

**ADOPTED REGULATION OF THE COMMISSION FOR
COMMON-INTEREST COMMUNITIES**

LCB File No. R129-04

§§1-15, 19-32, 34-76 and 78-93 effective April 14, 2005; §33 effective July 1, 2005; §§16-18
and 77 effective January 1, 2006

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

AUTHORITY: §§1, 10, 11, 13, 58, 63-74, 88 and 91-93, NRS 116.615; §§2, 3, 6, 8, 60-62 and 89, NRS 116.31152 and 116.615; §§4, 5, 22-44 and 82, NRS 116.615 and 116.665; §§7, 9, 16-18, 20 and 86, NRS 116.615, 116.700 and 116.705; §12, NRS 116.615, 116.665 and 116.705; §§14, 15, 21 and 75-81, NRS 116.615 and 116.705; §§19, 45-47, 83-85 and 87, NRS 116.615 and 116.700; §48, NRS 116.615 and 116.670; §§49-57, NRS 116.615, 116.675 and 116.705; §59, NRS 116.31151 and 116.615; §90, NRS 116.1201 and 116.615.

A REGULATION relating to common-interest communities; providing standards of practice for members of an executive board; establishing fees relating to certificates and approval of courses; establishing the fee to be assessed when a person submits a bad check or draft; limiting the amount of fees for background investigations to the actual cost of conducting the investigation; establishing certain requirements for provisional and supervising community managers; establishing the requirements for the approval of schools; revising the requirements for the approval and offering of courses in continuing education; establishing the requirements for the approval and offering of distance education courses; establishing the requirements for the approval of instructors of such approved courses; setting forth the requirements that a certificate holder must meet to receive a certificate of completion of an approved course; authorizing the Real Estate Division of the Department of Business and Industry to conduct audits of approved courses and instructors of approved courses; revising the standards of practice for community managers; revising the application process for a person wanting to apply for, renew or reinstate a certificate; revising the provisions pertaining to disciplinary actions against a community manager; authorizing the Division to investigate and audit financial accounts related to an association under certain circumstances; authorizing the Division to subsidize proceedings for binding arbitration; setting forth the qualifications and application procedure for a party wishing to have a proceeding for arbitration subsidized; establishing rules of practice and procedure for conducting disciplinary hearings; requiring certain information to be included in a reserve study; requiring an executive board to file, electronically if possible, the results of a reserve study with the Division; revising the qualifications required of a person conducting a reserve study; clarifying the provisions exempting certain associations from the provisions of chapter 116 of NRS; and providing other matters properly relating thereto.

Section 1. Chapter 116 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 64, inclusive, of this regulation.

Sec. 2. *“Common elements” means the common elements of a common-interest community.*

Sec. 3. *“Component inventory” means a list of major components of the common elements identified in a reserve study that may require repair, replacement or restoration.*

Sec. 4. *“Distance education” means instruction which is delivered by means of video, computer, television, correspondence, the Internet or other electronic means of communication, or any combination thereof, in such a manner that the person supervising or providing the instruction and the student receiving the instruction are separated by distance or by time, or by both distance and time.*

Sec. 5. *“Hour of instruction” means 50 minutes or more and one semester credit is equal to 15 hours of instruction.*

Sec. 6. *“Major components” means the major components of the common elements, whether real or personal property, which the association is responsible for repairing, replacing or restoring, including, without limitation, amenities, improvements, furnishings, fixtures, finishes, systems and equipment.*

Sec. 7. *“Provisional community manager” means a community manager who has fulfilled the educational requirements for certification as set forth in NAC 116.120 but has not yet fulfilled the experience requirements for certification as set forth in section 16 of this regulation. A provisional community manager may perform the tasks of a community manager under the direct supervision of a supervising community manager.*

Sec. 8. *“Reserve study” means the study required pursuant to NRS 116.31152.*

Sec. 9. *“Supervising community manager” means a community manager who meets the qualifications set forth in section 18 of this regulation and who directly supervises a provisional community manager.*

Sec. 10. *In performing the duties set forth in NRS 116.3103, a member of an executive board shall:*

1. Comply with all applicable federal, state and local laws and the governing documents of the association;

2. Uniformly enforce the provisions of the governing documents of the association;

3. Ensure that meetings of the executive board are held with such frequency as to properly and efficiently address the affairs of the association;

4. Keep informed of new developments in the management of a common-interest community through educational courses;

5. Ensure that the executive board obtains, when practicable, at least three bids from reputable service providers who possess the proper licensing for any service used by the association;

6. Ensure that the executive board consults with the appropriate professionals as necessary before making major decisions affecting the association;

7. Deposit all money of an association in a federally insured financial institution authorized to do business in this State; and

8. If the association does not employ a community manager:

(a) Maintain an inventory of all records of the association;

(b) At all times ensure that the financial transactions of the association are current, accurate and properly documented and that there are established policies and procedures surrounding the financial transactions that are designed to provide reasonable assurances in the reliability of the financial reporting, including, without limitation, proper maintenance of accounting records, documentation of the authorization for receipts and disbursements, verification of the integrity of the data used in business decisions, facilitation of fraud detection and prevention, and compliance with the applicable laws and regulations governing financial records;

(c) Prepare or cause to be prepared interim and annual financial statements that will allow the Division, a client, the units' owners and the accountant or auditor to determine whether the financial position of the association is fairly presented in accordance with generally accepted accounting principles as set forth in the Common Interest Realty Associations - AICPA Audit and Accounting Guide, as adopted by section 58 of this regulation;

(d) Make the financial records of the association available for inspection by the Division in accordance with the applicable laws of this State;

(e) Cooperate with the Division in resolving complaints filed with the Division;

(f) Upon written request, make the financial records of the association available to units' owners during regular business hours for inspection at a reasonably convenient location which must be within 60 miles from the physical location of the common-interest community and shall provide copies of such records in accordance with the applicable laws of this State; and

(g) Fairly enforce the collection policies of the association and comply with all applicable federal, state and local laws relating to the collection of debt.

Sec. 11. *In performing the duties set forth in NRS 116.3103, a member of an executive board shall not:*

- 1. Act outside the scope of the authority granted in the governing documents;*
- 2. Act for reasons of self-interest, gain, prejudice or revenge;*
- 3. Commit an act or omission which amounts to incompetence, negligence or gross negligence;*
- 4. Except as otherwise required by law or court order, disclose confidential information relating to a unit's owner, a member of the executive board or an officer, employee or authorized agent of the association unless the disclosure is consented to by the person to whom the information relates; or*
- 5. Impede or otherwise interfere with an investigation of the Division by:*
 - (a) Failing to comply with a request by the Division to provide documents;*
 - (b) Supplying false or misleading information to an investigator, auditor or any other officer or agent of the Division; or*
 - (c) Concealing any facts or documents relating to the business of the association.*

Sec. 12. *The Division shall charge and collect the following fees:*

<i>For application for a certificate</i>	<i>\$175</i>
<i>For issuance of a certificate</i>	<i>25</i>
<i>For examination of an applicant for a certificate</i>	<i>100</i>
<i>For biennial renewal of a certificate</i>	<i>100</i>
<i>For late renewal of a certificate</i>	<i>50</i>
<i>For reinstatement of an inactive certificate</i>	<i>20</i>
<i>For issuance of a duplicate certificate</i>	<i>20</i>

For change of name or address on a 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

Sec. 13. 1. *If a person submits a check or draft to the Division to obtain a certificate, approval, accreditation or other type of authorization to engage in an activity for which authorization is required pursuant to this chapter or chapter 116 of NRS, and the check or draft is returned to the Division because the person had insufficient money or credit with the drawee to pay the check or draft or because the person stopped payment on the check or draft:*

(a) The certificate, approval, accreditation or other type of authorization obtained by the person from the Division is involuntarily inactivated; or

(b) If the person has not obtained the certificate, approval, accreditation or other type of authorization from the Division, the Division may refuse to issue or reinstate the authorization.

2. *In accordance with NRS 353C.115 and NAC 353C.400, the Division shall charge a person, for each check or draft returned to the Division because the person had insufficient money or credit with the drawee to pay the check or draft or because the person stopped payment on the check or draft, a fee of \$25 or such other amount as may subsequently be required by NRS 353C.115 and NAC 353C.400.*

Sec. 14. *The fee for conducting a background investigation must not exceed the administrative costs charged to the Division. All payments for such investigations must be in the form of a cashier's check or money order made payable to the agency conducting the investigation.*

Sec. 15. *The Division, upon the discovery of any error in the issuance of a certificate which is related to the qualification or fitness of the holder thereof, may invalidate the certificate upon notice in writing to the holder. The holder shall surrender the certificate to the Division within 20 days after the notice is sent by the Division. A person whose certificate has been invalidated and surrendered pursuant to this section may request a hearing on the matter in the same manner as for the denial of an application pursuant to NAC 116.150.*

Sec. 16. *1. A provisional community manager must:*

(a) Be associated with a supervising community manager for a minimum of 2 years; and

(b) Except as otherwise provided in section 17 of this regulation, within 2 years after the issuance of the certificate granting provisional status, obtain 3,120 hours of active experience in the following areas:

- (1) Financial management of an association;*
- (2) Property and facilities management;*
- (3) Specific duties relating to the management of a common-interest community as provided in this chapter and chapter 116 of NRS;*
- (4) Governance of an association;*
- (5) Insurance coverage; and*
- (6) Building a sense of community within an association.*

2. Upon obtaining 2 years of active experience in this State, the provisional community manager is entitled to act as a community manager without being associated with a supervising community manager if the provisional community manager submits to the Division:

(a) A statement, on a form prescribed by the Division, completed and signed by his supervising community manager that verifies:

(1) The extent of the active experience gained in each of the areas set forth in subsection 1; and

(2) That the provisional community manager has met the active experience requirements set forth in subsection 1;

(b) A certificate of completion for the 18 hours of continuing education required pursuant to NAC 116.160; and

(c) The fee required by section 12 of this regulation for the renewal of a certificate.

Sec. 17. *A provisional community manager who has not obtained the active experience required pursuant to section 16 of this regulation may renew his certificate granting provisional status for an additional 2 years if he submits to the Division:*

1. A certificate of completion for the 18 hours of continuing education required pursuant to NAC 116.160; and

2. The fee required by section 12 of this regulation for the renewal of a certificate.

Sec. 18. *1. A community manager is qualified to act as a supervising community manager if:*

(a) He submits to the Division an affidavit that he has completed the educational requirements set forth in NAC 116.120;

(b) He has been actively engaged in the full-time management of a common-interest community in this State, another state or the District of Columbia for at least 4 years immediately preceding his becoming a supervising community manager, with at least 2 of the 4 years of experience obtained in this State; and

(c) He is in good standing with the Division or any state or the District of Columbia where he is licensed or certified.

2. A supervising community manager is responsible for:

(a) Supervising a provisional community manager; and

(b) Determining the competency of a provisional community manager to perform delegated tasks of managing a common-interest community.

3. A supervising community manager shall not supervise more than three provisional community managers at one time.

Sec. 19. *1. A community manager shall establish an office in Nevada which is reasonably accessible to members of the general public. If he chooses to establish an office in a private home or in conjunction with another business, he shall:*

(a) Set aside a separate room for conducting his duties as a community manager; and

(b) Comply with all local zoning requirements.

2. A community manager shall display his certificate conspicuously in his office.

Sec. 20. *1. A community manager shall give written notice to the Division of any change of name, address or association within 10 business days after the change occurs and pay the appropriate fee required by section 12 of this regulation.*

2. Failure to give notice as required by this section constitutes cause for the involuntary inactivation of the certificate.

Sec. 21. 1. A certificate holder whose certificate is on inactive status for a period of more than 1 year and who wishes to reinstate his certificate must submit an application to the Division on a form prescribed by the Division.

2. Each applicant must, as part of his application and at his own expense:

(a) Arrange to have a complete set of his fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Division; and

(b) Submit to the Division:

(1) A completed fingerprint card and written permission authorizing the Division to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Division deems necessary; or

(2) Written verification, on a form prescribed by the Division, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Division deems necessary.

3. In addition to the requirements set forth in subsection 2, the applicant must submit to the Division:

(a) Payment of the fees charged by a local law enforcement agency pursuant to section 14 of this regulation or, if the fingerprints of the applicant were taken and directly forwarded

electronically or by another means to the Central Repository pursuant to subsection 2, evidence of such payment;

(b) Documentation that the applicant possesses the education required pursuant to NAC 116.160;

(c) Documentation that the applicant has passed the examination for certification;

(d) The statement described in NRS 116.710;

(e) Payment of the fee required by section 12 of this regulation for reinstatement; and

(f) Such other pertinent information as the Division may require.

4. If a certificate has not been renewed for a period that exceeds 1 year past its expiration date, an applicant must reapply pursuant to the provisions of NAC 116.100.

