

**PROPOSED REGULATION OF THE
COMMISSION FOR COMMON-INTEREST
COMMUNITIES AND CONDOMINIUM HOTELS
NAC 116 & 116B-AGENCY DRAFT**

July 8, 2020

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

Section 1. NAC 116.410 is hereby amended to read as follows:

116.410 1. For purposes of providing recommended reporting principles and practices of financial accounting for common-interest communities, the Commission hereby adopts by reference the *Guide to Homeowners' Associations and Other Common Interest Realty Associations*. A copy of the publication may be obtained for the price of [~~\$222~~] \$405 from Practitioners Publishing Company, P.O. Box 966, Fort Worth, TX 76101-0966, by telephone at (800) 431-9025 or at the Internet address [~~<http://ppe.thomson.com/SiteComposer2/Index.cfm?numProdClassID=201&txtFuse=dspShellProductDetail&numSiteID=2&numTaxonomyTypeID=29&numTaxonomyID=232>~~] <https://store.tax.thomsonreuters.com/accounting/Audit-and-Accounting/PPCs-Guide-to-Homeowners-Associations-and-Other-Realty-Associations/p/100200130>.

2. If the publication adopted by reference in subsection 1 is revised, the Commission will review the revision to determine its suitability for this State. If the Commission determines that the revision is not suitable for this State, the Commission will hold a public hearing to review its determination and give notice of that hearing within 90 days after the date of the publication of the revision. If, after the hearing, the Commission does not revise its determination, the Commission will give notice that the revision is not suitable for this State within 90 days after the hearing. If the Commission does not give such notice, the revision becomes part of the publication adopted by reference pursuant to subsection 1.

Sec. 2. NAC 116.465 is hereby amended to read as follows:

116.465 1. Except as otherwise provided in subsection 2, an association may not charge more than ~~[\$160]~~ \$185 for preparing the certificate furnished pursuant to NRS 116.4109.

2. If a unit's owner or an authorized agent thereof requests that the certificate be furnished sooner than 3 business days after the date of the request, the association may charge a fee not to exceed \$125 to expedite the preparation of the certificate.

3. Nothing in this section is to be construed to prohibit an association from requiring a fee for any other copy, form or service.

Sec. 3. NAC 116.470 is hereby amended to read as follows:

116.470 1. Except as otherwise provided in subsection 5, to cover the costs of collecting any past due obligation of a unit's owner, an association or a person acting on behalf of an association to collect a past due obligation of a unit's owner may not charge the unit's owner fees in connection with a notice of delinquent assessment pursuant to paragraph (a) of subsection 1 of NRS 116.31162 which exceed a total of \$1,950, plus the costs and fees described in subsections 3 and 4.

2. An association or a person acting on behalf of an association to collect a past due obligation of a unit's owner may not charge the unit's owner fees in connection with a notice of delinquent assessment pursuant to paragraph (a) of subsection 1 of NRS 116.31162 which exceed the following amounts:

(a) Demand or intent to lien letter.....	\$150
(b) Notice of delinquent assessment lien.....	325
(c) Intent to notice of default letter.....	90
(d) Notice of default.....	400
(e) Intent to notice of sale letter.....	90
(f) Notice of sale.....	275
(g) Intent to conduct foreclosure sale.....	25
(h) Conduct foreclosure sale.....	125
(i) Prepare and record transfer deed.....	125
(j) Payment plan agreement - One-time set-up fee.....	30
(k) Payment plan breach letter.....	25
(l) Release of notice of delinquent assessment lien.....	30

(m) Notice of rescission fee.....	30
(n) Bankruptcy package preparation and monitoring.....	100
(o) Mailing fee per piece for demand or intent to lien letter, notice of delinquent assessment lien, notice of default and notice of sale.....	2
(p) Insufficient fundsfee.....	20
(q) Escrow payoff demand fee.....	150 165
(r) Substitution of agent document fee.....	25
(s) Postponement fee.....	75
(t) Foreclosure fee.....	150

3. If, in connection with an activity described in subsection 2, any costs are charged to an association or a person acting on behalf of an association to collect a past due obligation by a person who is not an officer, director, agent or affiliate of the community manager of the association or of an agent of the association, including, without limitation, the cost of a trustee's sale guarantee and other title costs, recording costs, posting and publishing costs, sale costs, mailing costs, express delivery costs and skip trace fees, the association or person acting on behalf of an association may recover from the unit's owner the actual costs incurred without any increase or markup.

