

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

LCB File No. R115-15

Effective June 28, 2016

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

AUTHORITY: §1, NRS 116.31155, as amended by section 1 of Assembly Bill No. 474, chapter 446, Statutes of Nevada 2015, at page 2592; §2, NRS 116A.200 and 116A.410.

A REGULATION relating to common-interest communities; increasing certain fees required to be paid by homeowners' associations; increasing the fees for the application for and issuance of certificates and temporary certificates for community managers; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes certain fees that must be paid by homeowners' associations to the Real Estate Administrator for deposit with the State Treasurer for credit to the Account for Common-Interest Communities and Condominium Hotels. These fees are established on the basis of the actual costs of administering the Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels and may not exceed \$3 for each unit in a homeowners' association. (NRS 116.31155) Assembly Bill No. 474 of the 2015 Nevada Legislature increases the authorized maximum fee from \$3 to \$5 beginning on July 1, 2016. (Section 1 of Assembly Bill No. 474, chapter 446, Statutes of Nevada 2015, at page 2592) Existing regulations provide that the amount of the fee that a homeowners' association is currently required to pay pursuant to NRS 116.31155 is \$3 for each unit in the association. (NAC 116.445) **Section 1** of this regulation increases the fee from \$3.00 to \$4.25 beginning on July 1, 2016.

Existing law prohibits a person from acting as a community manager for a common-interest community or condominium hotel unless the person holds a certificate issued by the Real Estate Division of the Department of Business and Industry. (NRS 116A.400) Existing law also requires the Commission for Common-Interest Communities and Condominium Hotels to provide by regulation for the issuance of certificates. Such regulations must provide for the issuance of temporary certificates for a 1-year period to persons who meet certain qualifications but who have not obtained the education and experience required for the issuance of a certificate. (NRS 116A.410) Existing regulations require the Division to charge and collect a fee of: (1) \$200 for the application for and issuance of a certificate; and (2) \$100 for the application for and

issuance of a temporary certificate. (NAC 116A.515) **Section 2** of this regulation increases the fee to: (1) \$300 for the application for and issuance of a certificate; and (2) \$200 for the application for and issuance of a temporary certificate.

Section 1. NAC 116.445 is hereby amended to read as follows:

116.445 ~~The~~

1. Before July 1, 2016, the amount of the fee that an association is required to pay pursuant to NRS 116.31155 is \$3 for each unit in the association.

2. On and after July 1, 2016, the amount of the fee that an association is required to pay pursuant to NRS 116.31155, as amended by section 1 of Assembly Bill No. 474, chapter 446, Statutes of Nevada 2015, at page 2592, is \$4.25 for each unit in the association.

Sec. 2. NAC 116A.515 is hereby amended to read as follows:

116A.515 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

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY
NRS 233B.066
LCB FILE R115-15**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapters 116 and 116A.

1. A clear and concise explanation of the need for the adopted regulation.

The purpose for LCB File No. R115-15 is to increase the fee required to be paid by homeowners' associations to the Real Estate Division (Division) from \$3 to \$4.25 effective July 1, 2016. During the 78th Legislative Session, Assembly Bill 474 pass and was enrolled amending NRS 116.31155 by increasing the fee from \$3 to \$5. The proposed regulation also increases the application fees for a community manager certificate from \$200 to \$300 and increases the application fee for a temporary community manager certificate from \$100 to \$200.

Increasing these fees will stabilize the depletion of reserve funds to the Office of the Ombudsman for Owners in Common-Interest Communities budget account and provide adequate funding for operating expenses.

2. A description of how public comment was solicited, a summary of public response, and an explanation how 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 regulation changes at the September 2015 meeting. The Commission decided to move forward with the proposed amendments.

On October 15, 2015 the Notice of Workshop was posted at the Division, on the Division's website, the State Public Notice website, sent to several libraries within the State, sent to several real estate and community manager associations within the State. A workshop was conducted on November 17, 2015. There was comment from a member of the public regarding the increase to the application fee for a community manager and temporary community manager certificates. The person who commented was concerned about the State of Nevada being the most expensive state to issue certificates for community managers.

On February 23, 2016 the Notice of Hearing for Adoption was posted at the Division, on the Division's website, the State Public Notice website, sent to several libraries within the State and sent to several real estate and community manager associations within the State. An adoption hearing was conducted on March 29, 2016. There was a comment from a member of the public in favor of the proposed regulation changes.

Interested persons may obtain a summary from:
Teralyn Thompson, Administration Section Manager
Nevada Real Estate Division

2501 East Sahara Avenue, Suite 303
Las Vegas, NV 89104
tlthompson@red.nv.gov
702-486-4036

3. The number of persons who:

(a) Attended each hearing:

November 17, 2015: 15
March 29, 2016: 9

(b) Testified at each hearing:

November 17, 2015: 1
March 29, 2016: 1

(c) Submitted to the agency written comments: 0

4. A list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented, for each person identified above in #3, as provided to the agency, is attached as Exhibit A.

Please see attached.

5. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses in the same manner as they were solicited from the public. The summary may be obtained as instructed in the response to question #2.

6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The proposed regulation was adopted on March 29, 2016 and included changes suggested at the workshop and adoption hearing conducted.

7. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:

Business which it is to regulate

(a) Both adverse and beneficial effects.

Adverse effects:

The proposed changes to NAC 116A.515 will increase existing regulatory fees for the application fee for a community manager certificate from \$200 to \$300 and a temporary

community manager certificate from \$100 to \$200. The increase would not affect individuals currently licensed as community managers.

Beneficial effects:

Proposed changes to NAC 116A.515 and NAC 116.445 was supported by the community management industry and homeowners during the 78th 2015 Legislative Session.

Proposed changes will stabilize the depleting reserve fund for the Ombudsman's Office budget account ensuring that the Division can complete its functions within the Office of the Ombudsman which provide for dispute resolution benefiting homeowners and community managers.

(b) Both immediate and long-term effects.

Immediate effects:

The increase to application fees for a community manager certificate and a temporary community manager certificate would have an immediate effect of individuals wishing to apply for one of those certificates once effective. The Division does not believe that the fee increase will hinder an individual from submitting an application.

Long-term effects:

No long term effects on the business in which it regulates.

Public

(a) Both adverse and beneficial effects.

Adverse effects:

No adverse effect to the public.

Beneficial effects:

Proposed changes to NAC 116A.515 and NAC 116.445 was supported by the community management industry and homeowners during the 78th 2015 Legislative Session.

Proposed changes will stabilize the depleting reserve fund for the Ombudsman's Office budget account ensuring that the Division can complete its functions within the Office of the Ombudsman which provide for dispute resolution benefiting homeowners and community managers.

(b) Both immediate and long-term effects.

Immediate effects:

No immediate long term effects on the public.

Long-term effects:

Proposed changes will stabilize the depleting reserve fund for the Ombudsman's Office budget account ensuring that the Division can complete its functions within the Office of the Ombudsman which provide for dispute resolution benefiting homeowners and community managers.

8. The estimated cost to the agency for enforcement of the adopted regulation.

There is no additional cost to the agency for the implementation of LCB File No. R115-15.

9. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are no other state or government agency regulations that the proposed regulation duplicates.

10. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

There are no federal regulations that apply.

11. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

Proposed changes to NAC 116.445 to increase the fee from \$3 to \$4.25 would result in collecting \$628,260.00 in FY 17. Proposed changes to NAC 116A.515 to increase the application fees 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 and provide adequate funding for operating expenses.