

**NOTICE OF WORKSHOP TO SOLICIT COMMENTS ON
PROPOSED REGULATIONS OF THE COMMISSION FOR COMMON-
INTEREST COMMUNITIES AND CONDOMINIUM HOTELS
LCB File No. R115-15**

The Nevada Commission for Common-Interest Communities and Condominium Hotels (the "Commission") will hold a public hearing at 9:00 a.m. on Tuesday, November 17, 2015, at the Nevada State Gaming Control Board 1919 College Parkway Carson City, Nevada 89706. The meeting will be video-conferenced to the Nevada State Gaming Control Board, 555 E. Washington Avenue, Hearing Room 2450 Las Vegas, Nevada 89101. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of regulations that pertain to chapters 116 and 116A of the Nevada Administrative Code.

The following general topics may be addressed in the proposed regulations, including, but not limited to:

- A REGULATION relating to common-interest communities and community managers;
- Increasing amount of the annual fee that an association is required to pay from \$3.00 to \$4.25;
- Increasing the application fee for a community manager certificate from \$200 to \$300 and the application fee for a temporary community manager certificate from \$100 to \$200;
- Allowing the provisions of a management agreement to apply month to month not to exceed three months; and
- Providing other matters properly relating thereto.

A copy of all materials relating to the proposed regulations may be obtained on the Real Estate Division's website at www.red.nv.gov, at the workshop or by contacting Teralyn Thompson at:

State of Nevada Real Estate Division
2501 E. Sahara Avenue, Ste. 303
Las Vegas, NV 89104-4137
(702) 486-4036
tlthompson@red.nv.gov

LCB File No. R115-15 Workshop Document can be viewed at the link below:

<https://www.lcg.state.nv.us/Register/2015Register/R115-15I.pdf>

THIS NOTICE HAS BEEN POSTED NO LATER THAN 15 DAYS BEFORE THE WORKSHOP AT THE FOLLOWING LOCATIONS:

**Carson City Assessor
201 N. Carson Street, Suite 6
Carson City, NV. 89701**

**Churchill County Assessor
155 N. Taylor Street, Suite 200
Fallon, NV. 89406**

**Clark County Assessor
500 S. Grand Central Pkwy, 2nd Floor
Las Vegas, NV. 89155**

**Douglas County Assessor
1616 8th Street
P.O. Box 218
Minden, NV. 89423**

**Elko County Assessor
571 Idaho Street, Suite 101
Elko, NV. 89801**

**Humboldt County Assessor
50 W. 5th Street
Winnemucca, NV. 89445**

**Lander County Assessor
315 S. Humboldt Street
Battle Mountain, NV. 89820**

**Lyon County Assessor
27 S. Main Street
Yerington, NV. 89447**

**Mineral County Assessor
105 S. A Street #3
Hawthorne, NV. 89415**

**Nye County Assessor
101 Radar Rd. PO Box 271
Tonopah, NV. 89049**

**Pershing County Assessor
400 Main Street
Lovelock, NV. 89419**

**Washoe County Assessor
1001 E. 9th Street
Reno, NV. 89512**

**White Pine County Assessor
297 11th Street East, Suite 3
Ely, NV. 89301**

**Reno-Carson-Tahoe Chapter Appraisal
Institute
PO Box 711
Zephyr Cove, NV. 89448**

**Department of Business and Industry
2501 E. Sahara Ave.
Las Vegas, NV 89104
www.red.nv.gov**

SMALL BUSINESS IMPACT STATEMENT
LCB FILE NO. R115-15

LCB File No. R115-15 Small Business Impact Statement pursuant to NRS 233B.0608:

(a) A description of the manner in which comment was solicited from affected small business, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.

The Commission for Common-Interest Communities and Condominium Hotels (Commission) discussed an agenda item regarding possible changes to regulations at the September 2015 meeting. The Commission decided to move forward with the proposed language.

The agenda was posted on the Real Estate Division (Division) website, State Public Notice website, and sent to several real estate and community manager associations within the State.

Interested persons may obtain a copy of the small business impact statement or submit statements of impact to:

Teralyn Thompson, Administration Section Manager
Nevada Real Estate Division
2501 East Sahara Avenue, Suite 303
Las Vegas, NV 89104
tthompson@red.nv.gov
702-486-4036

(b) The manner in which the small business analysis was conducted for LCB File No. R115-15.

The Division will post the proposed regulation on the Division's website and distributed through the Division's posting list which includes industry associations and members who might be interested.

(c) The estimated economic effect of the proposed regulation on the small businesses which it is to regulate, including, without limitation:

(1) Both adverse and beneficial effects:

(I) Adverse effects:

Proposed changes to NAC 116A.515 will increase existing regulatory fees for

licensees.