5. The Division may refuse to reinstate a certificate if:

(a) The applicant has been convicted of, or entered a plea of guilty or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or possessing for the purpose of sale any controlled substance or any crime involving moral turpitude;

(b) The applicant fails to complete, sign and submit the statement required pursuant to NRS 116.710;

(c) The Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional certificates and permits issued to the applicant;
or

(d) The applicant has engaged in conduct which is grounds for disciplinary action pursuant to NAC 116.360 and has been disciplined by the Division or the Commission.

6. If the Division, after an application to reinstate a certificate in proper form has been filed, accompanied by the proper fees, refuses to reinstate the certificate, the Division shall give notice of this fact to the applicant within 15 days after the ruling, order or decision. The applicant may file a written request for a hearing before the Commission pursuant to the procedures set forth in NAC 116.150.

7. If the Division refuses to reinstate a certificate solely because it receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional certificates and permits issued to the applicant, the Division shall reinstate the certificate if the Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose certificate was suspended stating that the person has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 22. *For the purposes of NAC 116.230 and sections 22 to 44, inclusive, of this regulation, “school” includes:*

1. Any university, school or community college which is a part of the University and Community College System of Nevada, or any other university or college bearing the same or an equivalent accreditation.

2. Any professional school or college licensed by the Nevada Commission on Postsecondary Education.

3. Any out-of-state professional school or college licensed or accredited by a real estate commission, a department of education or an equivalent agency of this or any other state.

4. A nationally recognized professional organization which provides educational courses and national accreditation of courses or schools for those engaged in the management of common-interest communities.

Sec. 23. *1. Except as otherwise provided in subsection 2, before any school offers or conducts a course of instruction designed to fulfill the educational requirements for issuance of an original certificate under this chapter and chapter 116 of NRS, the school must be approved by the Commission.*

2. The Commission may accept a course from any of the following schools without prior approval of the school:

(a) Any university, school or community college of the University and Community College System of Nevada or other university or college bearing the same or equivalent accreditation.

(b) Any other school offering a course in the management of common-interest communities if the course is:

(1) Approved by any real estate commission or division in any state of the United States or province of Canada; or

(2) In the judgment of the Commission, equivalent in quality to the courses of colleges or universities accredited by any regional accrediting agency recognized by the United States Department of Education.

Sec. 24. *1. A school that wishes to offer courses to meet the educational requirements for original certification under this chapter and chapter 116 of NRS must:*

(a) Apply to the Commission annually for approval on a form prescribed by the Division; and

(b) Pay the appropriate fee required by section 12 of this regulation for approval of courses.

2. The application must include, without limitation:

(a) The name and address of the school;

(b) The type of school and a description of its facilities;

(c) Information concerning the ownership of the school, including the business organization and the names and addresses of all directors, principals, officers and others having interests as owners;

(d) A list of the instructors;

(e) A list of the courses to be offered and a topical syllabus for each;

(f) The allotment of time for each subject;

(g) A proposed schedule of courses for 1 year;

(h) The titles, authors and publishers of all required textbooks;

(i) A copy of each examination to be used and the correct answer for each question;

(j) A statement of:

(1) The purpose of the school;

(2) The fees to be charged;

(3) The days, times and locations of classes;

(4) The number of quizzes and examinations;

(5) The grading systems, including the methods of testing and standards of grading;

(6) The requirements for attendance; and

(7) The location of the students' records; and

(k) A statement as to whether the school or any instructor employed by the school has been disciplined by any governmental agency in this or any other state.

3. The Commission's approval of a course to meet the educational requirements for an original certificate is effective for 1 year after the original approval or a renewal.

Sec. 25. 1. *If a school has applied for and received the approval of the Commission to offer courses to meet the requirements for original certification under this chapter and chapter 116 of NRS, the school shall, as a condition of the approval:*

(a) Maintain a record of attendance and certification for each student in any of those courses for 7 years after his enrollment and shall have such records open to inspection by the Division, upon its request, during the regular business hours of the school.

(b) Upon the request of a transferring student, furnish the school to which he is transferring a copy of his attendance record and certification for each of those courses which he has completed.

(c) Upon the request of a student, furnish the Division a transcript of the record of his grades and attendance.

2. A school that does not meet the definition of a "school" set forth in subsection 1, 3 or 4 of section 22 of this regulation must provide evidence to the Division that the school is licensed to operate by the Nevada Commission on Postsecondary Education.

Sec. 26. 1. *Except as otherwise provided in section 27 of this regulation, a school that the Commission has approved to give a course fulfilling the educational requirements for an original certificate shall require each student to attend the required number of hours of instruction and to pass at least two written examinations in the course with a minimum score of 75 percent as a condition of receiving certification for the course.*

2. *The school may certify only the number of hours for which the course has been approved by the Commission.*

3. *The entire course must be completed by the student to satisfy the requirements for an original certificate.*

Sec. 27. *If the Commission approves a school to give a course of study which fulfills the educational requirements for an original certificate and the school offers the course by correspondence, the school shall:*

1. *Require each student to:*

(a) *Pass a closed-book final examination with a minimum score of 75 percent and with a proctor present at a location designated by the school in its application for approval filed with the Commission;*

(b) *Take two progress examinations or quizzes in addition to the final examination;*

(c) *Prove his identity before he is allowed to take any examination; and*

(d) *Complete each course within an established minimum and maximum time.*

2. *Certify the completion of only the number of hours for which the course has been approved by the Commission. A portion of a course does not satisfy the requirements for an original certificate.*

Sec. 28. *A school approved by the Commission shall not make any misrepresentation in its advertising about any course of instruction which it offers to fulfill requirements for certification under this chapter.*

Sec. 29. *A school that conducts courses approved by the Commission:*

1. *May employ as instructors of those courses only persons who meet the qualifications set forth in section 36 of this regulation.*

2. *Shall limit noncertificated guest lecturers who are experts in the related fields to a total of 9 hours of instruction per approved course.*

3. *Shall include a statement that the school is approved by the Commission on all advertisements of the school.*

Sec. 30. 1. *The Division shall not accept an applicant's completion of any course which is designed to prepare students for examination, commonly known as a "cram course," as fulfillment of the educational requirements for his original certification.*

2. *None of the following kinds of courses will be accepted from an applicant as fulfillment of any part of the 60 hours of education required by NAC 116.120 for original certification:*

(a) *Courses designed to develop or improve clerical, office or business skills that are not related to the management of a common-interest community, such as typing, shorthand, operation of business machines, the use of computers or computer software, improvement of memory, or writing of letters and reports; or*

(b) *Business courses in advertising, marketing or psychology.*

Sec. 31. 1. *Within 15 days after the occurrence of any material change in the information provided by the school in its application pursuant to section 24 of this regulation which would affect its approval by the Commission, the school shall give the Division written notice of that change.*

2. *To qualify for annual renewal of approval by the Commission, a school must submit to the Commission before July 1:*

(a) *A written certification, in a form prescribed by the Division, declaring that the school has met all applicable requirements of this chapter;*

(b) A sworn statement, in a form prescribed by the Division, declaring that the information contained in the original application is current or, if it is not current, a list of all material changes; and

(c) Payment of the appropriate fee required by section 12 of this regulation for the renewal of courses.

3. The Commission may deny renewal of approval to any school that does not meet the standards required by this chapter.

4. Within 60 days after a decision is made to deny renewal of approval, the Commission must give written notice of the decision and the basis for that decision by certified mail to the last known address of the school.

Sec. 32. *1. An application for the approval of a course for continuing education must be submitted to the Division on a form provided by the Division for review and presentation to the Commission and must include the fee required by section 12 of this regulation. The Commission's approval of a course for continuing education is effective for 1 year after the original approval or a renewal.*

2. The Commission may grant retroactive approval for a course for continuing education.

3. The Commission will grant credit for a course for continuing education only if:

(a) The course consists of at least 3 hours of distance education or instruction in a classroom.

(b) For a course of instruction in a classroom, the sponsor of the course:

(1) Certifies the attendance of holders of a certificate who take the course for credit.

(2) Maintains for at least 4 years a record of attendance which contains the following information with respect to each holder of a certificate who has taken the course for credit:

(I) The name of the holder of a certificate in attendance and the number of his certificate.

(II) The title and number of the course.

(III) The hours of instruction attended and dates of attendance by the holder of a certificate.

(IV) A statement that the holder of a certificate has successfully completed the course, if applicable.

(3) Assures the Commission that an approved instructor will preside throughout the course.

(c) For a course of distance education, the sponsor of the course:

(1) Requires each student to:

(I) Take a closed-book final examination with a proctor present at a location designated by the sponsor in its application for approval filed with the Division and receive a score of at least 75 percent to pass the course;

(II) Prove his identity before he is allowed to take any examination;

(III) Complete an entire course to receive credit for taking the course; and

(IV) Complete each course within an established minimum and maximum time.

(2) Gives credit for only the number of hours for which the course has been approved by the Commission to a holder of a certificate who has completed the course.

(3) Publishes a policy for retaking an examination which a holder of a certificate failed.

(4) Maintains for at least 4 years a record of completion of the course which contains the following information with respect to each holder of a certificate who has taken the course for credit:

(I) The name of the holder of a certificate who completes the course and the number of his certificate.

(II) The title and number of the course.

(III) A statement that the holder of a certificate has successfully completed the course which includes, without limitation, the date that the course was completed and the number of hours completed.

4. If a course is approved, the sponsor shall provide a certified copy of the record of attendance or record of completion to the holder of a certificate upon his completion of the course. The Division shall accept the certified copy as proof of the attendance of the holder of a certificate or completion of the course by the holder of a certificate for the purpose of renewal or reinstatement of his certificate. If the course is taken at a university or community college, the proof of attendance must be a certified transcript. The certified copy of the record of attendance or record of completion of a sponsor must contain the:

(a) Name of the sponsor;

(b) Name of the holder of a certificate and his certificate number;

(c) Number of hours of credit for continuing education for which the course is approved;

(d) Dates of instruction for a course of instruction in a classroom;

(e) Date of completion of the course for a course of distance education;

(f) Title of the course or seminar;

(g) Number of the sponsor assigned by the Division and a statement that the course was approved by the Commission;

(h) Signature of the person authorized to sign for the sponsor;

(i) Grade received by the holder of a certificate or a statement of whether the holder of a certificate passed the class if an examination was given; and

(j) Manner in which instruction for the course was delivered.

Sec. 33. 1. *A person who requests approval of a distance education course must demonstrate to the satisfaction of the Commission that the proposed distance education course satisfies the following requirements:*

(a) The course must be designed to ensure that students actively participate in the instructional process by utilizing techniques that require substantial interaction with the instructor, other students or a computer program. If the subject matter of the course is such that the learning objectives for the course cannot be reasonably accomplished without direct interaction between the instructor and the students, the course design must provide for such interaction.

(b) If the course does not provide students with the opportunity for continuous audio and visual communication with the instructor during the presentation of the course, the course must utilize testing and remedial processes appropriate to ensure mastery of the subject matter of the course by the students.

(c) If the course involves self-paced study, the course must be designed so that the time required for a student of average ability to complete the course is within the number of hours for which the course is approved, and the sponsor of the course shall utilize a system which ensures that students have actually performed all tasks designed to ensure participation and mastery of the subject matter of the course by the students.

(d) The proposed methods of instruction used in the course must be appropriate to the proposed learning objectives of the course, and the scope and depth of the instructional materials must be consistent with the proposed learning objectives.

(e) The sponsor of the course shall provide appropriate technical support to enable students to complete the course satisfactorily.

(f) An approved instructor must be reasonably available to respond timely to questions asked by students concerning the subject matter of the course and to direct students to additional sources of information. For the purposes of this paragraph, a response by an approved instructor shall be deemed timely if the response is made within 2 business days after the question is submitted.

(g) The sponsor of the course shall provide students with an orientation or information package which contains all information that the Division requires to be provided to students and all necessary information about the course, including, without limitation, information concerning fees and refund policies, subject matter and learning objectives, procedures and requirements for satisfactory completion, any special requirements with regard to computer hardware and software or other equipment, and instructor and technical support. The sponsor shall make available to students technical support relating to the use of any computer hardware or software, or other equipment or technology needed to complete the course.

(h) The sponsor of the course shall utilize procedures which reasonably ensure that a student who receives credit for continuing education for completing the course actually performed all the work required to complete the course. If the course involves independent study by students, such procedures must include, without limitation, the opportunity for direct contact by the sponsor with the student at the student's home or business via telephone or

electronic mail and a signed statement by the student certifying that he personally completed all course work. The sponsor shall retain such signed statements and records of student contact together with all other course records the sponsor must maintain.

2. A sponsor seeking approval of a computer-based distance education course must submit a complete copy of the course to the Division in the medium to be used and, if requested, must make available, at a date and time satisfactory to the Division and at the sponsor's expense, all equipment and software necessary to enable the Division to review the course. In the case of an Internet-based course, the sponsor shall provide the Division with access to the course via the Internet at no charge at a date and time satisfactory to the Division.

