

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

**LCB File No. R125-12**

Effective October 24, 2014

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

AUTHORITY: §1, NRS 116.615 and 116.670.

A REGULATION relating to common-interest communities; revising provisions governing the subsidization of proceedings for the mediation of certain claims involving residential property within a planned community; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law requires certain civil actions concerning residential property within a planned community to be submitted to mediation or to a dispute resolution program established by the Real Estate Division of the Department of Business and Industry before an action is commenced in court. (NRS 38.310) Existing law also authorizes the Commission for Common-Interest Communities and Condominium Hotels to adopt regulations establishing standards for subsidizing proceedings in the Division’s program and for the mediation and arbitration of these claims. (NRS 116.670) Existing regulations govern the subsidization of proceedings for binding arbitration. (NAC 116.520)

This regulation authorizes the subsidization of proceedings for mediation and removes provisions providing for the subsidization of binding arbitration. This regulation further provides that the amount of the subsidy must not exceed \$500 or \$250 for each party who is eligible for a subsidy, whichever is less. Finally, this regulation provides that, in addition to being registered and in good standing with the Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels, an association must be registered and in good standing with the Secretary of State to be eligible to receive a subsidy.

**Section 1.** NAC 116.520 is hereby amended to read as follows:

116.520 1. The Division may subsidize proceedings for ~~binding arbitration~~ *mediation* conducted pursuant to NRS 38.300 to 38.360, inclusive ~~;~~

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

~~—(b) To~~, *to* the extent that funds are available in the Account for Common-Interest Communities and Condominium Hotels in the State General Fund for that purpose.

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

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

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

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

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

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

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

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

5. The funds used to subsidize a proceeding for ~~arbitration~~ *mediation* pursuant to this section ~~;~~

~~—(a) Must not be~~ *must not:*

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

(b) ~~{Must be the lesser of 50 percent of the fees owed by a party to the arbitrator or}~~ *Exceed \$500 ~~{}~~ or \$250 for each party who is eligible to have the proceeding for mediation subsidized pursuant to this section, whichever is less.*

6. The Division shall provide notice to ~~{an arbitrator}~~ *the mediator* that a proceeding for ~~{arbitration}~~ *mediation* may be subsidized by forwarding to the ~~{arbitrator}~~ *mediator* a copy of the application received pursuant to subsection 2.

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

(a) On a form prescribed by the Division, a request for payment of the cost of ~~{arbitration;}~~ *mediation;* and

(b) A copy of the ~~{final decision.}~~ *mediator's statement concerning whether the mediation was successful or unsuccessful in resolving the dispute.*

8. The Division shall pay the cost of ~~{arbitration}~~ *mediation* pursuant to this section ~~{at the time}~~ *in accordance with the Division's procedures after* the Division receives a copy of the ~~{final decision from the arbitrator and issues a certificate pursuant to NAC 38.350.}~~ *mediator's statement concerning whether the mediation was successful or unsuccessful in resolving the dispute.*

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

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY  
NRS 233B.066**

**LCB FILE R125-12**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapter 116.520.

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

This regulation is necessary to revise the provisions governing the subsidization of proceedings for the mediation of certain claims involving residential property within a planned community.

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

Copies of the proposed regulations, notice of workshop and notice of intent to act upon the regulation were posted on the Real Estate Division's website and in various other public locations where the public and all interested person would have access to the information.

The Commission for Common-Interest Communities and Condominium Hotels conducted a public workshop on December 4, 2012 in Las Vegas, Nevada. The minutes of the workshop and Commission discussion for December 4, 2012 are attached. Most comments from the public were in agreement with the proposed changes to the regulation.

The Commission for Common-Interest Communities and Condominium Hotels conducted a public workshop on August 27, 2013 in Carson City, Nevada and video conferenced to Las Vegas, Nevada. The minutes of the workshop and Commission discussion for August 27, 2013 are attached.