(II) Beneficial effects:

Proposed changes to NAC 116A.515 to increase licensing application fees was supported by the community management industry to ensure that Division could complete its Ombudsman section functions which provide for dispute resolutions which benefits homeowners and community managers.

The proposed change to NAC 116A.325 which limits month to month contracts not to exceed three months ensures that community managers are able to function within the law through appropriate homeowner association board oversight.

(2) Both direct and indirect effects.

(I) Direct effect:

Proposed changes to NAC 116A.325 would directly affect community managers who are currently on a month to month contract with associations that they manage.

(II) Indirect effect:

No indirect effect to small businesses

(d) A description of the methods that the Real Estate Division considered to reduce the impact of LCB File No. R115-15 on small businesses and a statement whether the Real Estate Division actually used any part of those methods.

The Division has not considered a method to reduce the impact of LCB File No. R115-15 on small businesses at this time.

(e) The estimated cost to the agency for enforcement of the proposed regulation.

There is no cost to the agency for enforcement of the proposed regulation.

(f) If LCB File No. R115-15 provides a new fee or increases an existing fee, the total annual amount the Real Estate Division expects to collect and the manner in which the money will be used.

Proposed change to NAC 116.445 to increase the annual fee from \$3.00 to \$4.25 would result in collecting \$628,260.00 in FY17 and the proposed changes to NAC 116A515 to increase the application fees for a community manager certificate and a temporary certificate will result in collecting an estimated \$34,200.00.

Existing fees fund the Ombudsman's Office budget account through the use of reserve funds. The increase in fees will stabilize the depletion of the reserve fund and provide

adequate operating expenses.

(g) If LCB File No. R115-15 includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.

LCB File No. R115-15 does not duplicate any existing federal, state or local standards regulating the same activity.

(h) The reasons for the conclusions of the Real Estate Division regarding the impact of LCB File No. R115-15 on small businesses.

Staff from the Division has attended the public meeting of the Commission, listened to and observed discussions and public comments. There have not been any comments from small businesses regarding the change to regulation

I certify that, to the best of my knowledge or belief, the information contained in the Small Business Impact Statement for LCB File No. R115-15 was prepared properly and is accurate.

Joseph (JD) Decker, Administrator
Department of Business & Industry
Real Estate Division

NRS 233B.0608(3) Statement

- 1. Identify the methods used by the agency in determining the impact of the proposed regulation on a small business.**

The proposed regulation does not have an impact on small businesses.

- 2. Identify the reasons for the conclusions of the agency concerning the impact of the proposed regulation on a small business.**

Staff from the Division has attended the public meeting of the Commission, listened to and observed discussions and public comments. There have not been any comments from small businesses regarding the change to regulation

I certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in this statement is accurate. (NRS 233B.0608(3))

Joseph (JD) Decker, Administrator
Department of Business & Industry
Real Estate Division

PROPOSED REGULATION OF THE COMMISSION FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM HOTELS

LCB File No. R115-15

NAC 116.445 Annual fee required from certain associations for deposit in Account for Common-Interest Communities and Condominium Hotels. (NRS 116.31155) The amount of the fee that an association is required to pay pursuant to NRS 116.31155 is \$ ~~3~~ **4.25** for each unit in the association.

Reason for the change: Assembly Bill 474 from the 2015 Legislative Session amended NRS 116.3115(3)(c) changing the amount of the unit fee from not to exceed \$3 to not to exceed \$5. This change is not effective until July 1, 2016. The \$4.25 increase has already been placed in the Division’s approved budget during 2015 Legislative Session.

NAC 116A.515 Fees of Division. (NRS 116.615, 116.665, 116A.200, 116A.410) The Division shall charge and collect the following fees:

For application for, and issuance of, a certificate	\$ 200 300
For application for, and issuance of, a temporary certificate	100 200
For examination of an applicant for a certificate	\$100
For biennial renewal of a certificate	200
For late renewal of a certificate	50
For reinstatement of an inactive certificate	20
For issuance of a duplicate certificate or temporary certificate	20
For change of name or address on a certificate or temporary certificate	20
For change of status as a community manager, provisional community manager or supervising community manager on a certificate.....	20
For change of association with a supervising community manager.....	20
For approval of courses to meet the requirements for original certification	100
For approval of a course for continuing education	100
For renewal of an approval of a course for continuing education	50

Reason for the change: Requested by the Division. Increase of \$100 for initial applications has already been placed in the Division’s approved budget during 2015 Legislative Session.

