

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

LCB File No. R091-25

July 1, 2026

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

AUTHORITY: §§ 1, 3 and 4, NRS 116.615; § 2, NRS 116.31031 and 116.615; § 5, NRS 116.615 and 233B.100; §§ 6 and 7, NRS 116.31152 and 116.615; § 8, NRS 116.615 and 116.670; § 9-11 and 13, NRS 116A.200; §§ 12 and 15, NRS 116A.200 and 116A.620; § 14, NRS 116A.200 and 116A.410; § 16, NRS 116A.200, 116A.400 and 116A.410.

A REGULATION relating to common-interest communities; establishing criteria for determining whether a violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of a common-interest community; requiring a person who files an affidavit alleging certain violations of law by an executive board member of an association to include certain information in the affidavit; authorizing the Real Estate Division of the Department of Business and Industry to provide a list of remedial measures to the subject of an investigation; authorizing a person to file a petition to request the adoption, filing, amendment or repeal of a regulation; revising provisions relating to reserve studies; increasing the limit for funding for the subsidization of certain mediation proceedings; revising provisions relating to the education of community managers; revising provisions relating to management agreements; establishing procedures for the transfer of certain documents upon the termination or assignment of a management agreement; revising provisions relating to complaints alleging misconduct by community managers; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the executive board of a unit-owners' association to, under certain circumstances, impose a fine against a unit's owner or a tenant or an invitee of a unit's owner or a tenant if the unit's owner or the tenant or the invitee of the unit's owner or tenant violates any provision of the governing documents of the association. Existing law further provides that the amount of the fine must be commensurate with the severity of the violation and determined by the executive board in accordance with the governing documents. If the violation does not pose an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community, existing law limits

the amount of the fine to not exceed \$100 for each violation or a total amount of \$1,000 per hearing. Finally, existing law requires the Commission for Common-Interest Communities and Condominium Hotels to adopt regulations establishing the criteria used in determining whether a violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community, the severity of such violations and limitations on the amounts of the fines. (NRS 116.31031) **Section 2** of this regulation establishes such criteria and authorizes an executive board to consult with any appropriate professional for assistance when determining the amount of such a fine.

Existing law: (1) authorizes a person who is aggrieved by an alleged violation of certain provisions of law or regulations concerning common-interest communities or any order of the Commission or a hearing panel to file with the Real Estate Division of the Department of Business and Industry a written affidavit that sets forth the facts constituting the alleged violation; and (2) establishes a process for the investigation and consideration of such an affidavit. (NRS 116.745-116.795) For the purpose of the investigation and enforcement of such violations, existing law provides jurisdiction to: (1) investigate such violations to the Division and the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels; and (2) take appropriate action against a person who commits such a violation to the Commission and each hearing panel. (NRS 116.745, 116.750) As part of the investigation and consideration of such an affidavit, if parties are unable to resolve an alleged violation with the assistance of the Ombudsman, existing law requires the Ombudsman to submit a report to the Division and the Division to conduct an investigation to determine if good cause exists to proceed with a hearing on the alleged violation. (NRS 116.765) **Section 4** of this regulation authorizes the Division, during an investigation of such a violation, to provide a list of remedial measures to the subject of an investigation.

Existing law provides that an executive board of a unit-owners' association acts on behalf of the association and officers and members of the executive board are fiduciaries who are required to act on an informed basis, in good faith and in the honest belief that their actions are in the best interest of the association. Existing law further requires officers and members of the executive board to: (1) exercise the ordinary and reasonable care of officers and directors of a nonprofit corporation, subject to the business-judgment rule; and (2) be subject to conflict of interest rules governing the officers and directors of a nonprofit corporation organized under the law of this State. (NRS 116.3103) **Section 3** of this regulation requires a person who files an affidavit that alleges a breach of such duties to specify in the affidavit any statute, regulation or order that the officer or member has violated.

Existing law authorizes any interested person to petition an agency to request the adoption, filing, amendment or repeal of any regulation and requires each agency to prescribe by regulation the form for such petitions and procedure for their submission, consideration and disposition. (NRS 233B.100) **Section 5** of this regulation establishes requirements for the submission of a petition to adopt, file, amend or repeal any regulation that is within the authority of the Commission and procedures for the consideration of such a petition.