The Commission for Common-Interest Communities and Condominium Hotels conducted a public workshop on February 26, 2014 in Las Vegas, Nevada and video conferenced to Carson City, Nevada. The minutes of the workshop and Commission discussion for February 26, 2014 are attached.

The Commission for Common-Interest Communities and Condominium Hotels conducted an adoption hearing on June 4, 2014 in Las Vegas, Nevada and video conferenced to Carson City, Nevada. The minutes of the adoption hearing for June 4, 2014 are attached.

The minutes of workshops and the adoption hearing, attached hereto, contain summaries of public comment and the Commission for Common-Interest Communities and Condominium Hotels' discussion and actions. A copy of this summary may be obtained from the Real Estate Division, 2501 E. Sahara Avenue, Suite 303, Las Vegas, Nevada 89104, 702-486-4036 or email Teralyn Thompson, Legal Administrative Officer, [tlthompson@red.state.nv.us](mailto:tlthompson@red.state.nv.us).

**3. The number of persons who:**

**(a) Attended each hearing:**

December 4, 2012: 38  
August 27, 2013: 29  
February 26, 2014: 24  
June 4, 2014: 41

**(b) Testified at each hearing:**

December 4, 2012: 5  
August 27, 2013: 1  
February 26, 2014: 2  
June 4, 2014: 0

**(c) Submitted to the agency written comments:** No written comments were submitted.

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

Please see attached

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

Comments were solicited from affected businesses in the same manner as they were solicited from the public. The summary may be obtained as instructed in the response to question #1.

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

The permanent regulation as stated in the Third Proposed Regulation of the Commission for Common-Interest Communities and Condominium Hotels was adopted on June 4, 2014, and included all of the changes suggested at the previous workshops held as stated above.

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

**Business which it is to regulate**

**(a) Both adverse and beneficial effects; and**

**Adverse effects:** This regulation proposes to remove the possibility of subsidy for non-binding arbitration. This could be considered as having an adverse effect on arbitrators; however, no claims for subsidy of non-binding arbitration were submitted in Fiscal Year

12 or 13 during the last biennium. One subsidy of \$500.00 was paid in Fiscal Year 2010, and none in Fiscal Year 2011. Non-binding arbitration has not been a process agreed to by parties.

**Beneficial effects:** Mediators on the Real Estate Division's panel of mediators may see an increase in the number of mediations performed for the common-interest communities' program alternative dispute resolution program.

**(b) Both immediate and long-term effects.**

**Immediate effects:** The availability of subsidy for mediation as a first line attempt to resolve disputes over governing document issues in homeowner associations will reduce costs to both the association and unit owners.

**Long-term effects:** Offers a path of resolution to an issue without the chilling effect of the award of costs and attorney fees.

**Public**

**(a) Both adverse and beneficial effects:**

**Adverse effects:** No anticipated adverse economic effect of this regulation on the regulated entity-which are unit owners in common-interest communities.

**Beneficial effects:** The subsidy of mediation, as funding is available, will benefit owners and boards of homeowner associations by providing a simple, low cost and time limited process to attempt to resolve an issue.

**(b) Both immediate and long-term effects:**

**Immediate effects:** The availability of subsidy for mediation as a first line attempt to resolve disputes over governing documents issues in homeowner associations will reduce cost to both the association and unit owners.

**Long-term effects:** Assembly Bill 370 amended NRS 38 concerning the filing of disputes for alternative dispute resolution to require that mediation or a program offered by the Division be the first attempt to resolve a matter. Arbitration can be a lengthy and costly process where the "losing" party can be assessed costs and attorney fees.

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

There is no additional cost to the agency for the implementation of LCB File No. R125-12. The infrastructure for implementing the subsidy of mediation is already in place within the program of the Office of the Ombudsman for Owners in Common-Interest Communities.

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

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

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

There are no federal regulations that apply.

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

The regulation does not provide a new fee or increase an existing fee.