

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

LCB File No. R129-21

March 15, 2022

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

AUTHORITY: § 1, NRS 116.31031, as amended by section 2 of Senate Bill No. 72, chapter 157, Statutes of Nevada 2021, at page 711; §§ 2-5 and 12, NRS 116.615; § 6, NRS 116.31151 and 116.615; §§ 7-9, NRS 116.31152 and 116.615; § 10, NRS 116.31155; § 11, NRS 116.310313 and 116.615; §§ 13 and 15, NRS 116A.200; § 14, NRS 116.615, 116.665, 116A.200 and 116A.410; § 16, NRS 116A.200 and 116A.430; §§ 17 and 18, NRS 116B.805; § 19, NRS 116B.760 and 116B.805; § 20, NRS 116.615 and 116A.200.

A REGULATION relating to common-interest ownership; establishing provisions relating to certain violations of the provisions of the governing documents of a unit-owners' association; requiring the executive boards of unit-owners' associations to provide certain additional information to the Real Estate Division of the Department of Business and Industry; revising information relating to a publication adopted by reference by the Commission for Common-Interest Communities and Condominium Hotels; revising provisions relating to reserve funds required to be established by a unit-owners' association for certain purposes and studies relating to such reserve funds; removing certain obsolete provisions relating to the payment of certain fees to the Real Estate Administrator by certain unit-owners' associations; increasing the maximum amount of certain fees that a unit-owners' association is authorized to charge a unit's owner in connection with a notice of delinquent assessment; revising the circumstances in which the Division is able to investigate and audit all financial accounts related to a unit-owners' association; establishing provisions relating to the request and approval of distance education courses which fulfill the educational requirements for an original certificate for the management of a common-interest community or an association of a condominium hotel; revising the information sent to a community manager and the executive board of a unit-owners' association concerning a complaint against the community manager; revising the educational requirements for registration as a reserve study specialist; revising the maximum authorized fees that hotel unit owners may charge for preparing or expediting the preparation of certain certificates; repealing provisions relating to such fees charged by a unit-owners' association; repealing certain duplicative definitions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Commission for Common-Interest Communities and Condominium Hotels to adopt such regulations as are necessary to carry out the provisions of law relating to common-interest ownership, common-interest communities and condominium hotels. (NRS 116.615, 116A.200, 116B.805)

Existing law requires the Commission to adopt regulations establishing the criteria used in determining whether a violation of a provision of the governing documents of a unit-owners' association poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community, the severity of such violations and the limitations on the amounts of the fines for such violations. (NRS 116.31031, as amended by section 2 of Senate Bill No. 72, chapter 157, Statutes of Nevada 2021, at page 711) **Section 1** of this regulation: (1) sets forth the circumstances in which a violation of the governing documents of an association does and does not pose an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community; and (2) provides that the fine for such a violation must not exceed \$5,000.

Existing regulations require the executive board of a unit-owners' association to provide to the Real Estate Division of the Department of Business and Industry the names, mailing addresses and telephone numbers of the executive board. (NAC 116.385) **Section 4** of this regulation specifies that an executive board is required to provide to the Division the individual mailing and electronic mail addresses of the members of the executive board.

Sections 5 and 18 of this regulation update: (1) the name of a publication relating to reporting principles and practices of financial accounting for common-interest communities that the Commission has adopted by reference; and (2) the way in which the publication can be obtained. **Sections 3 and 17** of this regulation make conforming changes by updating the name of the publication as it is referenced in **sections 5 and 18**.

Existing law requires a unit-owners' association to establish adequate reserves for the repair, replacement and restoration of the major components of the common elements and any other portion of a common-interest community that the association is required to maintain, repair, replace or restore. (NRS 116.3115) Existing law requires the executive board of the association to prepare a budget to provide adequate funding for such reserves. (NRS 116.31151) **Section 6** of this regulation makes changes relating to the estimated amount of reserve funds necessary in the projected fiscal year that an executive board is required to include in the budget to maintain the reserve.