Existing law requires an executive board to: (1) at least once every 5 years cause to be conducted a study of the reserves required to repair, replace and restore the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore; (2) at least annually review the results of that study to determine whether those reserves are sufficient; and (3) at least annually make any adjustments to the association's funding plan which the executive board deems

necessary to provide adequate funding for the required reserves. Existing law additionally identifies certain information that such a reserve study is required to include. (NRS 116.31152) Existing regulations establish additional requirements for such a reserve study, including a requirement that such a study include a general statement that describes the objectives of the funding plan which uses the following terms and discusses, where applicable: (1) full funding; (2) threshold funding; and (3) baseline funding. (NAC 116.425) **Section 6** of this regulation removes baseline funding from the list of terms which are required to be included and discussed in such a general statement. Existing regulations additionally require a reserve study to include a 30-year schedule which shows certain information including the projected increase in reserve contributions to the reserve fund, adjusted for inflation, that will be required in any given year to provide adequately funded reserves. (NAC 116.425) **Section 6** revises the definition for “adequately funded reserves” to mean funds which are continuously sufficient to maintain the common elements described in the governing documents: (1) at the level described in the most recently conducted or updated study of reserves without the projected balance of the reserve funding reaching, at any time, an amount equal to or less than zero; and (2) without using the funds from the operating accounts or without special or reserve assessments, except for occurrences that are a result of unforeseen catastrophic events.

Existing regulations provide that the 5-year period for conducting a reserve study commences on the date on which the on-site inspection of the major components is performed and concludes upon the adoption of the reserve study by the executive board. Existing regulations additionally require the adoption of the reserve study to take place before the culmination of 5 years after the date that the executive board last adopted a full reserve study that includes the information required by law and regulation. (NAC 116.427) **Section 7** of this regulation revises the 5-year timeline to instead provide that the 5-year period for conducting a full reserve study commences on the first date of the fiscal year of the association in which the full reserve study is adopted and concludes upon the adoption of a new full reserve study during the fifth fiscal year by the executive board. **Section 7** additionally requires the executive board to document the adoption of the full reserve study in the minutes of the meeting in which the adoption occurs.

Existing law authorizes the Commission, by regulation, to establish standards for subsidizing proceedings for a program for mediation established by the Division for certain disputes relating to residential property within a common-interest community to ensure that such proceedings are not lengthy and are affordable and readily accessible to all parties. (NRS 116.670) Existing regulations authorize the Division to subsidize such proceedings to the extent that funds are available and prohibit such funding from exceeding \$500 or \$250 for each party who is eligible to have the proceeding for mediation subsidized, whichever is less. (NAC 116.520) **Section 8** of this regulation increases the limit for such funding to \$600 or \$300 for each such party, whichever is less.

Existing regulations set forth provisions governing the certification, practice, education and regulation of community managers. (Chapter 116A of NAC) **Sections 10 and 11** of this regulation define the terms “classroom” and “live instruction,” and **section 13** of this regulation makes these terms applicable to such provisions.

Existing law requires the Commission to establish by regulation the qualifications for the issuance of a certificate to practice as a community manager. Existing law further requires such regulations to provide for the issuance of a temporary certificate for a 1-year period to a person who meets certain qualifications, require such a certificate to expire before the end of the 1-year

period under certain circumstances, require a person who is issued a temporary certificate to complete certain education during that period and provide for the issuance of a certificate at the conclusion of that period if the person: (1) has successfully completed not less than 18 hours of instruction relating to the Uniform Common-Interest Ownership Act; and (2) has not been the subject of certain disciplinary action. (NRS 116A.400, 116A.410) Existing regulations establish the process for an application for a temporary certificate and provide that the temporary certificate expires, with certain exceptions, 1 year after the date on which it is issued. (NAC 116A.110-116A.138) If the temporary certificate expires and the person who held the certificate meets certain requirements, including the completion of not less than 18 hours of instruction relating to the Uniform Common-Interest Ownership Act, existing regulations require the Division to issue a certificate to him or her. (NAC 116A.138) **Section 14** of this regulation instead requires a person to have completed at least 60 hours of instruction in courses in the management of a common-interest community which meet certain other requirements set forth in NAC 116A.120, which currently are: (1) at least 20 hours of instruction relating to federal, state and local laws applicable to the management of a common-interest community; and (2) at least 40 cumulative hours of instruction in certain other subjects.