4. If an association or a person acting on behalf of an association is attempting to collect a past due obligation from a unit's owner, the association or person acting on behalf of an association may recover from the unit's owner:

- (a) Reasonable management company fees which may not exceed a total of \$200; and
- (b) Reasonable attorney's fees and actual costs, without any increase or markup, incurred by the association for any legal services which do not include an activity described in subsection 2.

5. If an association or a person acting on behalf of an association to collect a past due obligation of a unit's owner is engaging in the activities set forth in NRS 116.31162 to 116.31168, inclusive, with respect to more than 25 units owned by the same unit's owner, the association or person acting on behalf of an association may not charge the unit's owner fees to cover the costs of collecting a past due obligation which exceed a total of \$1,950 multiplied by the number of units for which such activities are occurring, as reduced by an amount set forth in a resolution adopted by the executive board, plus the costs and fees described in subsections 3 and 4.

6. For a one-time period of 15 business days immediately following a request for a payoff amount from the unit's owner or his or her agent, no fee to cover the cost of collecting a past due

obligation may be charged to the unit's owner, except for the fee described in paragraph (q) of subsection 2 and any other fee to cover any cost of collecting a past due obligation which is imposed because of an action required by statute to be taken within that 15-day period.

7. As used in this section, "affiliate of the community manager of the association or of an agent of the association" means any person who controls, is controlled by or is under common control with a community manager or such agent. For the purposes of this subsection:

(a) A person "controls" a community manager or agent if the person:

(1) Is a general partner, officer, director or employer of the community manager or agent;

(2) Directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote or holds proxies representing, more than 20 percent of the voting interest in the community manager or agent;

(3) Controls in any manner the election of a majority of the directors of the community manager or agent; or

(4) Has contributed more than 20 percent of the capital of the community manager or its agent.

(b) A person "is controlled by" a community manager or agent if the community manager or agent:

(1) Is a general partner, officer, director or employer of the person;

(2) Directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote or holds proxies representing, more than 20 percent of the voting interest in the person;

(3) Controls in any manner the election of a majority of the directors of the person; or

(4) Has contributed more than 20 percent of the capital of the person.

(c) Control does not exist if the powers described in this subsection are held solely as security for an obligation and are not exercised.

Sec. 4. NAC 116B.160 is hereby amended to read as follows:

116B.160 1. For purposes of providing recommended reporting principles and practices of financial accounting for associations for condominium hotels, the Commission hereby adopts by reference the *Guide to Homeowners' Associations and Other Common Interest Realty*

Associations. A copy of the publication may be obtained for the price of [~~\$222~~] **\$405** from Practitioners Publishing Company, P.O. Box 966, Fort Worth, TX 76101-0966, by telephone at (800) 431-9025 or at the Internet address [<http://ppe.thomson.com/SiteComposer2/Index.cfm?numProdClassID=201&txtFuse=dspShellProductDetail&numSiteID=2&numTaxonomyTypeID=29&numTaxonomyID=232>] <https://store.tax.thomsonreuters.com/accounting/Audit-and-Accounting/PPCs-Guide-to-Homeowners-Associations-and-Other-Realty-Associations/p/100200130>.

2. If the publication adopted by reference in subsection 1 is revised, the Commission will review the revision to determine its suitability for this State. If the Commission determines that the revision is not suitable for this State, the Commission will hold a public hearing to review its determination and give notice of that hearing within 90 days after the date of the publication of the revision. If, after the hearing, the Commission does not revise its determination, the Commission will give notice that the revision is not suitable for this State within 90 days after the hearing. If the Commission does not give such notice, the revision becomes part of the publication adopted by reference pursuant to subsection 1.

Sec. 5. NAC 116B.360 is hereby amended to read as follows:

116B.360 1. Except as otherwise provided in subsections 2 and 3, a hotel unit owner may not charge more than [~~\$160~~] **\$185** for preparing the certificate required by subsection 3 of NRS 116B.760.

2. If a unit's owner or the authorized agent of the unit's owner requests that the certificate described in subsection 1 be provided sooner than 3 business days after the date of the request, the hotel unit owner may, in addition to the fee set forth in subsection 1, charge a fee not to exceed \$125 to expedite the preparation of the certificate.

3. In addition to the fees set forth in subsections 1 and 2, the hotel unit owner may charge a reasonable fee for additional copies or any other service.