Existing law requires the executive board of a unit-owners' association to cause to be conducted, at least once every 5 years, a study of the reserves required to repair, replace and restore the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore. (NRS 116.31152) Existing regulations establish when the 5-year period for conducting such a reserve study commences. (NAC 116.427) **Section 8** of this regulation specifies when such a 5-year period concludes. **Section 7** of this regulation makes changes relating to the information included in a reserve study, and **section 9** of this regulation revises provisions relating to the submission of a summary of a reserve study by the executive board to the Division.

Existing law requires certain unit-owners' associations to pay a fee to the Real Estate Administrator for each unit in the association. (NRS 116.31155) **Section 10** of this regulation removes certain obsolete provisions relating to the payment of such a fee.

Existing law requires the Commission to adopt regulations establishing the amount of fees that a unit-owners' association may charge a unit's owner to cover the costs of collecting past due obligations. (NRS 116.310313) Existing regulations accordingly set forth the maximum amounts that an association or a person acting on behalf of an association is authorized to charge a unit's owner in connection with a notice of delinquent assessment. (NAC 116.470) **Section 11** of this regulation increases the authorized maximum amount of certain fees.

Section 12 of this regulation revises the circumstances in which the Division is able to investigate and audit all financial accounts related to a unit-owners' association.

Existing law requires the Commission to provide by regulation for the issuance of certificates by the Division for the management of a common-interest community or a unit-owners' association of a condominium hotel. (NRS 116A.410) Existing law also requires the Commission to recommend and approve for accreditation programs of education and research relating to common-interest communities, including the management of common-interest communities. (NRS 116.665) **Section 14** of this regulation establishes provisions relating to the request and approval of distance education courses which fulfill the educational requirements for an original certificate.

Existing regulations require an investigator who is investigating a complaint concerning a community manager to send a copy of the complaint to the community manager and executive board of any unit-owners' association which relates to the subject of the complaint. (NAC 116A.350) **Section 15** of this regulation instead requires such an investigator to send a summary of the complaint.

Existing law requires the Commission to adopt regulations providing for the registration of reserve study specialists. (NRS 116A.430) Existing regulations authorize a person to register as a reserve study specialist if, in addition to satisfying other requirements, the person successfully completes at least 3 hours of education in certain courses approved by the Commission. (NAC 116A.420) **Section 16** of this regulation instead requires such a person to complete at least 6 hours of education in such courses, 3 hours of which must consist of instruction relating to financial matters.

Existing law previously required the Commission to adopt regulations establishing the maximum amount of the fees that a unit-owners' association could charge for: (1) preparing a certificate for a unit's owner for the purposes of inclusion in a resale package for a purchaser; and (2) expediting the preparation of such a certificate. Assembly Bill No. 237 of the 2021 Legislative Session removes such a duty and instead provides that the fee for preparing such a certificate must not exceed \$185 and the fee for expediting the preparation of such a certificate must not exceed \$100. (NRS 116.4109, as amended by section 7.2 of Assembly Bill No. 237, chapter 268, Statutes of Nevada 2021, at page 1406) **Section 20** of this regulation accordingly repeals the provisions of existing regulations that establish the maximum amounts of such fees. Existing law authorizes a hotel unit owner to charge a residential unit owner a reasonable fee to cover the cost of preparing a similar certificate and requires the Commission to adopt regulations establishing the maximum amount of the fee that the hotel unit owner may charge. (NRS 116B.760) **Section 19** of this regulation revises the fees that a hotel unit owner may charge for

preparing or expediting the preparation of such a certificate to conform with the maximum fees that an association is authorized to charge pursuant to existing law.

Section 20 also repeals certain definitions that duplicate definitions that are currently set forth in the Nevada Revised Statutes. **Sections 2 and 13** of this regulation make conforming changes to eliminate obsolete references to certain sections that were repealed.