3. In determining whether to approve a distance education course pursuant to this section, the Commission will consider whether:

- (a) The course consists of at least 3 hours of instruction;*
- (b) Students are required to complete a written examination proctored by a person acceptable to the Division or using a secure electronic method acceptable to the Division; and*
- (c) The course is presented by an accredited college or university that offers distance education in other disciplines, or whether the course design and method of delivery have been accredited by an accrediting agency which accredits distance education and which is approved by the Commission. For an accrediting agency to be approved by the Commission for the purposes of this paragraph, the accrediting agency must use the following considerations when making its determination on whether to accredit a distance education course:*

- (1) The mission statement of the sponsor of the course;*
- (2) The minimum design of the course and the procedures for updating the course;*

- (3) The interactivity of the instruction with the students;*
- (4) Whether the instruction provided in the course teaches mastery of the course material;*
- (5) The support services that are available to students;*
- (6) The medium through which the course is delivered to students;*
- (7) A time study of the range of instructional hours for which a course should be approved or accredited;*
- (8) For each module of instruction, whether there is:
 - (I) At least one learning objective for the module of instruction;*
 - (II) A structured learning method to enable the student to achieve each such learning objective;*
 - (III) A method of assessment of the student's performance during the module of instruction; and*
 - (IV) A method of remediation pursuant to which a student who, based on the assessment of his performance, is determined to be deficient in his mastery of the course material may repeat the module until the student understands the course material; and**
- (9) Whether a complete syllabus or student manual, or both, for all courses or programs is provided in written form and includes accurate and clearly stated information about admissions, progression, completion, criteria, dismissal and any applicable licensing requirements.*

Sec. 34. 1. *If a course has been approved and is being offered for continuing education, the sponsor must state on all the course materials:*

- (a) That the course is approved for continuing education in Nevada;*

(b) The number of hours of credit for continuing education for which the course is approved;

(c) The number of the sponsor assigned by the Division; and

(d) The manner in which instruction for the course will be delivered.

2. If a course offered by a sponsor that is a professional organization has been approved for continuing education, the sponsor shall not restrict attendance at the course to members of that organization.

Sec. 35. *Any advertising, promotional brochure or form for registration for a course for continuing education must contain, in writing, the policy of the sponsor concerning cancellations and refunds.*

Sec. 36. 1. *An instructor must have written approval from the Division before teaching an approved course.*

2. An applicant for approval as an instructor must apply on a form prescribed by the Division.

3. The Division shall not, without the approval of the Commission, approve a person as an instructor if the person:

(a) Has been disciplined by the Commission or the Division acting on behalf of the

Commission:

(1) Within the immediately preceding 5 years; or

(2) More than one time; or

(b) Has been determined in an administrative or judicial proceeding to have violated any statute, rule, regulation or order pertaining to real estate in this or any other state.

4. A person may be approved as an instructor to teach an approved course relating to his principal occupation if:

(a) He has:

(1) A bachelor's degree or a more advanced degree, plus at least 2 years of full-time experience, in the field in which he will be providing instruction;

(2) At least 75 hours of teaching experience in the field in which he will be providing instruction within the 3 years immediately preceding the date of his application for approval plus at least 3 years of full-time experience in that field;

(3) At least 6 years of full-time experience in the field in which he will be providing instruction; or

(4) Any combination of at least 6 years of college-level course work and full-time experience in the field in which he will be providing instruction;

(b) He has a good reputation for honesty, integrity and trustworthiness; and

(c) He submits to the Division satisfactory documentation of his qualifications and a resume outlining his experience, education and teaching experience in the field in which he will be providing instruction.

5. The Division shall periodically review and evaluate each approved instructor.

Sec. 37. 1. To receive a certificate of completion for an approved course, a student must:

(a) Direct his attention to the instruction being provided and refrain from engaging in activities unrelated to the instruction; and

(b) Refrain from engaging in activities which are distracting to other students or the instructor, or which otherwise disrupt the orderly conduct of a class, including, without limitation, the use of voice pagers, beepers and telephones.

2. An instructor shall deny the award of a certificate of completion to a student who fails to satisfy the conditions set forth in subsection 1.

3. If an instructor denies the award of a certificate of completion to a student, the student may, within 30 days after that denial, file a written request with the Administrator to review the matter. If the written request contains allegations which, if true, would qualify the applicant to receive a certificate of completion, the Administrator shall set the matter for an informal hearing before him to be conducted as soon as practicable.

Sec. 38. *1. Each approved course and each instructor of an approved course must be evaluated by students on a form prescribed by the Division and provided by the sponsor during every course offering.*

2. The sponsor shall:

(a) Arrange for the collection of the completed evaluations by a person other than the instructor of the approved course; and

(b) Mail or deliver copies of the completed evaluations to the Division within 10 working days after the last day of class for the course.

Sec. 39. *1. An instructor shall ensure that:*

(a) Class sessions are commenced in a timely manner and are conducted for the full amount of time that is approved; and

(b) Each course is taught according to the course plan and instructor guide that was approved by the Commission, including the furnishing to students of appropriate student materials.

2. An instructor shall conduct himself in a professional and courteous manner when performing his instructional duties and shall conduct classes in a manner that demonstrates the following basic teaching skills:

(a) The ability to present instruction in a thorough, accurate, logical, orderly and understandable manner, to utilize illustrative examples as appropriate and to respond appropriately to questions from students;

(b) The ability to utilize effectively varied instructional techniques in addition to lectures, including, without limitation, class discussion, role-playing and other techniques;

(c) The ability to utilize varied instructional aids effectively to enhance learning;

(d) The ability to maintain an appropriate learning environment and effective control of a class; and

(e) The ability to interact with adult students in a positive manner that:

(1) Encourages students to learn;

(2) Demonstrates an understanding of varied student backgrounds;

(3) Avoids offending the sensibilities of students; and

(4) Avoids personal criticism of any other person, agency or organization.

Sec. 40. 1. The Administrator may withdraw the approval of an instructor who:

(a) Does an inadequate job of teaching the subject matter of a course as evidenced by student evaluations or an audit conducted by the Division;

(b) Has been determined in any administrative or judicial proceeding to have violated any statute, rule, regulation or order pertaining to real estate;

(c) Has been convicted of, or entered a plea of guilty or nolo contendere to, any crime involving fraud, deceit, misrepresentation or moral turpitude; or

(d) Engages in inappropriate behavior in the classroom as evidenced by an audit conducted by the Division.

2. Before withdrawing approval of the instructor of a course, the Administrator must notify the sponsor of the course of his intent to withdraw approval of the instructor. The notice must include the specific reasons upon which the Administrator is basing his decision to withdraw the approval of the instructor. Not later than 30 days after the date on which he receives the notice, a sponsor may provide a written response to the Administrator that clearly sets forth the reasons why the approval of the instructor should not be withdrawn and outlining any corrective measures that the sponsor will undertake. After the 30-day period has elapsed, the Administrator shall review the notice and any response submitted by the sponsor and shall:

(a) Withdraw approval of the instructor;

(b) Allow the instructor to remain approved if certain specific enumerated conditions are met; or

(c) Allow the continued approval of the instructor.

↳ If the Administrator decides to withdraw approval of the instructor, the withdrawal of approval of the instructor becomes effective upon the mailing of the decision of the Administrator to the sponsor of the course taught by the instructor by certified mail, return receipt requested to the sponsor's last known business address.

3. *If the Administrator withdraws approval of an instructor, the Division shall give credit to a student for completing the course if the student began the course before the sponsor received written notice of the withdrawal of approval of the instructor.*

4. *The sponsor may appeal the decision of the Administrator to withdraw approval of an instructor by filing an appeal with the Commission not later than 30 days after the date on which the withdrawal of the approval of the instructor becomes effective.*

5. *If the sponsor files a timely appeal, the Commission will, as soon as practicable, hold a hearing concerning the withdrawal of approval of the instructor at a regularly scheduled meeting and will:*

(a) Affirm the decision of the Administrator to withdraw approval of the instructor;

(b) Suspend approval of the instructor for a limited period and under such conditions as the Commission deems appropriate; or

(c) Reverse the decision of the Administrator to withdraw approval of the instructor.

Sec. 41. 1. *The sponsor of an approved course:*

(a) Shall not allow a holder of a certificate to pass the course by taking an examination without having the required attendance;

(b) Shall admit authorized personnel of the Division to audit and evaluate the presentation of the course;

(c) Shall notify the Division within 15 days after making any material change in the course; and

(d) Shall not present a course for the main purpose of selling products or services and shall limit the announcement of products or services during the course to not more than 2 minutes.

2. The sponsor must apply for renewal on a form provided by the Division and describe on that form any changes in the course. An application for renewal must be filed at least 2 weeks before the previous approval expires. If the sponsor does not timely file the application for renewal, the sponsor must apply for an original approval.

3. Each approved course and instructor is subject to review and audit by the Division. If the Division conducts such a review or audit, the sponsor shall make available to the Division all records requested which are necessary to the review.

4. The Division shall renew the approval of a course if the information concerning the course has been updated and there is no material change in the content of the course.

5. Each of the following acts and conditions is a ground for the Commission to withdraw or refuse to renew its approval of a course:

(a) The curriculum or instruction, as shown by evaluations or audits, is of poor quality.

(b) The violation of any provision of this chapter relating to continuing education.

(c) The course is not taught within the last period for which the course is approved.

(d) The sponsor of the course has made a false statement or has presented any false information in connection with an application for the approval of the course, the renewal of such approval or the approval of the sponsor.

(e) The sponsor of the course or any official or instructor employed by the sponsor has refused or failed to comply with any provision of this chapter or chapter 116 of NRS.

(f) The sponsor of the course or any official or instructor employed by the sponsor has provided false or incorrect information in connection with any report the sponsor is required to submit to the Commission.

(g) The sponsor of the course has engaged in a pattern of consistently cancelling scheduled courses.

(h) The sponsor of the course has remitted to the Commission in payment for required fees a check which was dishonored by a bank.

(i) An instructor employed by the sponsor of an approved course fails to conduct approved courses in a manner that demonstrates possession of the teaching skills described in this chapter.

(j) A court of competent jurisdiction has found the sponsor of the approved course or any official or instructor employed by the sponsor to have violated, in connection with the offering of education courses, any applicable federal or state law or regulation:

(1) Prohibiting discrimination on the basis of disability;

(2) Requiring places of public accommodation to be in compliance with prescribed standards relating to accessibility; or

(3) Requiring that courses related to certification for professional or trade purposes be offered in a place and manner accessible to persons with disabilities.

(k) The sponsor of the course or any official or instructor employed by the sponsor has been disciplined by the Commission or any other occupational certification agency in this State or any other jurisdiction.

(l) The sponsor of the course or any official or instructor employed by the sponsor has collected money for an educational course but has refused or failed to provide the promised instruction.

6. A holder of a certificate who is the sponsor of an approved course is subject to disciplinary action pursuant to the provisions of this chapter for any dishonest, fraudulent or

improper conduct by the holder of a certificate, or an instructor of the approved course employed by the holder of a certificate, in connection with activities related to the approved course.

7. As used in this section, “disability” means:

(a) A physical or mental impairment that substantially limits one or more of the major life activities of the person;

(b) A record of such an impairment; or

(c) Being regarded as having such an impairment.

Sec. 42. 1. If the Administrator determines, whether pursuant to an audit or otherwise, that an approved course does not meet the standards for such a course set forth in this chapter, the Administrator shall notify the sponsor of the course of his intent to withdraw approval of the course. The notice must include the specific reasons upon which the Administrator is basing his decision to withdraw approval of the course. Not later than 30 days after the date on which he receives the notice, the sponsor may provide a written response to the Administrator that clearly sets forth the reasons why approval of the course should not be withdrawn and outlining any corrective measures that the sponsor will undertake. After the 30-day period has elapsed, the Administrator shall review the notice and any response submitted by the sponsor and:

(a) Withdraw approval of the course;

(b) Allow the course to remain approved if certain specific enumerated conditions are met;

or

(c) Allow the continued approval of the course.

↪ *If the Administrator decides to withdraw approval of the course, the withdrawal of approval of the course becomes effective upon the mailing of the decision of the Administrator to withdraw approval to the sponsor by certified mail, return receipt requested to the sponsor's last known business address.*

2. If the Administrator withdraws approval of a course, the Division shall give credit to a student for completing the course if the student began the course before the sponsor received written notice of the withdrawal of approval of the course.

3. The sponsor may appeal the decision of the Administrator to withdraw approval of a course by filing an appeal with the Commission not later than 30 days after the date on which the withdrawal of the approval of the course becomes effective.

4. If the sponsor files a timely appeal, the Commission will, as soon as practicable, hold a hearing concerning the withdrawal of approval of the course at a regularly scheduled meeting and will:

(a) Affirm the decision of the Administrator to withdraw approval of the course;

(b) Suspend approval of the course for a limited period and under such conditions as the Commission deems appropriate; or

(c) Reverse the decision of the Administrator to withdraw approval of the course.