Existing law sets forth certain requirements for management agreements and requires the Commission to adopt regulations establishing requirements relating to the transfer of all books, records and other papers of a client upon the termination or assignment of a management agreement. (NRS 116A.620) Existing regulations establish additional requirements for a management agreement. (NAC 116A.325) **Section 15** of this regulation establishes requirements for the transfer of books, records and other papers, including: (1) the identification of certain documents which are required to be transferred; (2) requirements for the accessibility and format of such documents; (3) a procedure for the creation and provision of an inventory log; and (4) a procedure for the identification and transfer of any records identified to be missing. **Section 12** of this regulation additionally establishes requirements for the notification of a pending termination or pending assignment of a management agreement.

If a person who alleges that a community manager is guilty of misconduct sends such allegations in writing to the community manager in an attempt to resolve the issue without filing a complaint with the Division, existing regulations require the community manager to, in good faith, acknowledge and respond in writing to the person making the allegations within 12 working days after he or she receives the allegations. (NAC 116A.350) **Section 16** of this regulation requires a community manager to respond only to any allegations specific to his or her misconduct. If a person submits a complaint about a community manager to the Division, **section 16** additionally requires an investigator to provide notice of a complaint, instead of a summary of the complaint, to the community manager and executive board of any association which relates to the subject of the complaint.

Section 1. Chapter 116 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this regulation.

Sec. 2. **1.** *A violation of a provision of the governing documents of an association poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community if the violation involves conduct that includes:*

(a) A failure to exercise reasonable care;

(b) Intentional, willful or malicious interference with the use or enjoyment of a dwelling or a common element;

(c) Willful or grossly negligent destruction or damage of any real or personal property located in a dwelling or common element;

(d) A violation of a housing or health code, law or regulation concerning the health, safety, sanitation or fitness for habitation of a dwelling unit; or

(e) The commission of any other act which is substantially similar to the conduct described in paragraphs (a) to (d), inclusive,

↪ in a manner that directly, immediately or actually endangers a unit's owner, a resident of the common-interest community or an invitee of a unit's owner or a tenant.

2. *A violation does not pose an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community if the sole basis for imposing the violation is conduct that:*

(a) Uses foul, profane or abusive language in a manner that does not constitute hostile environment harassment as described in 24 C.F.R. 100.600(a)(2);

(b) Voices opposition to or support for any matter that affects the common-interest community;

(c) Constitutes a nuisance under the governing documents of the association but does not constitute a public nuisance under the laws of this State or a violation of an ordinance, rule or regulation that designates such conduct as a public nuisance; or

(d) Is a violation of the governing documents of the association but is otherwise lawful under the laws of this State.

3. When determining the amount of a fine to be imposed in accordance with the procedures set forth in NRS 116.31031, an executive board may consult with any appropriate professional for assistance in evaluating the nature, context, severity, scope, frequency or duration of the violation or any other factor relevant to the determination of the executive board.

Sec. 3. A person who is aggrieved by an alleged breach of the fiduciary duties set forth in NRS 116.3103 and who files a written affidavit with the Division pursuant to NRS 116.760 must specify in such an affidavit any statute, regulation or order that he or she believes the member of the executive board has violated in breach of such a duty.

Sec. 4. 1. During an investigation conducted pursuant to NRS 116.765, the Division may provide to the subject of an investigation a list of remedial measures that the subject of the investigation may take to be in compliance with the provisions of this chapter, chapter 116 of NRS or an order of the Commission or a hearing panel. A remedial measure provided pursuant to this section does not constitute disciplinary action but failure to take such action may be considered by the Division to be good cause to proceed with a hearing on the alleged violation.