Section 1. Chapter 116 of NAC is hereby amended by adding thereto a new section to read as follows:

1. If a violation of a provision of the governing documents of an association poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community, the amount of the fine for such a violation:

(a) In accordance with NRS 116.31031, as amended by section 2 of Senate Bill No. 72, chapter 157, Statutes of Nevada 2021, at page 711, must be commensurate with the severity of the violation and determined by the executive board in accordance with the governing documents; and

(b) Must not exceed \$5,000 for each violation.

2. A violation of a provision of the governing documents of an association poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community if the violation, without limitation:

(a) Involves a lack of care or neglect which directly and immediately places one or more units' owners, residents or invitees within the common-interest community in danger or direct threat of being harmed; or

(b) Is an intentional act which has the potential of causing immediate bodily harm to one or more units' owners, residents or invitees within the common-interest community.

3. A violation of a provision of the governing documents of an association does not pose an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community if the violation consists solely of:

(a) Using vulgar, profane or abusive language;

(b) Voicing opposition to, or support for, any matter affecting the common-interest community; or

(c) Any act committed by a unit's owner, tenant or invitee of a unit's owner or tenant which is permitted by this chapter or chapter 116 of NRS or any other applicable federal, state or local law, regulation or ordinance.

4. Nothing in this section precludes an association from establishing behavioral, etiquette or anti-bullying policies in accordance with the governing documents of the association, a violation of which could result in a fine that is subject to the monetary limitations established in NRS 116.31031, as amended by section 2 of Senate Bill No. 72, chapter 157, Statutes of Nevada 2021, at page 711, if the violation does not pose an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community.

Sec. 2. 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~~ **116.020** to ~~116.080~~ **116.078**, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NAC 116.0437 is hereby amended to read as follows:

116.0437 “Guide” means the *PPC’s Guide to Homeowners’ Associations and Other ~~Common Interest~~ Realty Associations*, as adopted by reference in NAC 116.410.

Sec. 4. NAC 116.385 is hereby amended to read as follows:

116.385 1. An executive board shall provide to the Division the names, *individual* mailing *and electronic mail* addresses and telephone numbers of the members of the executive board .
~~in accordance with NRS 116.625.~~ The information required pursuant to this subsection must be kept confidential by the Division and may only be used by the Division for purposes of notifying a member of the executive board of any action or proceeding involving the association ~~or~~ *providing educational resources*.

2. The executive board *or the community manager for the association* shall:

- (a) Indicate on a form prescribed by the Division any change in the contact information of a member of the executive board ~~or~~ *or any change in the community manager*; and
- (b) Submit the form to the Division within 30 days of any such change.

Sec. 5. NAC 116.410 is hereby amended to read as follows:

116.410 1. For purposes of providing recommended reporting principles and practices of financial accounting for common-interest communities, the Commission hereby adopts by reference the *PPC’s Guide to Homeowners’ Associations and Other ~~Common Interest~~ Realty Associations*. A copy of the publication may be obtained for the price of ~~(\$222 from Practitioners Publishing Company, P.O. Box 966, Fort Worth, TX 76101-0966, by telephone at (800) 431-9025 or~~ *\$455* at the Internet address ~~<http://ppe.thomson.com/SiteComposer2/Index.cfm?numProdClassID=201&txtFuse=dspShellProductDetail&numSiteID=2&numTaxonomyTypeID=29&numTaxonomyID=232>~~

<https://store.tax.thomsonreuters.com/accounting/Audit-and-Accounting/PPCs-Guide-to-Homeowners-Associations-and-Other-Realty-Associations/p/100200130>.