Sec. 43. *The Division shall, on behalf of the Commission, reapprove an approved course if no changes in the course have occurred since the course was last approved or reapproved.*

Sec. 44. 1. *The Commission will grant credit for continuing education, not to exceed 6 hours during a certification period, to a holder of a certificate for attending a meeting of the Commission if:*

(a) The meeting of the Commission for which credit for continuing education is being sought is not a meeting in which the holder of a certificate was participating or otherwise affiliated with a specific disciplinary hearing;

(b) The meeting of the Commission for which credit for continuing education is being sought lasts at least 3 hours; and

(c) The Commission certifies, for the purposes of providing credit for continuing education, the attendance of the holder of a certificate at the meeting.

2. If a holder of a certificate attends only part of a meeting of the Commission, the Division may determine the number of hours of credit, if any, that the holder of a certificate may receive for credit for continuing education pursuant to this section.

Sec. 45. *A community manager shall not:*

1. Except as otherwise required by law or court order, disclose confidential information relating to a client which includes, without limitation, the business affairs and financial records of the client, unless the disclosure is consented to by the client;

2. Impede or otherwise interfere with an investigation of the Division by:

(a) Failing to comply with a request by the Division to provide documents;

(b) Supplying false or misleading information to an investigator, auditor or any other officer or agent of the Division; or

(c) Concealing any facts or documents relating to the business of a client;

3. Commingle money or other property of a client with the money or other property of another client, another association, the community manager or the employer of the community manager and shall not use money or other property of a client for his own personal use;

4. *Be a signor on a withdrawal from a reserve account of a client;*
5. *Except as otherwise permitted by the provisions of the court rules governing the legal profession, establish an attorney-client relationship with an attorney or law firm which represents a client that employs the community manager or with whom the community manager has a management agreement;*
6. *Provide or attempt to provide to a client services concerning a type of property or service:*
 - (a) *That is outside his field of experience or competence without the assistance of a qualified authority unless the fact of his inexperience or incompetence is disclosed fully to the client and is not otherwise prohibited by law; or*
 - (b) *For which he is not properly licensed;*
7. *Apply a payment of an assessment from a unit's owner towards any fine, fee or other charge that is due;*
8. *Refuse to accept from a unit's owner payment of any assessment, fine, fee or other charge that is due because of the fact that there is an outstanding payment due; or*
9. *Collect any fees or other charges from a client not specified in the management agreement.*

Sec. 46. 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) The 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) State the identity and the legal status of the contracting parties;*
- (g) State any limitations on the liability of each contracting party, including any provisions for indemnification of the community manager;*
- (h) Include a statement of the scope of work of the community manager;*
- (i) State the spending limits of the community manager;*
- (j) Include provisions relating to the grounds and procedure for termination of the community manager;*
- (k) Identify the types and amounts of insurance coverage to be carried by each contracting party, including:*
- (1) Whether the community manager will maintain errors and omissions or professional liability insurance;*
 - (2) Which contracting party will maintain fidelity bond coverage;*

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

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

(l) Include provisions for dispute resolution;

(m) 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;

(n) 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;

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

(p) 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 in accordance with and subject to the appropriate provisions of title 7 of NRS; 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. *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. 47. 1. *The Division may investigate and audit all financial accounts related to an association if the Division has reasonable cause to believe that the accounts or records of the association have not been properly maintained and the Division:*

(a) Has reasonable cause to believe or has received a credible complaint that the association is insolvent or is in any financial condition or has engaged in any financial practice which creates a substantial risk of insolvency; or

(b) Determines that the investigation and audit are reasonably necessary to assist the Division in administering or enforcing any other provision of this chapter, chapter 116 of NRS or any other statute that the Division is charged with administering or enforcing.

2. *The Commission may, after notice and hearing, take action pursuant to NRS 116.785 if the Division finds that a person has committed a violation of this chapter or chapter 116 of NRS.*

3. *As used in this section, “insolvent” or “insolvency” means a condition in which an association is unable to meet its, or a community manager is unable to meet his, liabilities as those liabilities become due in the regular course of the association’s or community manager’s business and which creates a substantial risk of harm to the association.*

Sec. 48. 1. *The Division may subsidize proceedings for binding arbitration conducted pursuant to NRS 38.300 to 38.360, inclusive:*

(a) For the parties that agree to binding arbitration; and

(b) To the extent that funds are available in the Account for Common-Interest Communities in the State General Fund for that purpose.

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

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

(b) File a claim for binding arbitration 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 the Office of the Ombudsman for Owners in Common-Interest Communities.

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

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

5. The funds used to subsidize a proceeding for arbitration pursuant to this section:

(a) Must not 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) Must be the lesser of 50 percent of the fees owed by a party to the arbitrator or \$500.

6. The Division shall provide notice to an arbitrator that a proceeding for arbitration may be subsidized by forwarding to the arbitrator a copy of the application received pursuant to subsection 3.

7. If an application for subsidy is approved by the Division, the arbitrator shall, within 10 business days after his final decision, submit to the Division:

(a) On a form prescribed by the Division, a request for payment of the cost of arbitration; and

(b) A copy of the final decision.

8. The Division shall pay the cost of arbitration pursuant to this section at the time the Division receives a copy of the final decision from the arbitrator and issues a certificate pursuant to NAC 38.350.

Sec. 49. 1. *In conducting any investigation, inquiry or hearing, the Commission and its members, each hearing panel and its members, and the employees of the Division are not bound by the technical rules of evidence, and any informality in a proceeding or in the manner of taking testimony does not invalidate any order, decision, rule or regulation made, approved or confirmed by the Commission or a hearing panel. The rules of evidence of courts of this State will be followed generally but may be relaxed at the discretion of the Commission or a hearing panel if deviation from the technical rules of evidence will aid in determining the facts.*

2. Any evidence offered at a hearing must be material and relevant to the issues of the hearing.

3. The Commission or a hearing panel may exclude inadmissible, incompetent, repetitious or irrelevant evidence or order that presentation of that evidence be discontinued.

4. A party who objects to the introduction of evidence shall briefly state the grounds of the objection at the time the evidence is offered. The party who offers the evidence may present a rebuttal argument to the objection.

5. If an objection is made to the admissibility of evidence, the Commission or a hearing panel may:

(a) Note the objection and admit the evidence;

(b) Sustain the objection and refuse to admit the evidence; or

(c) Receive the evidence subject to a subsequent ruling by the Commission or a hearing panel.

Sec. 50. 1. *All motions, unless made during a hearing, must be in writing.*

2. *A written motion must be served on the opposing party and the Commission or a hearing panel at least 10 working days before the time set for the hearing on the motion.*

3. *An opposing party may file a written response to a motion within 7 working days after the receipt of the motion by serving the written response on all parties and the Commission or a hearing panel, except that a written response may be filed less than 3 working days before the time set for the hearing on the motion only with the permission of the Commission or a hearing panel upon good cause shown.*

4. *The Commission or a hearing panel may require oral argument or the submission of additional information or evidence to decide the motion.*

Sec. 51. 1. *A complaint may be amended at any time.*

2. *The Commission or a hearing panel may grant a continuance if the amendment materially alters the complaint or a respondent demonstrates an inability to prepare for the case in a timely manner.*

3. *A complaint may be withdrawn at any time before the hearing begins.*

Sec. 52. 1. *The Division shall provide a copy of any complaint filed against, or a disciplinary hearing or other proceeding commenced against, a provisional community manager to the supervising community manager with whom the provisional community manager is associated.*

2. *The supervising community manager with whom the provisional community manager is associated shall attend any disciplinary hearing before the Commission or a hearing panel concerning that provisional community manager.*

Sec. 53. *If a party fails to appear at a hearing scheduled by the Commission or a hearing panel and a continuance has not been requested or granted, upon an offer of proof by the*

other party that the absent party was given proper notice and upon a determination by the Commission or a hearing panel that proper notice was given, the Commission or a hearing panel may proceed to consider the case without the participation of the absent party and may dispose of the matter on the basis of the evidence before it. If a party fails to appear at the hearing or fails to reply to the notice, the charges specified in the complaint may be considered as true.

Sec. 54. 1. *Not less than 5 working days before a hearing before the Commission or a hearing panel, the respondent must provide to the Division:*

(a) A copy of all documents that are reasonably available to the respondent which the respondent reasonably anticipates will be used in support of his position; and

(b) A list of witnesses whom the respondent intends to call at the time of the hearing, which must include for each witness:

(1) The name of the witness;

(2) The company for whom the witness works and the title of the witness; and

(3) A brief summary of the expected testimony of the witness.

2. *The respondent shall promptly supplement and update any documents and lists provided to the Division pursuant to this section.*

3. *The respondent shall provide, at the time of the hearing, 10 copies of each document he wishes to have admitted into evidence at the hearing.*

4. *If the respondent fails to provide any document required to be provided by the provisions of this section, the Commission or a hearing panel may exclude the document.*

Sec. 55. 1. *The presiding officer of a hearing shall:*

(a) Ascertain whether all persons commanded to appear under subpoena are present and whether all documents, books, records and other evidence under subpoena are present in the hearing room.

(b) Administer the oath to the reporter as follows:

Do you solemnly swear or affirm that you will report this hearing to the best of your stenographic ability?

(c) Administer the oath to all persons whose testimony will be taken:

Do you and each of you solemnly swear or affirm to tell the truth and nothing but the truth in these proceedings?

(d) Ascertain whether either party wishes to have a witness excluded from the hearing except during the testimony of the witness. A witness may be excluded upon the motion of the Commission or a hearing panel or upon the motion of either party. If a witness is excluded, he will be instructed not to discuss the case during the pendency of the proceeding. The respondent will be allowed to remain present at the hearing. The Division may designate a person who is a member of the staff of the Division and who may also be a witness to act as its representative. Such a representative will be allowed to remain present at the hearing.

(e) Ascertain whether a copy of the complaint or decision to deny has been filed and whether an answer has been filed as part of the record in the proceedings.

(f) Hear any preliminary motions, stipulations or orders upon which the parties agree and address any administrative details.

(g) Request the Division to proceed with the presentation of its case.

2. The Division may not submit any evidence to the Commission or a hearing panel before the hearing except for the complaint and answer.

3. The respondent may cross-examine witnesses in the order that the Division presents them.

4. Witnesses or counsel may be questioned by the members of the Commission or a hearing panel at any time during the proceeding.

5. Evidence which is to be introduced:

(a) Must first be marked for identification; and

(b) May be received by the Commission or a hearing panel at any point during the proceeding.

6. When the Division has completed its presentation, the presiding officer shall request the respondent to proceed with the introduction of evidence and calling of witnesses on his behalf.

7. The Division may cross-examine witnesses in the order that the respondent presents them.

8. When the respondent has completed his presentation, the Division may call any rebuttal witnesses.

9. When all testimony for the Division and respondent has been given and all evidence submitted, the presiding officer may request the Division and the respondent to summarize their presentations.

10. The Commission or a hearing panel may waive any provision of this section if necessary to expedite or ensure the fairness of the hearing.

11. The date of decision is the date the written decision is signed by a commissioner or a member of a hearing panel or filed with the Commission, whichever occurs later.

12. In the absence of the Chairman of the Commission, any matter which must be acted upon may be submitted to the Vice Chairman or, if the Vice Chairman is unavailable, to the secretary.

13. Upon the presentation of evidence that the respondent received notice of the hearing and has not filed an answer within the time prescribed pursuant to NRS 116.770, his default may be entered and a decision may be issued based upon the allegations of the complaint.

Sec. 56. *The Commission or a hearing panel may accept the voluntary surrender of a certificate in lieu of imposing any other disciplinary action set forth in this chapter or chapter 116 of NRS.*

Sec. 57. *The Division, Commission or a hearing panel may report any disciplinary action it takes against a holder of a certificate or any denial of an application for a certificate to:*

- 1. An association managed by the holder of a certificate;*
- 2. Any national repository which records disciplinary actions taken against community managers;*
- 3. Any agency of another jurisdiction that regulates the practice of management of a common-interest community; and*
- 4. Any other agency or board of the State of Nevada.*

Sec. 58. *1. For purposes of providing recommended reporting principles and practices of financial accounting for common-interest communities, the Commission hereby adopts by*

reference the [Common Interest Realty Associations - AICPA Audit and Accounting Guide](#), May 2004 edition. A copy of the publication may be obtained from the American Institute of Certified Public Accountants, 1211 Avenue of the Americas, New York, NY 10036-8775, by telephone at (888) 777-7077 or at the Internet address <<http://www.aicpa.org/index.htm>> or <<https://www.cpa2biz.com/CS2000/Products/CPA2BIZ/Publications/Sub+1/Common+Interest+Realty+Associations+%97+AICPA+Audit+and+Accounting+Guide.htm>>, at a price of \$47 for members and \$58.75 for nonmembers.

