

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

LCB File No. R156-09

January 20, 2010

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

AUTHORITY: §§1-3, NRS 116A.410, as amended by section 39 of Senate Bill No. 182, chapter 491, Statutes of Nevada 2009, at page 2902.

A REGULATION relating to community managers; prescribing the form, type and amount of the bond which must be posted by an applicant, or the employer of an applicant, for the issuance, renewal or reinstatement of a certificate as a community manager; and providing other matters properly relating thereto.

Section 1. 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. 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 . [REDACTED]

(b) Payment of the fees charged by a local law enforcement agency pursuant to NAC 116.515 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 . [REDACTED]

(c) The social security number of the applicant . [REDACTED]

(d) A statement concerning whether 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 . [REDACTED]

(e) Documentation that the applicant possesses the education and experience required pursuant to NAC 116.120 and, if applicable, NAC 116.175 . [REDACTED]

(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 . [6]

(g) *A copy of a bond which is posted by the applicant or the employer of the applicant and which is in:*

(1) A form and of a type necessary to protect a common-interest community or condominium hotel against financial loss or property loss as a result of dishonesty or malfeasance committed by the applicant; and

(2) The following amount:

(I) Twenty-five thousand dollars, if the applicant is expected to control an amount of money which is \$25,000 or less.

(II) Fifty thousand dollars, if the applicant is expected to control an amount of money which is greater than \$25,000 but does not exceed \$50,000.

(III) Seventy-five thousand dollars, if the applicant is expected to control an amount of money which is greater than \$50,000 but does not exceed \$75,000.

(IV) One hundred thousand dollars, if the applicant is expected to control an amount of money which is greater than \$75,000 but does not exceed \$100,000.

(V) One hundred fifty thousand dollars, if the applicant is expected to control an amount of money which is greater than \$100,000 but does not exceed \$150,000.

(VI) Two hundred thousand dollars, if the applicant is expected to control an amount of money which is greater than \$150,000 but does not exceed \$200,000.

(VII) Two hundred fifty thousand dollars, if the applicant is expected to control an amount of money which exceeds \$200,000.

↪ For the purposes of this paragraph, the amount of money an applicant is expected to control is the amount of money to which the applicant has access for the purpose of performing or controlling the financial activities of a common-interest community or condominium hotel which, in accordance with prudent business practices and accepted accounting principles, must be reported to the executive board. In calculating the amount of money an applicant is expected to control, the amount of money to which the applicant will have sole access and the amount of money to which the applicant will have access only if the applicant obtains the signature of another person must be included in the calculation.

(h) The statement described in NRS 116A.440 . ~~;~~

~~(h)~~ *(i)* The fee required by NAC 116.505 for a certificate . ~~;~~ ~~and~~

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

4. The Division shall act upon all applications for a certificate within 60 days after 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. 2. 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 5, the Division shall renew a certificate if the applicant submits to the Division before the expiration of his certificate:

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

(b) The statement described in NRS 116A.440. ~~{;}~~

(c) The fee required by NAC 116.505 for renewal. ~~{; and}~~

(d) Documentation of the successful completion by the applicant of at least 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 this chapter and chapter 116 of NRS.

(e) A copy of the bond which is posted by the applicant or the employer of the applicant and which satisfies the requirements of paragraph (g) of subsection 3 of NAC 116.100.

3. The renewal of a certificate is effective on the date on which the renewal 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. The Division may refuse to renew 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 116A.440;

(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 Commission.

6. If the Division, after an application to renew a certificate in proper form has been filed, accompanied by the proper fees, refuses to renew 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.

7. If the Division refuses to renew 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. 3. NAC 116.165 is hereby amended to read as follows:

116.165 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 NAC 116.515 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 116A.440. ~~{ }~~

(e) Payment of the fee required by NAC 116.505 for reinstatement. ~~{ ; and }~~

(f) *A copy of the bond which is posted by the applicant or the employer of the applicant and which satisfies the requirements of paragraph (g) of subsection 3 of NAC 116.100.*

(g) 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 116A.440;

(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.