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

Sec. 6. NAC 116.415 is hereby amended to read as follows:

116.415 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 industry standards, to complete the maintenance, repairs, replacement or restoration of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore as recommended in the *most recent* study of reserves conducted pursuant to NRS 116.31152 ~~§~~ *or the most recently updated study of reserves that includes the information described in NAC 116.425*; and

2. If the projected balance of the reserve account at the end of the budgeted fiscal year is less than the amount required to adequately fund the reserves on a reasonable basis at the end of

the budgeted fiscal year, as determined by the *most recently conducted or updated* study of reserves ~~conducted pursuant to NRS 116.31152;~~ *as described in subsection 1:*

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

Sec. 7. NAC 116.425 is hereby amended to read as follows:

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

- (a) A 30-year schedule which shows:
 - (1) The actual or projected beginning balance of the reserve fund;
 - (2) The projected increase in reserve contributions to the reserve fund, adjusted for inflation, that will be required in any given year to provide adequately funded reserves;
 - (3) The estimated interest income, net of projected federal income tax, earned in the reserve fund;
 - (4) The projected expenditures from the reserve fund; and
 - (5) The projected ending balance of the reserve fund;
- (b) The names and credentials of any consultants and other persons with expertise used to assist in the preparation of the reserve study;
- (c) Any written reports prepared by consultants and other persons with expertise;
- (d) 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 were selected and the reasons for their selection;
- (e) The number of units in the association;
- (f) A general statement describing the current status of the reserve fund;

- (g) A general statement describing the overall status of the reserves of the association;
- (h) The beginning and ending dates for which the reserve study is prepared;
- (i) A general statement describing the reconciliation, development or computation of the initial balance of the reserve fund;
- (j) A listing and detailed description of each major component of the common elements;
- (k) A table showing the remaining useful life of each major component of the common elements from the time of each component's initial or last installation, maintenance, repair, replacement or restoration;
- (l) Using the current replacement cost, a 30-year table that reflects the projected ending reserve fund balance for each year as compared to the fully funded balance for that year;
- (m) A general statement describing the objectives of the funding plan that is designed to allocate the costs for the maintenance, repair, replacement and restoration of the major components of the common elements and the methods used in projecting the 30-year funding plan, using the following terms and discussing, where applicable:
 - (1) Full funding;
 - (2) Threshold funding; and
 - (3) Baseline funding;
- (n) A statement identifying the sources relied upon to obtain an estimate for the cost to maintain, repair, replace or restore a major component of the common elements;
- (o) A detailed description of the type of reserve study that was performed and the level of service accorded to the reserve study, including whether the reserve study was:
 - (1) A full reserve study in which the following tasks were performed:

(I) An inventory and ~~measurement~~ *quantification* of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;

(II) An assessment of the condition of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore, which is based upon on-site visual observations if such components and portions are reasonably accessible for such observation;

(III) Estimates of the remaining useful life and valuation of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;

(IV) Financial analysis of data and the status of the reserve fund; and

(V) Development of a funding plan;

(2) An update to a previous reserve study made pursuant to a visit to the site of the common-interest community in which the following tasks were performed:

(I) A verification of a previous inventory of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore. Unless new major components of the common elements have been added, or the existing inventory of major components of the common elements has changed, since the last reserve study, a quantification of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore is not required;

(II) An assessment of the condition of the major components of the common elements and any other portion of the common-interest community that the association is obligated to

maintain, repair, replace or restore, which is based upon on-site visual observations if such components and portions are reasonably accessible for such observation;

(III) Estimates of the remaining useful life and valuation of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;

(IV) Financial analysis of data and the status of the reserve fund; and

(V) Development of a funding plan; or

(3) An update to a previous reserve study made without a visit to the site of the common-interest community in which the following tasks were performed:

(I) Estimates of the remaining useful life and valuation of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;

(II) Financial analysis of data and the status of the reserve fund; and

(III) Development of a funding plan;

(p) The disclosures set forth in NAC 116.430; and

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

(1) 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) Material issues which are not disclosed to the person conducting the study of the reserves would cause the condition of the association to be misrepresented.