2. Any remedial measure or information compiled as a result of the investigation is confidential and not a public record unless and until a formal complaint is filed by the Administrator pursuant to NRS 116.757.

Sec. 5. *1. Any interested person may file a written petition with the Division to adopt, file, amend or repeal any regulation that is within the authority of the Commission to adopt, file, amend or repeal. The petition must identify the change that he or she is requesting and contain any relevant data, views and arguments relating to the change.*

2. The Administrator shall consider the petition filed pursuant to subsection 1 within 30 days. If the Administrator denies the petition, he or she must, not less than 30 days after the filing of the petition, provide written notice of the denial to the person who filed the petition, stating his or her reason for denying the petition.

3. If the Administrator does not deny the petition within 30 days after the date of filing, the Commission will consider the petition at the next scheduled meeting of the Commission in which consideration of the petition is feasible.

Sec. 6. NAC 116.425 is hereby amended to read as follows:

116.425 1. A reserve study must, in addition to the requirements set forth in NRS 116.31152, include:

(a) A 30-year schedule which shows:

- (1) The actual or projected beginning balance of the reserve fund;
- (2) The projected increase in reserve contributions to the reserve fund, adjusted for inflation, that will be required in any given year to provide adequately funded reserves;
- (3) The estimated interest income, net of projected federal income tax, earned in the reserve fund;

- (4) The projected expenditures from the reserve fund; and
- (5) The projected ending balance of the reserve fund;
- (b) The names and credentials of any consultants and other persons with expertise used to assist in the preparation of the reserve study;
- (c) Any written reports prepared by consultants and other persons with expertise;
- (d) If there are any conflicting recommendations of the consultants or other persons with expertise while preparing the reserve study, a written explanation as to which recommendations were selected and the reasons for their selection;
- (e) The number of units in the association;
- (f) A general statement describing the current status of the reserve fund;
- (g) A general statement describing the overall status of the reserves of the association;
- (h) The beginning and ending dates for which the reserve study is prepared;
- (i) A general statement describing the reconciliation, development or computation of the initial balance of the reserve fund;
- (j) A listing and detailed description of each major component of the common elements;
- (k) A table showing the remaining useful life of each major component of the common elements from the time of each component's initial or last installation, maintenance, repair, replacement or restoration;
- (l) Using the current replacement cost, a 30-year table that reflects the projected ending reserve fund balance for each year as compared to the fully funded balance for that year;
- (m) A general statement describing the objectives of the funding plan that is designed to allocate the costs for the maintenance, repair, replacement and restoration of the major

components of the common elements and the methods used in projecting the 30-year funding plan, using the following terms and discussing, where applicable:

(1) Full funding; *and*

(2) Threshold funding; ~~and~~

~~—(3) Baseline funding;}~~

(n) A statement identifying the sources relied upon to obtain an estimate for the cost to maintain, repair, replace or restore a major component of the common elements;

(o) A detailed description of the type of reserve study that was performed and the level of service accorded to the reserve study, including whether the reserve study was:

(1) A full reserve study in which the following tasks were performed:

(I) An inventory and quantification of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;

(II) An assessment of the condition of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore, which is based upon on-site visual observations if such components and portions are reasonably accessible for such observation;

(III) Estimates of the remaining useful life and valuation of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;

(IV) Financial analysis of data and the status of the reserve fund; and

(V) Development of a funding plan;

(2) An update to a previous reserve study made pursuant to a visit to the site of the common-interest community in which the following tasks were performed:

(I) A verification of a previous inventory of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore. Unless new major components of the common elements have been added, or the existing inventory of major components of the common elements has changed, since the last reserve study, a quantification of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore is not required;

(II) An assessment of the condition of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore, which is based upon on-site visual observations if such components and portions are reasonably accessible for such observation;

(III) Estimates of the remaining useful life and valuation of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;

(IV) Financial analysis of data and the status of the reserve fund; and

(V) Development of a funding plan; or

(3) An update to a previous reserve study made without a visit to the site of the common-interest community in which the following tasks were performed:

(I) Estimates of the remaining useful life and valuation of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;

- (II) Financial analysis of data and the status of the reserve fund; and
- (III) Development of a funding plan;
- (p) The disclosures set forth in NAC 116.430; and
- (q) A statement, prominently displayed, which reads substantially as follows:
 - (1) The projected life expectancy of the major components and the funding needs of the reserves of the association are based upon the association performing appropriate routine and preventative maintenance for each major component. Failure to perform such maintenance can negatively impact the remaining useful life of the major components and dramatically increase the funding needs of the reserves of the association.
 - (2) Material issues which are not disclosed to the person conducting the study of the reserves would cause the condition of the association to be misrepresented.

