determined to be sufficient by the*  
46 *executive board of the association or its agent making the offer in sub-*  
47 *subparagraph (1). The executive board or its agent must have sole discretion to*  
48 *make the determination required in this sub-subparagraph.*

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

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

5 (5) Provide for the issuance of a certificate at the conclusion of the  
6 1-year period if the person:

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

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

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

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

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

19 (b) Must require an applicant or the employer of the applicant to post a bond  
20 in a form and in an amount established by regulation. The Commission shall, by  
21 regulation, adopt a sliding scale for the amount of the bond that is based upon  
22 the amount of money that applicants are expected to control. In adopting the  
23 regulations establishing the form and sliding scale for the amount of a bond  
24 required to be posted pursuant to this paragraph, the Commission shall consider  
25 the availability and cost of such bonds.

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

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

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

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

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

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

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

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

**Sec. 40.** NRS 38.330 is hereby amended to read as follows:

38.330 1. If all parties named in a written claim filed pursuant to NRS 38.320 agree to have the claim submitted for mediation, the parties shall reduce the agreement to writing and shall select a mediator from the list of mediators maintained by the Division pursuant to NRS 38.340. Any mediator selected must be available within the geographic area. If the parties fail to agree upon a mediator, the Division shall appoint a mediator from the list of mediators maintained by the Division. Any mediator appointed must be available within the geographic area. Unless otherwise provided by an agreement of the parties, mediation must be completed within 60 days after the parties agree to mediation. Any agreement obtained through mediation conducted pursuant to this section must, within 20 days after the conclusion of mediation, be reduced to writing by the mediator and a copy thereof provided to each party. The agreement may be enforced as any other written agreement. Except as otherwise provided in this section, the parties are responsible for all costs of mediation conducted pursuant to this section.

2. If all the parties named in the claim do not agree to mediation, the parties shall select an arbitrator from the list of arbitrators maintained by the Division pursuant to NRS 38.340. Any arbitrator selected must be available within the geographic area. If the parties fail to agree upon an arbitrator, the Division shall appoint an arbitrator from the list maintained by the Division. Any arbitrator appointed must be available within the geographic area. Upon appointing an arbitrator, the Division shall provide the name of the arbitrator to each party. *An arbitrator shall, not later than 5 days after his selection or appointment pursuant to this subsection, provide to the parties an informational statement relating to the arbitration of a claim pursuant to this section. The written informational statement:*

*(a) Must be written in plain English;*

*(b) Must explain the procedures and applicable law relating to the arbitration of a claim conducted pursuant to this section, including, without limitation, the procedures, timelines and applicable law relating to confirmation of an award pursuant to NRS 38.239, vacation of an award pursuant to NRS 38.241, judgment on an award pursuant to NRS 38.243, and any applicable statute or court rule governing the award of attorney's fees or costs to any party; and*

*(c) Must be accompanied by a separate form acknowledging that the party has received and read the informational statement, which must be returned to the arbitrator by the party not later than 10 days after receipt of the informational statement.*

3. The Division may provide for the payment of the fees for a mediator or an arbitrator selected or appointed pursuant to this section from the Account for Common-Interest Communities and Condominium Hotels created by NRS 116.630, to the extent that:

(a) The Commission for Common-Interest Communities and Condominium Hotels approves the payment; and

(b) There is money available in the account for this purpose.

4. Except as otherwise provided in this section and except where inconsistent with the provisions of NRS 38.300 to 38.360, inclusive, the arbitration of a claim pursuant to this section must be conducted in accordance with the provisions of NRS 38.231, 38.232, 38.233, 38.236 to 38.239, inclusive, 38.242 and 38.243. At any time during the arbitration of a claim relating to the interpretation, application

1 or enforcement of any covenants, conditions or restrictions applicable to residential  
2 property or any bylaws, rules or regulations adopted by an association, the  
3 arbitrator may issue an order prohibiting the action upon which the claim is based.  
4 An award must be made within 30 days after the conclusion of arbitration, unless a  
5 shorter period is agreed upon by the parties to the arbitration.

6 5. If all the parties have agreed to nonbinding arbitration, any party to the  
7 **nonbinding** arbitration may, within 30 days after a decision and award have been  
8 served upon the parties, commence a civil action in the proper court concerning the  
9 claim which was submitted for arbitration. Any complaint filed in such an action  
10 must contain a sworn statement indicating that the issues addressed in the complaint  
11 have been arbitrated pursuant to the provisions of NRS 38.300 to 38.360, inclusive.  
12 If such an action is not commenced within that period, any party to the arbitration  
13 may, within 1 year after the service of the award, apply to the proper court for a  
14 confirmation of the award pursuant to NRS 38.239.

15 6. If all the parties agree in writing to binding arbitration, the arbitration must  
16 be conducted in accordance with the provisions of this chapter. An award procured  
17 pursuant to such **binding** arbitration may be vacated and a rehearing granted upon  
18 application of a party pursuant to the provisions of NRS 38.241.

19 7. If, after the conclusion of **binding** arbitration, a party:

20 (a) Applies to have an award vacated and a rehearing granted pursuant to NRS  
21 38.241; or

22 (b) Commences a civil action based upon any claim which was the subject of  
23 arbitration,

24 ↪ the party shall, if he fails to obtain a more favorable award or judgment than that  
25 which was obtained in the initial **binding** arbitration, pay all costs and reasonable  
26 attorney's fees incurred by the opposing party after the application for a rehearing  
27 was made or after the complaint in the civil action was filed.

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

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

34 **Sec. 41.** The Governor shall appoint to the Commission for Common-Interest  
35 Communities and Condominium Hotels pursuant to NRS 116.600, as amended by  
36 section 30 of this act:

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

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

41 **Sec. 42.** The manual described in subsection 2 of NRS 116.605, as amended  
42 by section 31 of this act, must be prepared and made available by October 1, 2010.

43 **Sec. 43. 1. This section becomes effective upon passage and approval.**

44 **2. Section 39 of this act becomes effective:**

45 **(a) Upon passage and approval for the purpose of adopting regulations**  
46 **and performing any other preparatory administrative tasks that are necessary**  
47 **to carry out the provisions of this act; and**

48 **(b) On January 1, 2010, for all other purposes.**

49 **3. Sections 1 to 38, inclusive, 40, 41 and 42 of this act become effective on**  
50 **October 1, 2009.**