2. As used in this section, “adequately funded reserves” means the funds sufficient to maintain the common elements ~~{}~~ *described in the governing documents:*

- (a) At the level described in the ~~{governing documents and in a}~~ reserve study; and
- (b) Without using the funds from the operating accounts or without special or reserve assessments, except for occurrences that are a result of unforeseen catastrophic events.

Sec. 8. NAC 116.427 is hereby amended to read as follows:

116.427 For the purposes of paragraph (a) of subsection 1 of NRS 116.31152, the 5-year period for conducting a reserve study commences on the date on which the on-site inspection of the major components is performed ~~{}~~ *and concludes upon the adoption of the reserve study by the executive board at a meeting conducted pursuant to NRS 116.31083. For the purposes of this section, the adoption of the reserve study must take place before the culmination of 5 years after the date that the executive board last adopted a full reserve study that includes the information described in NAC 116.425.*

Sec. 9. NAC 116.435 is hereby amended to read as follows:

116.435 ~~{Not later than 210 days after the executive board receives a draft of the reserve study, the}~~ *The* executive board *or a person acting on behalf of the executive board* shall submit a summary of the reserve study to the Division pursuant to subsection 4 of NRS 116.31152 by filing, electronically if possible, *the summary* on ~~{Form 609 as}~~ *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. 10. NAC 116.445 is hereby amended to read as follows:

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

~~2.~~ On and after July 1, 2016, the amount of the fee that an association is required to pay pursuant to NRS 116.31155 is \$4.25 for each unit in the association.

Sec. 11. NAC 116.470 is hereby amended to read as follows:

116.470 1. Except as otherwise provided in subsection 5, to cover the costs of collecting any past due obligation of a unit's owner, an association or a person acting on behalf of an association to collect a past due obligation of a unit's owner may not charge the unit's owner fees in connection with a notice of delinquent assessment pursuant to paragraph (a) of subsection 1 of NRS 116.31162 which exceed a total of ~~[\$1,950,] \$2,250,~~ plus the costs and fees described in subsections 3 and 4.

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

- (a) Demand or intent to lien letter ~~[\$150] \$165~~
- (b) Notice of delinquent assessment lien 325
- (c) Intent to notice of default letter 90
- (d) Notice of default 400

(e) Intent to notice of sale letter	190 125
(f) Notice of sale	275 325
(g) Intent to conduct foreclosure sale.....	25 75
(h) Conduct foreclosure sale	125 75
(i) Prepare and record transfer deed.....	125 75
(j) Payment plan agreement - One-time set-up fee	30 50
(k) Payment plan breach letter	25
(l) Release of notice of delinquent assessment lien	30 50
(m) Notice of rescission fee	30 50
(n) Bankruptcy package preparation and monitoring.....	100 200
(o) Mailing fee per piece for demand or intent to lien letter, notice of delinquent assessment lien, notice of default and notice of sale	2
(p) Insufficient funds fee.....	20 30
(q) Escrow payoff demand fee	150 200
(r) Substitution of agent document fee.....	25 50
(s) Postponement fee	75
(t) Foreclosure fee	150 200

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

behalf of an association may recover from the unit's owner the actual costs incurred without any increase or markup.

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

(a) Reasonable management company fees *for services, including, without limitation, mailing or delivering by electronic transmission a notice of delinquent assessment pursuant to NRS 116.31162 or informing each unit's owner or his or her successor in interest that he or she may be entitled to certain protections if the person is a servicemember or a dependent of a servicemember in accordance with NRS 116.311625*, which may not exceed a total of ~~+\$200;~~ **\$325**; and

(b) Reasonable attorney's fees and actual costs, without any increase or markup, incurred by the association *or a person acting on behalf of the association* for any legal services which do not include an activity described in subsection 2.