2. As used in this section, “adequately funded reserves” means the funds *which are continuously* sufficient to maintain the common elements described in the governing documents:

(a) At the level described in the most recently conducted or updated study of reserves ~~that~~ *without the projected balance of the reserve fund reaching, at any time, an amount equal to or less than zero;* and

(b) Without using the funds from the operating accounts or without special or reserve assessments, except for occurrences that are a result of unforeseen catastrophic events.

Sec. 7. NAC 116.427 is hereby amended to read as follows:

116.427 1. *An executive board shall review and adopt the results of the study during the fifth fiscal year from the date of the adoption of the previous full reserve study. The executive board shall:*

(a) Review and adopt the results not later than 210 days after the association receives the results of the full reserve study or before the preparation and distribution of copies of the budgets described in NRS 116.31151, whichever is earlier; and

(b) Document the adoption of the full reserve study in the minutes of the meeting in which the adoption occurs.

2. For the purposes of paragraph (a) of subsection 1 of NRS 116.31152, the 5-year period for conducting a *full* reserve study commences on the *first* date ~~on~~ *of the fiscal year of the association in* which ~~the on-site inspection of~~ the ~~major components~~ *reserve study* is ~~performed~~ *adopted* and concludes upon the adoption of ~~the~~ *of a new full* reserve study *during the fifth fiscal year* by the executive board at a meeting conducted pursuant to NRS 116.31083. ~~For the purposes of this section, the adoption of the reserve study must take place before the culmination of 5 years after the date that the executive board last adopted a full reserve study that includes the information described in NAC 116.425.~~

~~2.—After a full reserve study is conducted, the next full reserve study must be commenced on or before the same month and date that the previous on-site inspection of the major components was performed.]~~

Sec. 8. NAC 116.520 is hereby amended to read as follows:

116.520 1. The Division may subsidize proceedings for mediation conducted pursuant to NRS 38.300 to 38.360, inclusive, to the extent that funds are available in the Account for

Common-Interest Communities and Condominium Hotels in the State General Fund for that purpose.

2. A party who wishes to have a proceeding for mediation subsidized must:

(a) Submit an application to the Division on a form prescribed by the Division;

(b) File a claim for mediation within 1 year after the date of discovery of the alleged violation; and

(c) If the applicant is an association, be registered and in good standing with:

(1) The Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels; and

(2) The Secretary of State, if the association is required to register with the Secretary of State pursuant to title 7 of NRS.

3. A unit's owner is eligible to have one proceeding for mediation subsidized per fiscal year for each unit that he or she owns.

4. An association is eligible to have one proceeding for mediation subsidized per fiscal year against the same unit's owner for each unit that he or she owns.

5. The funds used to subsidize a proceeding for mediation pursuant to this section must not:

(a) Be applied to the fee required when filing a written claim pursuant to NRS 38.320 or any attorneys' costs or fees associated with the claim; and

(b) Exceed ~~[\$500]~~ **\$600** or ~~[\$250]~~ **\$300** for each party who is eligible to have the proceeding for mediation subsidized pursuant to this section, whichever is less.

6. The Division shall provide notice to the mediator that a proceeding for mediation may be subsidized by forwarding to the mediator a copy of the application received pursuant to subsection 2.

7. If an application for subsidy is approved by the Division, the mediator shall, within 10 business days after the issuance of the mediator's statement concerning whether the mediation was successful or unsuccessful in resolving the dispute, submit to the Division:

- (a) On a form prescribed by the Division, a request for payment of the cost of mediation; and
- (b) A copy of the mediator's statement concerning whether the mediation was successful or unsuccessful in resolving the dispute.