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. 59. An executive board shall, in addition to the requirements set forth in paragraph (b) of subsection 1 of NRS 116.31151, include in the budget to maintain the reserve:

1. An estimate of the amount of reserve funds necessary in the projected fiscal year, based on comparative bids or industry standards, to complete the repairs, replacement or restoration of the major components as recommended in the reserve study; and

2. Whether there is a difference between the amount of the annual contribution suggested in the reserve study and the amount of the annual contribution for the current budget year, and if so:

- (a) The reason for the difference; and*
- (b) How this difference is proposed to be resolved.*

Sec. 60. 1. *A reserve study must, in addition to the requirements set forth in NRS 116.31152, include:*

(a) A copy of the component inventory from the previous reserve study if such copy was provided by the executive board to the person conducting the reserve study;

(b) A 30-year schedule which shows:

(1) The projected increase in assessments that will be required in any given year to provide an adequately funded reserve; and

(2) The projected inflation and estimated interest income from the reserve fund;

(c) The names and credentials of any consultants and other persons with expertise used to assist in the preparation of the reserve study;

(d) Any written reports prepared by consultants and other persons with expertise;

(e) 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 are selected and the reasons for their selection;

(f) The disclosures set forth in section 61 of this regulation; and

(g) A statement, prominently displayed, which reads substantially as follows:

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. As used in this section, “adequately funded reserve” means the funds sufficient to maintain the common elements:

(a) At the level described in the governing documents and in a reserve study; and

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

Sec. 61. *A person conducting a reserve study and any consultant assisting in the preparation of a reserve study shall include in the reserve study the following disclosures:*

1. The background, training, qualifications and references that would qualify the person conducting or assisting in the preparation of the reserve study as competent to conduct or assist in the preparation of the reserve study;

2. Any relationship which could result in actual or perceived conflicts of interest;

3. Whether the person conducting or assisting in the preparation of the reserve study is bonded or has professional liability insurance;

4. The method for determining the common area components based on:

(a) An actual field inspection of the common elements with representative sampling;

(b) An inventory and material information provided by the client; or

(c) A previous reserve study and the date of that study;

5. Industry sources used for determining:

(a) The life of a major component; and

(b) The cost of repairing, replacing or restoring a major component;

6. *Any guarantees, express or implied, that are given with the predictions for the cost or life expectancy of any of the major components;*

7. *The source of the information regarding the initial reserve fund balance presented in the reserve study; and*

8. *Whether a special assessment is anticipated during the time of the contracted reserve study.*

Sec. 62. *An executive board shall submit a summary of the results of the reserve study to the Commission pursuant to subsection 3 of NRS 116.31152 by filing, electronically if possible, on a form prescribed by the Division, the summary of the results of the reserve study with the Division. The Division may post the summary of the results of the reserve studies filed with the Division on its website.*

Sec. 63. *As used in NRS 116.31175, “regular working hours” means a period of at least 4 consecutive hours per week.*

Sec. 64. *As used in NRS 116.625, “annual assessment” means both the per unit assessments and the total budget revenues for the association.*

Sec. 65. NAC 116.010 is hereby amended to read as follows:

116.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 116.013 to ~~116.060,~~ *116.055*, inclusive, *and sections 2 to 9, inclusive, of this regulation* have the meanings ascribed to them in those sections.

Sec. 66. NAC 116.013 is hereby amended to read as follows:

116.013 “Administrator” means the *Real Estate* Administrator . ~~[of the Division.]~~

Sec. 67. NAC 116.020 is hereby amended to read as follows:

116.020 “Certificate” means a certificate for the management of a common-interest community issued ~~[to a person by the Commission pursuant to NRS 116.31139.]~~ *by the Division.*

Sec. 68. NAC 116.025 is hereby amended to read as follows:

116.025 “Client” means ~~[the]~~ *an* executive board ~~[of an association acting on behalf of a common-interest community]~~ that has entered into a management agreement with a community manager.

Sec. 69. NAC 116.030 is hereby amended to read as follows:

116.030 “Commission” means the ~~[Real Estate Commission.]~~ *Commission for Common-Interest Communities created by NRS 116.600.*

Sec. 70. NAC 116.035 is hereby amended to read as follows:

116.035 “Community manager” means a person who ~~[holds a certificate or who holds a permit and who manages the association]~~ *provides for or otherwise engages in the management* of a common-interest community.

Sec. 71. NAC 116.043 is hereby amended to read as follows:

116.043 “Executive board” has the meaning ascribed to it in NRS ~~[116.110345.]~~ *116.045.*

Sec. 72. NAC 116.047 is hereby amended to read as follows:

116.047 “Management agreement” means an agreement for the management of a common-interest community . ~~[entered into pursuant to NAC 116.310.]~~

Sec. 73. NAC 116.050 is hereby amended to read as follows:

116.050 “Management of a common-interest community” means the physical, administrative or financial maintenance and management of a common-interest community, or the supervision of those activities , for a fee, commission or other ~~[compensation or]~~ valuable consideration.

Sec. 74. NAC 116.055 is hereby amended to read as follows:

116.055 “Permit” means a permit to engage in property management issued pursuant to *the provisions of* chapters 645 of NRS and NAC.

Sec. 75. NAC 116.100 is hereby amended to read as follows:

116.100 1. A person who wishes to obtain a certificate must submit an application to the Division on a form prescribed by the Division.

2. ~~[The application must be accompanied by:]~~ *Each applicant must, as part of his application and at his own expense:*

(a) Arrange to have a complete set of his fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Division; and

(b) Submit to the Division:

(1) A completed fingerprint card and written permission authorizing the Division to submit the applicant’s fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant’s background and to such other law enforcement agencies as the Division deems necessary; or

(2) Written verification, on a form prescribed by the Division, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant’s background and to such other law enforcement agencies as the Division deems necessary.

3. In addition to the requirements set forth in subsection 2, the applicant must submit to the Division:

(a) A photograph of the applicant, measuring approximately 2 inches by 2 inches, taken within the 2 years immediately preceding the date of the application;

~~(b) Two sets of fingerprint cards that have been completed by a recognized law enforcement agency;~~

~~—(c) An executed Law Enforcement Record Form No. 3321-SA or equivalent authorization for the release of information contained in records of law enforcement;~~

~~—(d) Written authorization for the Division to submit the fingerprint cards to the Central Repository for Nevada Records of Criminal History for further submission to the Federal Bureau of Investigation and to receive reports regarding the criminal histories of the subjects of the fingerprint cards;~~

~~—(e) Payment of the fees charged by any local agencies of a local law enforcement agency pursuant to section 14 of this regulation or, if the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation for the handling of the fingerprint cards and issuance of the reports of criminal histories;~~

~~—(f) pursuant to subsection 2, evidence of such payment;~~

(c) The social security number of the applicant;

~~(g)~~ (d) A statement concerning whether the applicant has been convicted of, or entered a plea of guilty ~~[, guilty but mentally ill]~~ or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or possessing for the purpose of sale any controlled substance or any crime involving moral turpitude;

~~(h)~~ (e) Documentation that the applicant possesses the education and experience required pursuant to NAC 116.120 ~~f~~;

~~(i)~~ *and, if applicable, section 16 of this regulation;*

(f) Documentation of the employment history of the applicant for the 10 years immediately preceding the date of the application, including, without limitation, letters of recommendation and affidavits of employment from common-interest communities or employers in other related areas;

~~(j)~~ (g) The statement described in ~~NAC 116.115~~;

~~(k)~~ *A fee of \$75; and*

~~(l)~~ *NRS 116.710;*

(h) The fee required by section 12 of this regulation for a certificate; and

(i) Such other pertinent information as the Division may require.

4. The Division shall act upon all applications for a certificate within 60 days from the date of receiving the completed application for a certificate.

5. If the Division determines that additional investigation of the applicant is necessary, the Division may extend the 60-day period and may make such additional investigation as is necessary or desirable before acting upon the application.

6. The burden of proof is on the applicant to establish to the satisfaction of the Division that he is qualified to receive a certificate.

Sec. 76. NAC 116.110 is hereby amended to read as follows:

116.110 *1.* An application for a certificate will not be accepted from a person under the age of 17 years.

2. A certificate ~~will not~~ *may only* be issued to ~~a person under the age of~~ :

(a) *A person* 18 years ~~of~~ *of age or older.*

(b) *A natural person.*

Sec. 77. NAC 116.120 is hereby amended to read as follows:

116.120 1. Except as otherwise provided in subsection 2, an applicant must ~~be~~

~~—(a) Have~~ *have* successfully completed at least ~~[24]~~ *60* hours of instruction in courses in ~~[property management as it relates to]~~ the management of a common-interest community that have been approved by the Commission, including, without limitation:

~~[(1)]~~ (a) At least ~~[8]~~ *20* hours of instruction relating to federal, state and local laws applicable to ~~[property management as it relates to]~~ the management of a common-interest community, including, without limitation ~~[, instruction relating to:~~

~~—(I) The] :~~

(1) *Not less than 2 hours of instruction relating to federal laws applicable to common-interest communities, including, but not limited to, the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq. ~~be~~*

~~—(II) The], the Fair Housing Act of 1968, 42 U.S.C. §§ 3601 et seq., the Fair Housing Amendments Act of 1988, 42 U.S.C. §§ 3602 et seq., and the Fair Debt Collection Practices Act of 1996, 15 U.S.C. §§ 1601 et seq.; and~~

(2) *Not less than 18 hours of instruction relating to the Uniform Common-Interest Ownership Act as set forth in ~~this chapter and~~ chapter 116 of NRS . ~~be~~*

~~—(III) The Nevada Fair Housing Law as set forth in chapter 118 of NRS;~~

~~—(IV) The Residential Landlord and Tenant Act as set forth in chapter 118A of NRS;~~

~~—(V) The disclosure of required information in real estate transactions;~~

~~—(VI) Defects in construction;~~

~~—— (VII) Alternative dispute resolution for claims relating to residential property within a common interest community as set forth in NRS 38.300 to 38.360, inclusive;~~

~~—— (VIII) Corporation law;~~

~~—— (IX) Industrial insurance; and~~

~~—— (X) Health and safety.~~

~~(2)] (b) At least ~~[16]~~ 40 cumulative hours of instruction in the following subjects:~~

~~(I) The maintenance of real property;~~

~~(II)] (1) *Understanding the legal basics of common-interest communities and their governing documents;*~~

~~(2) *The management of facilities and the use of experts;*~~

~~(3) Accounting, including, without limitation, *the preparation and monitoring of* budgets, ~~[for revenues,]~~ expenditures and reserves ~~;~~~~

~~(III) *Governmental relations concerning issues that affect a common interest community, including, without limitation, zoning and planning;*~~

~~(IV) *The management of facilities;*~~

~~(V)] *and the use of financial statements;*~~

~~(4) *Contracts with the common-interest community, including obtaining bids and requests for proposals;*~~

~~(5) *Parliamentary procedures, types and uses as may be required by law or the governing documents or bylaws of a common-interest community;*~~

~~(6) The management of human resources ~~;~~~~

~~(VI) *Governing documents;*~~

~~(VII)~~ , *including, the ability to communicate and interact effectively with other people;*

(7) Inspection and planning for property maintenance;

(8) Risk management; ~~and~~

~~(VIII)~~ *(9) The types of insurance that must be maintained by a common-interest community pursuant to NRS 116.3113 ~~f~~*

~~(b)~~;

(10) Governmental regulations that affect a common-interest community, including, without limitation, zoning and planning;

(11) The Nevada Fair Housing Law as set forth in chapter 118 of NRS;

(12) The Residential Landlord and Tenant Act as set forth in chapter 118A of NRS;

(13) The disclosure of required information in real estate transactions;

(14) Defects in construction;

(15) Alternative dispute resolution for claims relating to residential property within a common-interest community as set forth in NRS 38.300 to 38.360, inclusive;

(16) Corporation law;

(17) Industrial insurance;

(18) Health and safety; and

(19) Business ethics.

(c) Provide evidence that he has been engaged in the management of a common-interest community or has held a management position in a related area for:

(1) The 12 months immediately preceding the date of his application; or

(2) At least 2 of the 4 years immediately preceding the date of his application.

2. An applicant may provide evidence of any other combination of education and experience that the Division may deem to be equivalent to the requirements set forth in this section.

Sec. 78. NAC 116.130 is hereby amended to read as follows:

116.130 1. ~~{Each}~~ *An* applicant for a certificate must ~~{pass}~~ :

(a) *Pass* an examination which has been approved by the Division with a minimum score of 75 percent ~~{}~~; *and*

(b) *Pay the fee required by section 12 of this regulation for an examination.*

2. The Division will only accept results of an examination taken during the 12 months immediately preceding the date of the application for a certificate.

~~{2. The fee for the examination required pursuant to subsection 1 is \$100.}~~

3. *Passing the examination creates no vested right in the applicant to hold a certificate pending his appeal of a denial of his certification by the Division.*

4. An applicant who fails the examination ~~{required pursuant to subsection 1}~~ may retake the examination.

Sec. 79. NAC 116.140 is hereby amended to read as follows:

116.140 1. The Division shall deny an application for a certificate if:

(a) The application is not in the proper form;

(b) The application is not accompanied by the fees required by ~~{NAC 116.100;}~~ *section 12 of this regulation;*

(c) The accompanying forms or documentation are incomplete or otherwise unsatisfactory;

(d) The application contains a false *or misleading* statement;

(e) Other deficiencies appear in the application;

(f) An investigation fails to show affirmatively that the applicant possesses the necessary qualifications;

(g) The applicant has willfully acted or attempted to act in violation of chapter 116, 119, 119A, 645 or 645A of NRS or the regulations adopted pursuant to those chapters or has willfully aided or abetted another person to act or attempt to act in violation of those chapters or regulations;

(h) The check *or draft* used to pay the fee for the application for a certificate is not honored by the financial institution upon which it is drawn;

(i) The applicant has had a license, certificate or permit revoked in another state;

(j) The applicant has been convicted of, or entered a plea of guilty ~~[, guilty but mentally ill]~~ or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or possessing for the purpose of sale any controlled substance or any crime involving moral turpitude; or

(k) Any combination thereof.