5. If an association or a person acting on behalf of an association to collect a past due obligation of a unit's owner is engaging in the activities set forth in NRS 116.31162 to 116.31168, inclusive, with respect to more than 25 units owned by the same unit's owner, the association or person acting on behalf of an association may not charge the unit's owner fees to cover the costs of collecting a past due obligation which exceed a total of ~~+\$1,950~~ **\$2,250** multiplied by the number of units for which such activities are occurring, as reduced by an amount set forth in a resolution adopted by the executive board, plus the costs and fees described in subsections 3 and 4.

6. For a one-time period of 15 business days immediately following a request for a payoff amount from the unit's owner or his or her agent, no fee to cover the cost of collecting a past due obligation may be charged to the unit's owner, except for the fee described in paragraph (q) of subsection 2 and any other fee to cover any cost of collecting a past due obligation which is imposed because of an action required by statute to be taken within that 15-day period.

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

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

- (1) Is a general partner, officer, director or employer of the community manager or agent;
- (2) Directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote or holds proxies representing, more than 20 percent of the voting interest in the community manager or agent;
- (3) Controls in any manner the election of a majority of the directors of the community manager or agent; or
- (4) Has contributed more than 20 percent of the capital of the community manager or its agent.

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

- (1) Is a general partner, officer, director or employer of the person;
- (2) Directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote or holds proxies representing, more than 20 percent of the voting interest in the person;

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

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

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

Sec. 12. NAC 116.550 is hereby amended to read as follows:

116.550 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 ~~is~~:

~~—(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~~ *determines* that ~~the investigation and~~ *an* audit ~~are~~ *is* 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 or her, 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. 13. NAC 116A.005 is hereby amended to read as follows:

116A.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC ~~116A.010~~ **116A.015** to 116A.095, inclusive, have the meanings ascribed to them in those sections.

Sec. 14. NAC 116A.205 is hereby amended to read as follows:

116A.205 **1.** *A school that 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 provide students with the opportunity for continuous audio and visual communication with the instructor during the presentation of the course.

(b) 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.

(c) The sponsor of the course must utilize procedures which reasonably ensure that a student who receives credit for completing the course actually performed all the work required to complete the course. The sponsor must retain any records of student participation together with all other course records the sponsor is required to maintain.

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

(e) An approved instructor must be reasonably available to respond timely to questions submitted by students concerning the subject matter of the course and direct students to additional sources of information. For the purposes of this paragraph, a response by an

approved instructor is timely if the response is made within 2 business days after the question is submitted.

2. 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,~~ *is a distance education course*, the school shall ~~;~~

~~1. Require~~ *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 or her identity before he or she is allowed to take any examination; ~~and~~

(d) Complete each course within an established minimum and maximum time ~~;~~

~~2.;~~ *and*

(e) 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. 15. NAC 116A.350 is hereby amended to read as follows:

116A.350 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 or she 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 or chapter 116 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 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's owner, ratification of the complaint by the unit's 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~~ *summary* 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 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 as he or she 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, not more than \$1,000; and

(2) For the second offense, not more than \$5,000;

(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;

(e) Refer the matter to 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. 16. NAC 116A.420 is hereby amended to read as follows:

116A.420 1. A person is qualified by training and experience to register as a reserve study specialist if the person has:

- (a) A good reputation for honesty, trustworthiness and integrity;
- (b) The ability to evaluate the items on the component inventory with regard to normal and accelerated deterioration, deferred maintenance, remaining years of useful life and the current cost to maintain, repair, replace or restore;
- (c) The ability to perform necessary 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 is complete;
- (e) The ability to gather and analyze relevant financial data, including, without limitation, monthly assessment fees per unit, the current reserve accounts, the anticipated tax rates on earnings, the anticipated interest rate on reserves, and the anticipated inflation and maximum increases in assessment fees;
- (f) Successfully completed at least ~~13~~ **6** hours of education in courses approved by the Commission relating to chapters 116, 116A and 116B of NRS ~~and the regulations adopted pursuant thereto, with an emphasis on recent changes to those chapters and regulations;~~ **3 hours of which must consist of instruction relating to financial matters;** and
- (g) The background and knowledge pertinent to all areas to be addressed by the reserve study.