8. The Division shall pay the cost of mediation pursuant to this section in accordance with the Division's procedures after the Division receives a copy of the mediator's statement concerning whether the mediation was successful or unsuccessful in resolving the dispute.

9. A party to a mediation is not eligible to receive a subsidy pursuant to this section if the party was a party to a claim in which the same or substantially similar issues were heard by the referee program established by the Division pursuant to NRS 38.325.

Sec. 9. Chapter 116A of NAC is hereby amended by adding thereto the provisions set forth as sections 10, 11 and 12 of this regulation.

Sec. 10. *“Classroom” means a physical location or electronic platform through which live instruction is provided.*

Sec. 11. *“Live instruction” means instruction provided by an instructor who:*

- 1. Is physically located in the same room as the student receiving the instruction;*
- 2. Uses electronic means of communication to provide instruction through an electronic platform in such a manner that the person providing the instruction and the student receiving the instruction are separated by distance but not time; or*
- 3. Uses any combination of methods described in subsections 1 and 2.*

Sec. 12. 1. *Notwithstanding any provision in a management agreement to the contrary, a community manager shall provide notice to units' owners of a pending termination or pending assignment of a management agreement before the effective date of the termination or assignment.*

2. *If there is a succeeding management company, such notice must:*

(a) Be sent to the electronic mail address of all units' owners who have provided the association with an electronic mail address; and

(b) If the common-interest community has 100 or more units, be posted for at least 30 days before the effective date of the termination or assignment in one or more prominent places within the common elements of the association. If no common elements of the association exist, such notice must be posted by the community manager in a manner designed to provide notice to all units' owners.

3. *If there is no succeeding management company, such notice must be provided in the manner provided for in subsection 2 and include the contact information for a member of the executive board who will serve as the designated point of contact for the executive board.*

4. *Within 10 business days after the effective date of a new management agreement or the assignment of an existing agreement, the succeeding community manager shall provide written notice to all units' owners of the new management agreement or assignment. Such notice must include contact information for the succeeding management company and be provided in the manner set forth in subsection 2.*

Sec. 13. NAC 116A.005 is hereby amended to read as follows:

116A.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 116A.015 to 116A.095, inclusive, *and sections 10 and 11 of this regulation*, have the meanings ascribed to them in those sections.

Sec. 14. NAC 116A.138 is hereby amended to read as follows:

116A.138 Upon the expiration of a temporary certificate pursuant to subsection 1 of NAC 116A.137, the Division shall issue a certificate to the person who held the temporary certificate if the person:

1. Remained employed by the association which made an offer of employment to the person, or an agent of the association, during the 1-year period that the temporary certificate was valid;
2. Has completed ~~[not less than 18]~~ *at least 60* hours of instruction ~~[relating to]~~ *in courses in the [Uniform Common Interest Ownership Act as set forth in this chapter, chapter 116] management of a common-interest community which meet the requirements set forth in paragraphs (a) and (b) of subsection 1* of NAC ~~[and chapters 116 and 116A of NRS;]~~ *116A.120;*
3. Has satisfied the requirements of NAC 116A.110, 116A.115 and 116A.125; and
4. Has not been the subject of any disciplinary action pursuant to this chapter, chapter 116 of NAC or chapter 116 or 116A of NRS.

Sec. 15. NAC 116A.325 is hereby amended to read as follows:

116A.325 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 guests 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 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. *The books, records and other papers of a client required to be transferred pursuant to subsection 6 must:*

(a) Include, without limitation:

(1) All books, records, documents, correspondence, data, files and other materials of the association in the possession, custody or control of the community manager or management company regardless of format, medium, location or age;

(2) Any records required to be maintained or made available pursuant to NRS 116.31175; and

(3) Any financial, governance, contractual, legal and operational records customarily maintained in the management of a common-interest community.

(b) If the records are electronic records:

(1) Be transferred in an accessible format;

(2) Be clearly identifiable;

(3) Maintain any existing segregation of data, including, without limitation, any accounting for separate funds; and

(4) Contain any information necessary to allow access to and use of the electronic records.