NAC 116A.325 Management agreement; evidence of insurance. (NRS 116A.200, 116A.400)

1. A management agreement must:
 - (a) Be in writing and signed by all parties;
 - (b) Be entered into between the client and the community manager or the employer of the community manager if the community manager is acting on behalf of a corporation, partnership, limited partnership, limited-liability company or other entity;
 - (c) State the term of the management agreement;
 - (d) State the basic consideration for the services to be provided and the payment schedule;

(e) Include a complete schedule of all fees, costs, expenses and charges to be imposed by the community manager, whether direct or indirect, including, without limitation:

- (1) The costs for any new association or start-up costs;
- (2) The fees for special or nonroutine services such as the mailing of collection letters, the recording of liens and foreclosing of property;
- (3) Reimbursable expenses;
- (4) The fees for the sale or resale of a unit or for setting up the account of a new member; and
- (5) The portion of fees that are to be retained by the client and the portion to be retained by the community manager;

(f) Not provide for the payment of any form of compensation, fee or other remuneration to the community manager or the employer of the community manager that is based, in whole or in part, on:

- (1) The number or amount of fines imposed against or collected from units' owners or tenants or guest of units' owners pursuant to NRS 116.31031 for violations of the governing documents of the association;
- (2) Any percentage or proportion of those fines; or
- (3) Any percentage or proportion of the late charges which have been imposed for the late payment of those fines but which have not been collected;

(g) State the identity and the legal status of the contracting parties;

(h) State any limitations on the liability of each contracting party, including any provisions for indemnification of the community manager;

(i) Include a statement of the scope of work of the community manager;

(j) State the spending limits of the community manager;

(k) Include provisions relating to the grounds and procedure for termination of the community manager;

(l) Identify the types and amounts of insurance coverage to be carried by each contracting party, including:

- (1) A requirement that the community manager or his or her employer maintain insurance covering liability for errors or omissions, professional liability or a surety bond to compensate for losses actionable pursuant to this chapter and chapter 116A of NRS in an amount of \$1,000,000 or more;

- (2) Which contracting party will maintain fidelity bond coverage;

- (3) A requirement that the client maintain crime insurance in accordance with NRS 116.3113;

- (4) Whether the association will maintain directors and officers liability coverage for the executive board; and

- (5) Whether either contracting party must be named as an additional insured under any required insurance;

(m) Include provisions for dispute resolution;

(n) Acknowledge that all records and books of the client are the property of the client, with the exception of any proprietary information and software belonging to the community manager;

(o) State the physical location, including the street address, of the records of the client, which must be within 60 miles from the physical location of the common-interest community;

(p) State the frequency and extent of regular inspections of the common-interest community; and

(q) State the extent, if any, of the authority of the community manager to sign checks on behalf of the client in an operating account.

2. A management agreement may:

(a) Provide for mandatory binding arbitration;

(b) Provide for indemnification of the community manager or his or her employer in accordance with and subject to the governing documents and the appropriate provisions of title 7 of NRS, except that indemnification may not be provided for intentional misconduct, gross negligence or criminal misconduct; and

(c) Allow the provisions of the management agreement to apply month to month, *not to exceed three (3) months*, following the end of the term of the management agreement but the management agreement may not contain an automatic renewal of the management agreement.

3. Not later than 10 days after the effective date of a management agreement, the community manager shall provide each member of the executive board evidence of the existence of the required insurance which must include:

(a) The names and addresses of all insurance companies;

(b) The total amount of coverage; and

(c) The amount of any deductible.

4. After signing a management agreement, the community manager shall provide a copy of the management agreement to each member of the executive board. Within 30 days after an election or appointment of a new member to the executive board, the community manager shall provide the new member with a copy of the management agreement.

5. Any changes to a management agreement must be initialed by the contracting parties. If there are any changes after the execution of a management agreement, those changes must be in writing and signed by the contracting parties.

6. Except as otherwise provided in a management agreement, upon the termination or assignment of a management agreement, the community manager shall, within 30 days after such termination or assignment, transfer possession of all books, records and other papers of the client to the succeeding community manager, or to the client if there is no succeeding community manager, regardless of any unpaid fees or charges to the community manager or management company.

7. Notwithstanding any provision in a management agreement to the contrary, a management agreement may be terminated by the client without penalty upon 30 days' notice following a violation by the community manager of any provision of this chapter or [chapter 116](#) of NRS.

(Added to NAC by Comm'n for Common-Interest Communities by R129-04, eff. 4-14-2005)—(Substituted in revision for NAC 116.305)

Reason for the change: This change was approved by the Commission and was supposed to be added into LCB File No. R049-13. The amendment was not added and LCB File No. R049-13 was adopted by the Commission March 3, 2015 and approved by the Legislative Commission on June 25, 2015 without the added language.