

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY  
NRS 233B.066  
LCB FILE R050-13**

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

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

LCB File No. R050-13 amends NAC 116 and 116A revising provisions governing reserve studies and provisions governing the duties of a member of the executive board of a homeowners' association; amending provisions governing the preparation of financial statements by an association; revising provisions governing the qualifications and duties of a person who conducts reserve studies.

The need for the proposed regulation is to give clarification to homeowners' association boards regarding the preparation of the reserve study. The proposed regulation provides clarification on how and when the reserve should be prepared. The proposed regulation also adds protection to the public by require that reserve study specialists have adequate education and insurance.

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

The Commission for Common-Interest Communities and Condominium Hotels (Commission) had a standing agenda item which included discussion to review Chapters 116, 116A and 116B of the Nevada Administrative Code for the purpose of making recommendations for proposed amendments, additions, and deletions. At each meeting, the Commission invited comments from the public.

The agenda for the June 11-13, 2013 Commission meeting was posted on the Real Estate Division's (Division) website and distributed through the Division's posting list. The agenda indicated discussion and possible action by the Commission to amend regulations NAC 116.405, NAC 116.415, NAC 116.425, NAC 116.430, NAC 116.435, NAC 116A.415, 116A.420, NAC 116A.425, NAC 116A.430, NAC 116A.435 and NAC 116A.440 relating to reserve studies and NAC 116.451 regarding the preparation, contents and distribution of interim financial statements. The Commission provided a document with proposed changes to review. After discussion, the Commission directed the Division to prepare proposed language for a workshop at the next meeting held August 27-29, 2013. The proposed language became LCB File No. R050-13.

The Division posted a Small Business Impact Statement dated August 15, 2013 on the Division's website with the Notice of Workshop scheduled for August 28, 2013. The Division received written comment from a member of the public regarding Section 11 of the proposed regulation questioning the Commission's authority to require reserve study

specialists to carry surety bonds. Written public comment was submitted requesting changes to LCB File R050-13 regarding the start date to conduct a reserve study, the number of days that a summary of a reserve study shall be submitted to the Division, the items required to be included within a reserve study and the requirements to apply and renew a reserve study specialist registration.

The Division posted a Small Business Impact Statement dated February 5, 2015 on the Division's website with the Notice of Workshop scheduled for March 3, 2015. Public comment was given regarding the commencement date of the five year period to conduct a reserve study. The former commissioner who initiated the proposed regulation gave clarification on the proposed changes and submitted written public comment implementing some of the recommended changes from public comment submitted at past workshops. The Commission moved to proceed with an adoption hearing for the proposed regulation as presented.

Interested persons may obtain a summary from:  
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**3. The number of persons who:**

**(a) Attended each hearing:**

August 28, 2013:	23
March 3, 2015:	38
July 9, 2015:	11

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

August 28, 2013:	5
March 3, 2015:	6
July 9, 2015:	0

**(c) Submitted to the agency written comments: 6**

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

Please see attached.

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

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

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

The proposed regulation was adopted on July 9, 2015, and included changes suggested at workshops and the adoption hearing conducted.

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

**Business which it is to regulate**

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

**Adverse effects:** Comments in opposition were made regarding the added amendment to section 1 in which the five year period for conducting a reserve study starts on the date on which the on-site inspection is performed. All comments suggested the five year period commence on the first day of the association's fiscal year. There were comments that the reserve study specialist might not know when the last on-site inspection was done.

**Beneficial effects:** The proposed regulation provides clarification to associations and reserve study specialist regarding preparation of financial statements.

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

**Immediate effects:** The proposed changes in LCB File No. R050-13 provide clarity to association boards as to what is needed in the required full reserve study, or an update to a previous reserve study, in order to ensure appropriate contributions when funding the reserve fund. The requirements for a reserve study specialist in NAC 116A will ensure a high level of competence of reserve preparers.

**Long-term effects:** Proposed amendments to LCB File No. R050-13 is intended to assist association boards in performing their fiduciary duties to a high level on behalf of all owners in the association.

**Public**

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

**Adverse effects:** LCB File No. R050-13 might have an adverse effect on small self-managed associations who are required by law to conduct a study of the reserves but have not.

**Beneficial effects:** LCB File No. R050-13 is beneficial to homeowners who live in a common-interest community because it provides clarification to executive boards regarding preparation of financial statements.

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

**Immediate effects:** The proposed changes in LCB File No. R050-13 provide clarity to association boards as to what is needed in the required full reserve study, or an update to a previous reserve study, in order to ensure appropriate contributions when funding the reserve fund. The requirements for a reserve study specialist in NAC 116A will ensure a high level of competence of reserve preparers.

**Long-term effects:** Proposed amendments to LCB File No. R050-13 is intended to assist association boards in performing their fiduciary duties to a high level on behalf of all owners in the association.

**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. R050-13.

**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.