8. When transferring books, records and other papers in accordance with this section, a community manager shall prepare a written inventory log that identifies the items transferred.

The inventory log must:

(a) Identify any books, records and other papers that do not exist or cannot be located; and

(b) Include a statement that is signed and dated by the community manager or an authorized representative which certifies that the inventory log is true and complete to the best of his or her knowledge.

9. The community manager shall provide a copy of the inventory log prepared pursuant to subsection 8 to the client and, if applicable, the succeeding community manager. The client and, if applicable, the succeeding community manager, shall review the inventory log within 90 calendar days after the receipt of the inventory log. If, during such a review, the client or succeeding community manager determines that any books, records or other papers that are required to be transferred have not been transferred, he or she may submit a written request to the former community manager for the transfer of the missing records. Upon receipt of such a request, the former community manager shall either promptly transfer the records identified

in the request or provide, within 90 days, a written statement which certifies that the records do not exist or are no longer in his or her possession, custody or control.

10. A community manager who transfers books, records or other papers pursuant to this section may only retain a copy of a book, record or other paper so transferred if he or she is required by law or the rules of his or her profession to maintain such a copy.

11. 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.

Sec. 16. NAC 116A.350 is hereby amended to read as follows:

116A.350 1. If a person who alleges that a community manager is guilty of misconduct sends the allegations of misconduct in writing to the community manager in an attempt to resolve the issue without filing a complaint with the Division, the community manager shall, in good faith, acknowledge and respond in writing to *any allegations specific to his or her misconduct. The community manager shall send the response to* the person making the allegations within 12 working days after he or she receives the allegations.

2. A complaint about a community manager must:

- (a) Be submitted to the Division on a form provided by the Division;
- (b) Be signed by the person submitting the complaint; and
- (c) Include, without limitation:

(1) The identity of the community manager who is alleged to have violated a provision of this chapter or chapter 116 of NRS, and the nature of the alleged violation;

(2) All evidence supporting the allegations, including, without limitation, as appropriate, corroborating statements by other persons or specific information as to persons who may be contacted to provide such corroboration;

(3) The name, address and telephone number of the person submitting the complaint;

(4) Documents that evidence an attempt by the person submitting the complaint to resolve the issue with the executive board or the community manager, including, without limitation, any written response of the executive board or the community manager to the allegations of the person submitting the complaint; and

(5) If filed by a tenant of a unit's owner, ratification of the complaint by the unit's owner without the use of a power of attorney by the tenant.

3. Upon receipt of a complaint that complies with subsection 2, the Division shall forward the complaint to an investigator. The investigator:

(a) Shall ~~send a summary~~ *provide notice* of the complaint to the community manager and the executive board of any association which relates to the subject of the complaint;

(b) Within 12 working days after the receipt of the allegations, shall attempt to obtain a response in writing from the person who is the subject of the complaint;

(c) May make such inquiries and investigation into matters relating to the allegations in the complaint as the investigator deems appropriate; and

(d) Shall submit to the Administrator a written report that summarizes the findings and conclusions of the investigator.

4. Upon review of the written report of the investigator, if the Administrator determines that grounds for disciplinary action against the community manager exist, the Administrator may take one or more of the following actions as he or she deems appropriate:

- (a) Issue a letter of censure to the community manager who is the subject of the complaint;
 - (b) Levy an administrative fine of:
 - (1) For the first offense, not more than \$1,000; and
 - (2) For the second offense, not more than \$5,000;
 - (c) Require the community manager to obtain additional education relating to the management of a common-interest community;
 - (d) Refer the matter to the Commission;
 - (e) Refer the matter to the Real Estate Commission; or
 - (f) Refer the matter to the Attorney General of this State.
5. The Administrator may initiate an investigation, audit or inspection of the records of any community manager or any person who performs the duties of a community manager in this State.
6. Any action taken by the Administrator pursuant to subsection 4 may be appealed by the community manager upon written request to the Commission within 30 days after the Administrator takes such action.
7. As used in this section, “investigator” means a person whom the Division deems to be impartial and qualified with respect to the matter in a complaint and who is designated by the Division to investigate a complaint pursuant to this section.