2. ~~[Except as otherwise provided in subsections 3 and 4, the]~~ *The* Division shall not refund a fee for the application for a certificate.

~~[3.— The Division shall refund the portion of the fee that is attributable to the cost of the investigation if the investigation was not conducted by the Federal Bureau of Investigation.~~

~~—4.— If an applicant reapplies within 90 days after the denial of his application, the Division shall give him credit for the fee that he paid with the original application.]~~

Sec. 80. NAC 116.150 is hereby amended to read as follows:

116.150 1. If the Division, after an application for a certificate in proper form has been filed, accompanied by the proper fees, denies an application, the Division shall give notice of this fact to the applicant within 15 days after the ruling, order or decision.

2. Within 30 days after receipt of a notice of denial, an applicant may request, in writing, a hearing before the Commission. The ~~President of the Commission~~ *Division* will set the matter for a hearing to be conducted ~~within 90 days~~ *as soon as practicable* after receipt of the request of the applicant if the request contains allegations which, if true, qualify the applicant for a certificate.

3. The hearing must be held at such time and place as the Commission prescribes. At least 15 days before the date set for the hearing, the Division shall notify the applicant and shall accompany the notification with an exact copy of any protest filed, together with copies of all communications, reports, affidavits or depositions in possession of the Division relevant to the matter in question. Written notice of hearing may be served by delivery personally to the applicant, or by mailing it by certified mail to the last known address of the applicant.

4. The hearing may be held by the Commission or a majority thereof, and a hearing must be held ~~if~~ if the applicant so wishes. A record of the proceedings, or any part thereof, must be made available to each party upon the payment to the Division of the reasonable cost of transcription.

5. The Commission will render a written decision on any appeal within 60 days after the final hearing and will notify the parties to the proceedings, in writing, of its ruling, order or decision within 15 days after it is made.

Sec. 81. NAC 116.160 is hereby amended to read as follows:

116.160 1. A certificate must be renewed biennially.

2. Except as otherwise provided by subsection ~~[6.]~~ 5, the Division shall renew a certificate if the applicant submits to the Division at least 30 days before the expiration of his certificate:

(a) A completed application on a form prescribed by the Division;

(b) The statement described in ~~[NAC 116.115;~~

~~—(c) A renewal fee of \$60;] NRS 116.710;~~

(c) The fee required by section 12 of this regulation for renewal; and

(d) Documentation of the successful completion by the applicant of at least ~~[9]~~ 18 hours of continuing education in courses approved by the Commission within the 2 years immediately preceding the date on which the certificate expires. At least 3 hours of the continuing education must consist of instruction relating to ~~[laws of this state that are applicable to the responsibilities and duties involved in the management of a common-interest community.]~~ *this chapter and chapter 116 of NRS.*

3. The renewal of a certificate is effective on the date on which the renewal ~~[of the certificate]~~ is issued.

4. If the holder of a certificate fails to complete the required hours of continuing education or fails to file an application for the renewal of his certificate before it expires, he may not engage in the management of a common-interest community until his certificate is reinstated.

5. ~~[In addition to submitting the documents and fee set forth in subsection 2, an applicant who wishes to reinstate his certificate must submit to the Division:~~

~~—(a) Current fingerprint cards that have been completed by a recognized law enforcement agency;~~

~~—(b) An executed Law Enforcement Record Form No. 3321-SA or equivalent authorization for the release of information contained in records of law enforcement;~~

~~—(c) Written authorization for the Division to submit the fingerprint cards to the Central Repository for Nevada Records of Criminal History for further submission to the Federal Bureau of Investigation and to receive reports regarding the criminal histories of the subjects of the fingerprint cards; and~~

~~—(d) Payment of the fees charged by any local agencies of law enforcement, the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation for the handling of the fingerprint cards and issuance of the reports of criminal histories.~~

~~—6.]~~ The Division may refuse to renew ~~[or reinstate]~~ a certificate if:

(a) The applicant has been convicted of, or entered a plea of guilty ~~[, guilty but mentally ill]~~ or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or possessing for the purpose of sale any controlled substance or any crime involving moral turpitude;

(b) The applicant fails to complete, sign and submit the statement required pursuant to ~~[NAC 116.115;~~

~~—(c) The Division has received a formal complaint submitted in accordance with subsection 2 of NAC 116.320 that has not been resolved in favor of the applicant;~~

~~—(d)]~~ *NRS 116.710;*

(c) The Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional certificates and permits issued to the applicant; or

~~[(e) An investigation conducted by the Division pursuant to NAC 116.320 reveals that the]~~

(d) *The* applicant has engaged in conduct which is grounds for disciplinary action pursuant to NAC 116.360 ~~[within the 2 years immediately preceding the date on which the certificate expires.~~

~~—7.] and has been disciplined by the Division or Commission.~~

6. If the Division, after an application to renew ~~[or reinstate]~~ a certificate in proper form has been filed, accompanied by the proper fees, refuses to renew ~~[or reinstate]~~ the certificate, it shall give notice of this fact to the applicant within 15 days after the ruling, order or decision. The applicant may file a written request for a hearing before the Commission pursuant to the procedures set forth in NAC 116.150.

~~[8.]~~ 7. If the Division refuses to renew ~~[or reinstate]~~ a certificate because it receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional certificates and permits issued to the applicant, the Division shall reinstate the certificate if the Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose certificate was suspended stating that the person has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 82. NAC 116.230 is hereby amended to read as follows:

116.230 1. A course ~~[that has been approved by the Commission to fulfill the educational requirements for the issuance or renewal of a certificate]~~ may not be taken for credit *to meet the requirements for continuing education* more than once ~~[unless the material in the course has been changed or updated significantly.]~~ *during any two consecutive periods for renewal of a certificate.*

2. *Courses taken to satisfy requirements for renewal or reinstatement of a certificate must be completed within 2 years immediately before the latest date for renewing or reinstating the certificate.*

3. A holder of a certificate may receive credit for ~~[a course]~~ *continuing education* only upon certification by the sponsor that the holder of the certificate has attended and completed at least 90 percent of the course.

~~[3.]~~ 4. The sponsor shall determine whether a final examination is required for the completion of a course.

Sec. 83. NAC 116.300 is hereby amended to read as follows:

116.300 A community manager shall:

1. Comply with the lawful provisions of the governing documents of each client;

2. ~~[Not solicit or accept any form of compensation, gratuity or other remuneration which would improperly influence or would appear to a reasonable person to improperly influence the decision making of the community manager or which would result or would appear to a reasonable person to result in a conflict of interest, and disclose in writing to the executive board any compensation, gratuity or other remuneration that is solicited or accepted in violation of this subsection;~~

~~—3.]~~ Maintain an inventory of all records of each client;

~~[4.]~~ 3. Keep informed of new developments in the management of a common-interest community ~~[,]~~ *through continuing education*, including, without limitation, new developments in ~~[legal]~~ *law, insurance coverage* and accounting ~~[principals of the management of a common-interest community];~~

~~—5.—~~ ~~Unless otherwise required or authorized by law or an authority with competent jurisdiction, not disclose confidential information relating to a client which includes, without limitation, the business affairs and records of the client;~~

~~—6.]~~ *principles;*

4. Advise a client to obtain advice from an expert relating to matters that are beyond the expertise of the community manager;

~~[7.]~~ 5. Under the direction of ~~[the executive board of]~~ a client, uniformly enforce the provisions of the governing documents of the ~~[client;~~

~~8.] association;~~

6. At all times ensure that the ~~[records of]~~ financial transactions of a client are current , ~~[and]~~ accurate and ~~[are properly identified;~~

~~—9.] properly documented and that there are established policies and procedures surrounding the financial transactions that are designed to provide reasonable assurances in the reliability of the financial reporting, including, without limitation, proper maintenance of accounting records, documentation of the authorization for receipts and disbursements, verification of the integrity of the data used in business decisions, facilitation of fraud detection and prevention, and compliance with the applicable laws and regulations governing financial records;~~

7. Prepare or cause to be prepared *interim and annual* financial statements ~~[in sufficient detail to]~~ that will allow the ~~[executive board]~~ *Division, a client, the units' owners* and *the accountant or* auditor ~~[of a client]~~ to determine ~~[the status of the accounts and financial operation of the client;~~

~~—10.] whether the financial position of a client is fairly presented in accordance with generally accepted accounting principles as set forth in the Common Interest Realty Associations - AICPA Audit and Accounting Guide, as adopted by section 58 of this regulation;~~

8. Make the financial records of ~~{a-client}~~ *an association* available for inspection by the Division in accordance with the applicable laws of this State;

~~{11.}~~ 9. Cooperate with the Division in resolving complaints filed with the Division;

~~{12.—Make}~~

10. *Upon written request, make* the financial records of ~~{a-client}~~ *an association* available *to units' owners* during regular business hours for inspection *at a reasonably convenient location which must be within 60 miles from the physical location of the common-interest community* and *shall* provide copies of such records ~~{to a member of the client association}~~ in accordance with *the* applicable laws of this State;

~~{13.}~~ 11. Deposit all money of ~~{a-client}~~ *an association* that is in the possession or control of the community manager in a federally insured financial institution authorized to do business in this State;

~~{14.—Not commingle money or other property of a client with the money or other property of another client or of the community manager and shall not use money or other property of a client for his own personal use;~~

~~—15.}~~ 12. Recommend in writing to each client that the ~~{client}~~ *association* register with the Division, maintain its registration and file all papers with the Division and the Secretary of State ~~{}~~ as required by law;

~~{16.}~~ 13. Comply with the directions of ~~{the executive board of}~~ a client, unless ~~{such direction conflicts with these regulations}~~ *the directions conflict with the governing documents of the association, this chapter* or other applicable laws of this State;

~~{17.}~~ 14. Recommend in writing to each client that the ~~{client}~~ *association* be in compliance with all *applicable* federal, state and local laws and the governing documents of the ~~{client}~~;

~~18.— Not be a signor on a withdrawal from a reserve account of a client unless serving as a member of the executive board or as an officer of the client;~~

~~—19.] association;~~

15. Obtain, when practicable, at least three bids for any capital improvement project ~~[of the client; and~~

~~20.— Not establish an attorney-client relationship with an attorney or law firm which represents an association which employs the community manager or with whom the association has a management agreement.] for the association; and~~

16. *Fairly enforce the collection policies of a client and comply with all applicable federal, state and local laws relating to the collection of debt.*

↪ *As used in this section, “regular business hours” means Monday through Friday, 9 a.m. to 5 p.m., excluding state and federal holidays.*

Sec. 84. NAC 116.310 is hereby amended to read as follows:

116.310 ~~[1.]~~ Before entering into a management agreement, a community manager shall disclose in writing to the prospective client ~~[his interest or prospective interest in the client.]~~ *any material and relevant information that he knows or should know relates to the performance of the management agreement, including any matters which may affect his ability to comply with the provisions of this chapter or chapter 116 of NRS.* Such disclosure must include, without limitation:

~~[(a)]~~ 1. Whether he expects to receive any direct or indirect compensation or profits from any person who will perform services ~~[related to]~~ *for* the client and, if so, the identity of the person;

~~[(b)]~~ 2. His affiliation with or financial interest in any person who furnishes *any goods or* services ~~[related]~~ to the client;

~~[(c) His interest in or financial arrangement with a person who provides maintenance or other services to the client; and~~

~~—(d)]~~ *and*

3. His personal relationships with ~~[any member of the client association or]~~ any *unit's* *owner*, member of the executive board ~~[of the client.~~

~~—2. A management agreement must:~~

~~—(a) Be in writing;~~

~~—(b) Be entered into by the executive board, the community manager or the employer of the community manager if the community manager is acting on behalf of a corporation, partnership, limited partnership or limited liability company;~~

~~—(c) State the term of the management agreement;~~

~~—(d) State the full dollar amount of the contract and the payment schedule;~~

~~—(e) State the identity and the legal status of the contracting parties; and~~

~~—(f) State any limitations on the liability of the community manager.~~

~~—3. A management agreement may include, without limitation:~~

~~—(a) A schedule of the costs of any new association or of any start-up costs;~~

~~—(b) A job description and statement of authority of the community manager;~~

~~—(c) Spending limits of the community manager;~~

~~—(d) Provisions relating to the grounds and procedure for termination of the community manager;~~

~~—(e) Insurance disclosures;~~

- ~~—(f) Provisions for dispute resolution;~~
 - ~~—(g) Statements that all records and books of client are property of the client;~~
 - ~~—(h) The physical location of the records of the client;~~
 - ~~—(i) The frequency and extent of regular inspections of the association property as mutually agreed upon by the community manager and the client;~~
 - ~~—(j) A schedule of fees to be charged for special or nonroutine services;~~
 - ~~—(k) A schedule of reimbursable expenses;~~
 - ~~—(l) The extent, if any, of the authority of the community manager to sign checks on behalf of the client in an operating account; and~~
 - ~~—(m) A schedule of fees to be charged by the community manager for resale transfer fees or other fees charged for setting up the account of a new member.~~
- ~~—4.— After signing a management agreement, the community manager shall send a copy of the management agreement to each director of the executive board of the common interest community that is the subject of the agreement.~~
- ~~—5.— Any changes to a management agreement must be in writing and must be signed or initialed by the parties to the agreement.~~
- ~~—6.— Unless otherwise agreed to in writing by the parties to the management agreement, within 30 days after the end of a management agreement, the community manager shall transfer possession of all books and records of the client to the succeeding community manager or to the association if there is no succeeding community manager.] *or officer of the association.*~~

Sec. 85. NAC 116.320 is hereby amended to read as follows:

116.320 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 the person making the allegations within 12 working days after he 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 ~~[, chapter 645 of NAC]~~ or chapter 116 ~~[or 645]~~ 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 ~~[and]~~ *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 owner, ratification of the complaint by the unit 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 copy 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 ~~and~~ 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 ~~and~~ as he 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, ~~[\$250;]~~ *\$500*; and

(2) For the second ~~[and each subsequent offense, \$500;]~~ *offense, \$1,000*;

(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;

~~[(d)]~~ (e) Refer the matter to ~~[an advisory committee; or~~
~~—(e)]~~ *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.