2. If the Division finds that a person who has submitted a registration to the Division is not qualified by training and experience to register as a reserve study specialist, the Division shall:

(a) If the Division has not yet registered the person, refuse to register the person as a reserve study specialist.

(b) If the Division has registered the person, revoke the registration.

Sec. 17. NAC 116B.020 is hereby amended to read as follows:

116B.020 “Guide” means the *PPC’s Guide to Homeowners’ Associations and Other ~~Common Interest~~ Realty Associations*, as adopted by reference in NAC 116B.160.

Sec. 18. NAC 116B.160 is hereby amended to read as follows:

116B.160 1. For purposes of providing recommended reporting principles and practices of financial accounting for associations for condominium hotels, the Commission hereby adopts by reference the *PPC’s Guide to Homeowners’ Associations and Other ~~Common Interest~~ Realty Associations*. A copy of the publication may be obtained for the price of ~~1222 from Practitioners Publishing Company, P.O. Box 966, Fort Worth, TX 76101-0966, by telephone at (800) 431-9025 or~~ \$455 at the Internet address

~~<http://ppc.thomson.com/SiteComposer2/Index.cfm?numProdClassID=201&txtFuse=dspShellProductDetail&numSiteID=2&numTaxonomyTypeID=29&numTaxonomyID=232>~~

~~<https://store.tax.thomsonreuters.com/accounting/Audit-and-Accounting/PPCs-Guide-to-Homeowners-Associations-and-Other-Realty-Associations/p/100200130>~~

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

the revision. If, after the hearing, the Commission does not revise its determination, the Commission will give notice that the revision is not suitable for this State within 90 days after the hearing. If the Commission does not give such notice, the revision becomes part of the publication adopted by reference pursuant to subsection 1.

Sec. 19. NAC 116B.360 is hereby amended to read as follows:

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

2. If a unit's owner or the authorized agent of the unit's owner requests that the certificate described in subsection 1 be provided sooner than 3 business days after the date of the request, the hotel unit owner may, in addition to the fee set forth in subsection 1, charge a fee not to exceed ~~125~~ 100 to expedite the preparation of the certificate.

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

Sec. 20. NAC 116.013, 116.030, 116.033, 116.040, 116.043, 116.046, 116.050, 116.080, 116.465, 116A.010, 116A.030, 116A.045, 116A.065, 116A.070 and 116A.085 are hereby repealed.

TEXT OF REPEALED SECTIONS

116.013 “Administrator” defined. “Administrator” means the Real Estate Administrator.

116.030 “Commission” defined. “Commission” means the Commission for Common-Interest Communities and Condominium Hotels created by NRS 116.600.

116.033 “Common elements” defined. “Common elements” means the common elements of a common-interest community.

116.040 “Division” defined. “Division” means the Real Estate Division of the Department of Business and Industry.

116.043 “Executive board” defined. “Executive board” has the meaning ascribed to it in NRS 116.045.

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

116.050 “Management of a common-interest community” defined. “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 valuable consideration.

116.080 “Unit’s owner” defined. “Unit’s owner” has the meaning ascribed to it in NRS 116.095.

116.465 Fees for preparation of certificate for resale of unit.

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

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

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

116A.010 "Administrator" defined. "Administrator" means the Real Estate Administrator.

116A.030 "Commission" defined. "Commission" means the Commission for Common-Interest Communities and Condominium Hotels created by NRS 116.600.

116A.045 "Division" defined. "Division" means the Real Estate Division of the Department of Business and Industry.

116A.065 "Management agreement" defined. "Management agreement" means an agreement for the management of a common-interest community.

116A.070 "Management of a common-interest community" defined. "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 valuable consideration.

116A.085 "Reserve study specialist" defined. "Reserve study specialist" means a person who conducts a study of the reserves of an association pursuant to NRS 116.31152 or 116B.605.