Sec. 86. NAC 116.360 is hereby amended to read as follows:

116.360 1. A community manager is subject to disciplinary action if the community manager:

(a) Commits any of the following:

- (1) Unprofessional conduct;
- (2) Professional incompetence;
- (3) Negligence or gross negligence; or
- (4) A felony or any offense involving moral turpitude; or

(b) Has had a certificate, permit or license that authorizes him to act as a community manager in another jurisdiction revoked or suspended.

2. A community manager commits an act of unprofessional conduct if the community manager:

(a) Violates the provisions of:

- (1) An order of the Commission;

- (2) An agreement with the Division; or
 - (3) This chapter or chapter 116 of NRS;
- (b) Fails to disclose to ~~the executive board of~~ a client any material fact or other information that he knows or, in the exercise of reasonable care or diligence, should have known, which concerns or relates to the common-interest community and which is of customary or express interest to the client;
- (c) Engages in deceitful, fraudulent or dishonest conduct, including, without limitation, knowingly communicating false, *misleading* or fraudulent information to ~~the executive board of~~ a client;
- (d) Before obtaining a certificate or permit, committed an act which was in fact unknown to the Division at the time it issued the certificate or permit and which would have been grounds for denial of a certificate or permit had the Division been aware of the conduct;
- (e) Obtains a certificate or permit by fraud or deceit or by concealing a material fact from the Division, including, without limitation, making a false statement of material fact on the application for the certificate or permit;
- (f) Fails to cooperate with the Division in the investigation of a complaint, including, without limitation, failure to produce any document, book or record in the possession or control of the community manager after the Division requests the production of such document, book or record in the course of an investigation of a complaint;
- (g) Fails to perform impartially and consistently an activity that is lawful and properly authorized on behalf of a client or fails to perform a duty or obligation owed to a client because of the age, race, color, religion, national origin, disability, marital status, familial status, sex or ethnicity of any person, including, without limitation, a member of the ~~client~~ *executive board*,

an officer of the association, *a unit's owner*, a tenant of the common-interest community ~~[of the client,]~~ *or* a visitor of the common-interest community ; ~~[of the client or a member of the executive board of the client; or]~~

(h) Fails to account for or remit money in his possession that belongs to another within a reasonable time of a request for an accounting or remittance of such money by the owner ~~[;]~~ *or*

(i) Exceeds the authority granted to him by the client.

3. A community manager commits an act of professional incompetence if, without limitation, the community manager:

(a) Demonstrates a significant lack of ability, knowledge or fitness to perform a duty or obligation owed to a client; or

(b) Fails to exercise reasonable skill and care with respect to a duty or obligation owed to a client.

4. In determining whether a community manager has committed unprofessional conduct or professional incompetence, the Commission and the Administrator may consider, without limitation, whether the community manager has:

(a) Done his utmost to protect the public against fraud, misrepresentation or unethical practices related to the business affairs of the client;

(b) Acquired the knowledge of all pertinent facts concerning a client;

(c) ~~[Attempted]~~ *Provided or attempted* to provide ~~[specialized professional]~~ *to a client* services concerning a type of property or service ~~[that]~~ :

(1) That is outside his field of experience or competence without the assistance of a qualified authority unless the fact of his inexperience or incompetence is disclosed fully to ~~[the executive board of]~~ the client ~~[;]~~ *and is not otherwise prohibited by law; or*

(2) For which he is not properly licensed;

- (d) Complied with the disclosure requirement ~~[of subsection 1]~~ of NAC 116.310;
- (e) Complied with the applicable governing documents, policies and procedures of the client;
- (f) Kept informed of current statutes and regulations relating to common-interest communities and relating to other areas in which he attempts to provide guidance;
- (g) Acted in the best interest of his client;
- (h) Ensured that each management agreement is in writing and that each ~~[director]~~ *member* of the executive board ~~[of the client]~~ has received a copy of the *management* agreement;
- (i) Obtained all changes of contractual terms in writing and has ensured that such changes are signed or initialed by the parties concerned; ~~[or]~~
- (j) Acquired knowledge of all material facts that are reasonably ascertainable and are of customary or express concern to a client and has conveyed that knowledge to the client ~~[]~~; *or*
- (k) Failed to supervise a provisional community manager or employee.***

5. As used in this section:

- (a) “Disability” means:
 - (1) A physical or mental impairment that substantially limits one or more of the major life activities of the person;
 - (2) A record of such an impairment; or
 - (3) Being regarded as having such an impairment.
- (b) “Familial status” means the fact that a person:
 - (1) Lives with a child under the age of 19 years and has:
 - (I) Lawful custody of the child; or

(II) Written permission to live with the child from the person who has lawful custody of the child;

(2) Is pregnant; or

(3) Has begun a proceeding to adopt or otherwise obtain lawful custody of a child.

Sec. 87. NAC 116.370 is hereby amended to read as follows:

116.370 1. If the Administrator refers the matter to the Commission and after conducting a hearing the Commission finds that grounds for disciplinary action against the community manager exist, the Commission may take one or more of the following actions:

(a) Revoke or suspend the certificate ; ~~for permit;~~

(b) Refuse to renew or reinstate the certificate ; ~~for permit;~~

(c) Place the community manager on probation;

(d) Issue a reprimand or censure to the community manager;

(e) Impose a fine of not more than \$5,000 for each violation of a statute or regulation;

(f) Require the community manager to pay restitution;

(g) Require the community manager to pay the costs of the investigation and hearing;

(h) Require the community manager to obtain additional education relating to the management of common-interest communities; or

(i) Take such other disciplinary action as the Commission deems appropriate.

2. Unless the Administrator determines otherwise and the person satisfies all the requirements for initial issuance of a certificate , ~~for permit;~~ the Commission will not issue another certificate ~~for permit~~ to a person whose certificate ~~for permit~~ has been revoked for at least ~~one~~ *1* year after the date of the revocation.

Sec. 88. NAC 116.390 is hereby amended to read as follows:

116.390 Records kept in the office of the Division under authority of this chapter are open to public inspection in the same manner as records are available for inspection pursuant to chapters 645 of NRS and NAC, except that the Division may refuse to make public, unless ordered to do so by a court:

1. Examinations;
2. Files compiled by the Division while investigating possible violations of *this chapter or* chapter 116 ~~[or 645]~~ of NRS ; ~~[-, this chapter or chapter 645 of NAC; and]~~
3. The criminal and financial records of community managers and of applicants for a certificate ~~[or permit.]~~;
4. *Social security numbers;*
5. *The home addresses and telephone numbers of community managers, unless such information is used for business purposes by a community manager; and*
6. *The home addresses and telephone numbers of members of the executive boards.*

Sec. 89. NAC 116.450 is hereby amended to read as follows:

116.450 ~~[1.]~~ A person is qualified by training and experience to conduct a reserve study if ~~[the person proves to the satisfaction of the executive board that he]~~ :

1. *The person* has:
 - (a) A good reputation for honesty, trustworthiness and integrity;
 - (b) The ability to evaluate ~~[components of the common elements]~~ *the items on the component inventory* with regard to normal and accelerated deterioration, *deferred maintenance*, remaining *years of* useful life ~~[-, by year,]~~ and current cost to repair or replace;
 - (c) The ability to perform financial analysis, cost estimates and 30-year projections, as applicable;

(d) The ability to review *improvement plans and specifications, maintenance histories, recorded plats and governing* documents of the association *in order to compile a complete component inventory* and to consult with the executive board to ascertain and confirm *that* the component inventory ~~from such review;~~ *is complete;*

(e) The ability to gather and analyze financial data, including, without limitation, monthly assessment fees per unit, current balance of reserves, interest rate anticipated on reserves, anticipated inflation and maximum *assessment* fee increases allowable; and

(f) The background and knowledge pertinent to all areas to be addressed by the reserve study ~~and to all components of the common elements to be addressed by the reserve study.~~

~~2. A person who is selected to perform a reserve study for the executive board may use]; or~~

2. The person:

(a) *Has a good reputation for honesty, trustworthiness and integrity; and*

(b) *Uses* consultants and other persons with expertise ~~in the areas and components of the reserve study]~~ *having the knowledge and abilities set forth in subsection 1* to assist in preparing the reserve study.

~~3. As used in this section,~~

~~(a) “Common elements” means the common elements of a common-interest community.~~

~~(b) “Component inventory” means a list of components of the common elements identified in a reserve study that may require repair or replacement.~~

~~(c) “Reserve study” means a study required pursuant to NRS 116.31152 which projects the expenses of an association for the repair, replacement and restoration of the major components of the common elements and which establishes the reserves required to cover such expenses.]~~

Sec. 90. NAC 116.800 is hereby amended to read as follows:

116.800 For purposes of exemption from the provisions of chapter 116 of NRS pursuant to NRS 116.1201:

1. An association is exempt pursuant to subparagraph (1) of paragraph (a) of subsection 2 of NRS 116.1201 if ~~the~~:

(a) *The* association has been created for the ~~limited~~ *sole* purpose of maintaining the ~~landscape of uninhabited common interest grounds within the community.~~ *common elements consisting of landscaping, public lighting, security walls or trails, parks and open space;*

(b) *The declaration states that the association has been created as a landscape maintenance association; and*

(c) *The declaration expressly prohibits:*

(1) *The association, and not a unit's owner, from enforcing a use restriction against a unit's owner;*

(2) *The association from adopting any rules or regulations concerning the enforcement of a use restriction against a unit's owner; and*

(3) *The imposition of a fine or any other penalty against a unit's owner for a violation of a use restriction.*

2. An association is exempt pursuant to subparagraph (2) of paragraph (a) of subsection 2 of NRS 116.1201 if the association is created for the ~~limited~~ *sole* purpose of maintaining:

(a) Areas on an official plat that are designated as unsuitable for building;

(b) Areas *required by the governing body to be* designated as floodways, natural drainage or spillways; or

(c) Other areas that ~~are~~ *the governing body requires to be* used for the purpose of collecting, facilitating, retaining or channeling storm water drainage of the residential property of the common-interest community.

3. An association is exempt pursuant to subparagraph (3) of paragraph (a) of subsection 2 of NRS 116.1201 if:

(a) The association has been created as a rural agricultural residential common-interest community;

(b) The residential lots in the common-interest community are a minimum of ~~one~~ *1* acre and are zoned for agricultural purposes by the county in which the community is located; and

(c) The governing documents of the association authorize the residents to farm or raise livestock on the residential lots.

4. As used in this section:

(a) "Governing body" has the meaning ascribed to it in NRS 278.015.

(b) "Landscaping" has the meaning ascribed to it in NRS 278.4781.

(c) "Public lighting" has the meaning ascribed to it in NRS 278.4783.

(d) "Security wall" has the meaning ascribed to it in NRS 271.203.

(e) "Trails, parks and open space" means trails, parks and open space that provide a substantial public benefit or are required by the governing body for the primary use of the public. The term does not include a private street or roadway, gated entry, swimming pool, gazebo, clubhouse, pond, tennis court, miniature golf course or frisbee golf course.

(f) "Use restriction" means any provision of the governing documents of an association that restricts a unit's owner in the use of his unit.

Sec. 91. NAC 116.017, 116.060, 116.115, 116.200, 116.210, 116.220, 116.330, 116.340, 116.350 and 116.380 are hereby repealed.

Sec. 92. The provisions of paragraph (d) of subsection 2 of NAC 116.160, as amended by this regulation, do not apply to a person who applies for renewal of a certificate before July 1, 2006.

Sec. 93. 1. This section and sections 1 to 15, inclusive, 19 to 32, inclusive, 34 to 76, inclusive, and 78 to 92, inclusive, of this regulation become effective on April 14, 2005.

2. Section 33 of this regulation becomes effective on July 1, 2005.

3. Sections 16, 17, 18 and 77 of this regulation become effective on January 1, 2006.

TEXT OF REPEALED SECTIONS

116.017 “Advisory committee” defined. (NRS 116.31139) “Advisory committee” means an advisory committee established pursuant to NAC 116.330.

116.060 “Property management” defined. (NRS 116.31139) “Property management” means the physical, administrative or financial maintenance and management of real property, or the supervision of those activities for a fee, commission or other compensation or valuable consideration.

116.115 Statement concerning payment of child support. (NRS 116.31139)

1. An applicant who applies for the issuance or renewal of a certificate shall submit to the Division the statement prescribed by the Welfare Division of the Department of Human Resources pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The applicant shall include the statement described in subsection 1 in:

(a) The application for a certificate or any other form that must be submitted for the issuance or renewal of a certificate; or

(b) A separate form prescribed by the Division.

3. The Division will not issue or renew a certificate pursuant to this chapter if the applicant:

(a) Fails to sign, complete or submit the statement described in subsection 1; or

(b) Indicates on the statement required pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Division shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

116.200 Approval of courses. (NRS 116.31139)

1. Any course designed to fulfill the educational requirements for the issuance or renewal of a certificate must be approved by the Commission. The approval by the Commission of such a course is effective for 2 years after the original approval or a reapproval.

2. An application for the original approval of such a course must be submitted to the Division on a form prescribed by the Division. The Division shall assign a number to the sponsor of each course that it approves.

3. A sponsor of an approved course must submit an application for reapproval to the Division on a form prescribed by the Division and attach to that form an updated outline for the course. An application for reapproval must be filed at least 2 weeks before the previous approval expires. If a sponsor fails to submit an application for reapproval in a timely manner, the sponsor must apply for an original approval.

4. The Division may audit an approved course to ensure that the course, instructor or sponsor continues to meet the requirements of this chapter.

5. The sponsor of a course approved by the Commission shall require each student to complete an evaluation of the course on a form approved by the Division. The sponsor shall retain the evaluations for 3 years after the date on which the course was provided and shall make the evaluations available for inspection by the Division, upon its request, during regular business hours.

6. The Commission may withdraw its approval of a course if it finds through an audit or evaluations completed by students in the course that:

(a) The quality of the curriculum or instruction is unsatisfactory; or

(b) Any of the provisions of this chapter governing courses designed to fulfill the educational requirements for the issuance or renewal of a certificate have been violated.

7. If the Commission denies or withdraws approval of a course, the sponsor may file a written request for a hearing before the Commission pursuant to the procedures set forth in NAC 645.415.

116.210 Record of attendance. (NRS 116.31139)

1. If the Commission approves a course designed to fulfill the educational requirements for the issuance or renewal of a certificate, the sponsor of the course shall provide a certified copy of the record of attendance of a student to that student upon his successful completion of the course. The Division shall accept the certified copy as proof of the attendance of the student for the purpose of obtaining or renewing a certificate.

2. The record of attendance of a student must contain the:

- (a) Name of the sponsor;
- (b) Name of the student and, if the student is the holder of a certificate, the number of his certificate;
- (c) Number of hours of instruction;
- (d) Dates of instruction;
- (e) Title of the course;
- (f) Number assigned to the sponsor by the Division and a statement that the course was approved by the Commission;
- (g) Grade received by the student or a statement of whether the student passed the course if an examination was given; and
- (h) Signature of the person authorized to sign for the sponsor.

3. The sponsor shall maintain a record of the attendance of each student in a course for 5 years after his enrollment in the course and shall make such records available for inspection by the Division, upon its request, during regular business hours.

116.220 Qualifications of instructors. (NRS 116.31139) An instructor of a course that has been approved by the Commission to fulfill the educational requirements for the issuance or renewal of a certificate must possess:

1. A good reputation for honesty, integrity and trustworthiness; and
2. At least one of the following qualifications, unless granted a special exception by the

Division:

(a) A bachelor's degree in the field in which the person is instructing or a directly related field.

(b) A license from this state or another state that authorizes the holder to teach the subject being offered.

(c) Five years of full-time experience, other than in a secretarial position, working in a job directly related to the subject taught.

(d) Three years of experience teaching a course in the management of a common-interest community or a directly related subject.

(e) A designation by a nationally recognized organization that has been approved by the Division which would qualify the instructor to engage in the management of a common-interest community pursuant to the requirements of that organization.

116.330 Advisory committee: Establishment; qualifications and compensation of members. (NRS 116.31139)

1. The administrator may establish an advisory committee to assist the administrator in the review of a matter that is the subject of an investigation conducted pursuant to NAC 116.320 if the community manager who is the subject of the investigation agrees to participate in an informal review of the matter with an advisory committee.

2. If the administrator determines that an advisory committee should be formed, the administrator shall form the advisory committee in the same manner as an advisory committee is formed pursuant to NAC 645.490. The administrator shall only select persons to serve on an advisory committee who are determined by the administrator to be impartial and qualified with respect to the matter which will be reviewed by the advisory committee. The Commission will prescribe the education and experience qualifications of the members of an advisory committee and will review all applications and approve or disapprove the applicants.

3. A member of an advisory committee:

(a) Serves in the same capacity as; and

(b) Is entitled to per diem allowance and travel expenses to the same extent as,

↳ a member of an advisory committee established pursuant to NAC 645.490.

116.340 Recommendations for resolutions of complaints; rejection of recommendations. (NRS 116.31139)

1. An advisory committee which is established pursuant to NAC 116.330 shall:

(a) Review the written report submitted by an investigator pursuant to NAC 116.320 and any other information that is relevant to the matter to determine whether there is probable cause to show that the community manager who is the subject of the investigation has violated a provision of this chapter or chapter 116 of NRS;

(b) Hold an informal conference in accordance with NAC 116.350;

(c) Work with the community manager who is the subject of the investigation to attempt to arrive at a recommendation for resolution of the matter which is the subject of the investigation; and

(d) Submit a recommendation for resolution of the matter to the administrator.

2. If the administrator and the community manager who is the subject of the investigation accept the advisory committee's recommendation for resolution of the matter, the administrator shall enter into a written agreement with the community manager who is the subject of the investigation which must contain the terms of the resolution recommended by the advisory committee.

3. If disciplinary action is taken pursuant to this section against a community manager who is the subject of an investigation, the administrator shall file with the Commission a written summary of the facts and disciplinary actions taken against the community manager.

4. If the administrator or the community manager who is the subject of the investigation does not accept the advisory committee's recommendation for resolution of the matter, the administrator shall:

(a) Dismiss the matter which is the subject of the investigation;

(b) Negotiate a resolution of the matter with the community manager who is the subject of the investigation, which may include, without limitation, assessing administrative sanctions pursuant to NAC 116.320; or

(c) Schedule a hearing which must be conducted pursuant to NAC 116.380.

116.350 Informal conference. (NRS 116.31139)

1. If an advisory committee is established pursuant to NAC 116.330, the administrator shall schedule an informal conference between the advisory committee and the community manager

who is the subject of the investigation. The administrator shall provide written notice of the time and place of the conference to:

- (a) Each member of the advisory committee;
- (b) The community manager who is the subject of the investigation; and
- (c) Each witness who has been requested to appear at the informal conference.

2. The advisory committee may request the attendance at an informal conference of any person whom the advisory committee believes to have information that is relevant to the matter.

3. When conducting an informal conference, an advisory committee:

- (a) May consider all evidence that it deems relevant to the investigation;
- (b) Shall rule on the admissibility of evidence;
- (c) Shall be the controlling authority with regard to the admissibility of evidence; and
- (d) Need not follow the rules of admissibility of evidence that a court must follow.

4. The chairman of an advisory committee shall file a written report with the administrator that explains the results of the informal conference within 30 days after the conclusion of the informal conference. The report is and must remain confidential.

116.380 Hearings. (NRS 116.31139)

1. The Commission will follow the procedures set forth in NRS 645.680 to 645.740, inclusive, and NAC 645.810 to 645.830, inclusive, when conducting a hearing on a complaint against a community manager.

2. As used in the provisions cited in subsection 1, for purposes of a hearing conducted pursuant to subsection 1:

- (a) “License” means a certificate or permit, as applicable; and
- (b) “Licensee” means a community manager.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R129-04**

The Commission on Common-Interest Communities adopted regulations assigned LCB File No. R129-04 which pertain to chapter 116 of the Nevada Administrative Code on January 27, 2005.

Notice date: 12/21/2004 **Date of adoption by agency:** 1/27/2005
Hearing date: 1/27/2005 **Filing date:** 4/14/2005

INFORMATIONAL STATEMENT

1. A description of how public comment was solicited, a summary of public response, and an explanation how persons may obtain a copy of the summary.

Notice of the proposed regulations were posted on the Real Estate Division website and in various other public locations where both the public and other interested persons would have access to that information. Additional notice was published in a newsletter that was sent out by the Office of the Ombudsman to all homeowner association board officers registered with the Division and to all certified community association managers. The Division conducted a public workshop on January 13, 2005 in Carson City and on January 20, 2005 in Henderson. Public comment was also solicited at the public adoption hearing on January 27, 2005.

2. The number of persons who:

Attending workshops:	CC 1/13/05—12	LV 1/20/05—19
Attended hearing:	13	
Submitted written comments:	7	

3. 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;

Affected businesses were able to comment in the public workshop and hearing or in writing, a summary of the oral comments are attached hereto. Additionally, the Commission reviewed the regulations in their regular meetings between November 2003 and June 2004 where they solicited public comment while formulating their proposals for changes.

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

There were amendments made to the regulation based on the public comments made at the workshops, written comments and comments made at the adoption hearing.

- 5 **The estimated economic effect of the regulation on the business which it is to regulate and on the public. These reasons must be stated separately, and in each case must include:**

Business which it is to regulate:

(1) Both adverse and beneficial effects; and

Adverse effects: There will be some additional cost incurred by the certified community managers due to the increase in educational requirements. Sponsors of educational courses will incur costs to obtain accreditation of their courses.

Beneficial effects: The regulation sets forth additional standards for education for community managers, which should result in a better educated industry. The regulation clarified many existing practices and interpretations and updated many out of date sections.

(2) Both immediate and long-term effects.

Immediate effects: Some confusion will be expected while the new rules are being implemented.

Long-term effects: These regulations should serve as guidance for board members, homeowners and managers in carrying out the duties they have in their respective positions in an association. By providing this guidance it is believed that homeowner association boards will operate more effectively and that complaints against board actions will be reduced.

Public:

(1) Both adverse and beneficial effects; and

Adverse effects: There are no known adverse effects to the public by the adoption of this regulation.

Beneficial effects: Changes made to the education requirements and the standards for courses and additional required education should result in a better educated community management industry. Additionally, the standards established in this regulation for board members should result in smoother operations of associations.

(2) Both immediate and long-term effects.

Immediate effects: There are no known immediate effects to the public.

Long-term effects: The anticipation is that the long-term effects will result in more qualified community managers and better informed and more responsible board members. Additionally, board members will be held to higher standards and risk the possibility of discipline by the Commission for violations of the law.

6. The estimated cost to the agency for enforcement of the proposed adopted regulations.

Cost of handbook production. Cost of educating the public and regulated licensees regarding the new regulation. Cost of regulation review.

7. A description of any regulation of other state or government agencies which the 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 is no other state, federal or other governmental agency's regulations, which the proposed regulations duplicate or overlap.

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

N/A

9. 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.

Section 12 contains all of the fees charged under this chapter by the Division. There is a restructuring of the way fees are collected for the issuance and renewal of certificates. This restructuring will increase the initial certification fee by \$125, and with an estimated 8% increase per year that will result in an additional \$3,375.00 being deposited into the State General Fund in Fiscal Year 2005. Additionally, the restructuring will increase the certificate renewal fee by \$25.00 and the additional revenue from that increase will be deposited in the State General Fund.

The new fees that were established under Section 12 include fees for late renewal of a certificate, reinstatement fees, a fee for issuance of a duplicate certificate, a fee for processing changes to certificates and fees for the approval of education courses. Since most of these fees have not been collected in the past there are not statistics to use to calculate the amount of revenue they will yield. All of the fees listed in Section 12 will be deposited in the State General Fund.

The fees established under Section 12 for approval of education courses are estimated to generate revenue as follows:

Precertification courses:	4 courses exist now x \$100 = \$400
Continuing Education courses:	28 courses exist now x \$100 = \$2,800
Renewal of cont. ed. Courses:	28 courses would renew in FY06 x \$50 = \$1,400