

# NEVADA LEGISLATURE

Seventy-fifth Session, 2009

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## SENATE DAILY JOURNAL

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### THE ONE HUNDRED AND ELEVENTH DAY

CARSON CITY Saturday, May 23, 2009

Senate called to order at 11:36 a.m.

President Krolicki presiding.

Roll called.

All present except Senators Coffin, Copening, Lee and Nolan who were excused.

Prayer by Senator Wiener.

Good morning, in my faith practice, in the pronoun reference to God, we use "it" rather than "he" or "she" so that we are not gender specific, we are universal in the reference.

Let us pray, close our eyes and take a deep breath inhaling the life force, the energy, the substance and the source we call God. As we inhale and exhale this ultimate power, this source of all that is, we know that God is ever present. God is with us at all times and all places giving us the strength, the energy, the love and the light to make the decisions to share the actions, to design the futures of the people we serve.

As we begin this day, knowing that we are doing the good work, let us work together in the energy and the light of the highest power we call God, energy, life, love, intelligence, mind, spirit, peace and calm knowing that as we go forward that God is all there is, all that is ever been, all that ever will be working in us, through us and as us. This is the truth, I know it to be so.

AMEN.

Pledge of Allegiance to the Flag.

Senator Horsford moved that further reading of the Journal be dispensed with, and the President and Secretary be authorized to make the necessary corrections and additions.

Motion carried.

#### MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 22, 2009

*To the Honorable the Senate:*

I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bill No. 522.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 119, Amendments Nos. 777, 936; Senate Bill No. 175, Amendment No. 921; Senate Bill No. 190, Amendments Nos. 668, 916; Senate Bill

No. 213, Amendment No. 890; Senate Bill No. 239, Amendment No. 920; Senate Bill No. 263, Amendments Nos. 684, 870, 891; Senate Bill No. 269, Amendments Nos. 783, 905; Senate Bill No. 273, Amendment No. 796; Senate Bill No. 295, Amendment No. 932; Senate Bill No. 354, Amendment No. 857; Senate Bill No. 355, Amendment No. 786; Senate Bill No. 376, Amendment No. 689; Senate Bill No. 396, Amendment No. 658, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 774 to Assembly Bill No. 15; Senate Amendment No. 769 to Assembly Bill No. 22; Senate Amendment No. 660 to Assembly Bill No. 54; Senate Amendment No. 867 to Assembly Bill No. 102; Senate Amendment No. 709 to Assembly Bill No. 135; Senate Amendment No. 650 to Assembly Bill No. 141; Senate Amendment No. 649 to Assembly Bill No. 144; Senate Amendment No. 789 to Assembly Bill No. 147; Senate Amendment No. 901 to Assembly Bill No. 149; Senate Amendment No. 775 to Assembly Bill No. 151; Senate Amendment No. 574 to Assembly Bill No. 248; Senate Amendment No. 853 to Assembly Bill No. 249; Senate Amendment No. 907 to Assembly Bill No. 304; Senate Amendment No. 859 to Assembly Bill No. 488; Senate Amendment No. 762 to Assembly Bill No. 513.

DIANE M. KEETCH  
*Assistant Chief Clerk of the Assembly*

#### INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 522.

Senator Care moved that the bill be referred to the Committee on Energy, Infrastructure and Transportation.

Motion carried.

#### UNFINISHED BUSINESS

##### APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Parks, Nolan and Woodhouse as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 305.

President Krolicki appointed Senators Wiener, Breeden and Nolan as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 389.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 11:42 a.m.

#### SENATE IN SESSION

At 11:46 a.m.

President Krolicki presiding.

Quorum present.

#### CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 176.

The following Assembly amendment was read:

Amendment No. 779.

"SUMMARY—Makes various changes relating to time shares. (BDR 10-692)"

"AN ACT relating to time shares; providing for the relocation of a time share under certain circumstances; authorizing the withdrawal of time share units from a time-share plan under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill provides that certain types of time shares may be relocated to another unit or parcel ~~if: (1) if the replacement unit or parcel is within the same project and governed by the same time share instrument as the original unit or parcel; (2) if the replacement unit or parcel has a value which is greater than or equal to the value of the original unit or parcel; (3) if the replacement unit or parcel contains similar sleeping accommodations for at least the same number of persons as the original unit or unit type within the parcel; (4) if the time share is not a fixed unit time share; and (5) if the time share is a fixed week time share or the rights of use are within a particular season, use in the same fixed week or season is available.] if certain conditions are satisfied. Section 1 only authorizes such relocation of a time share if: (1) the time share is owned by the developer; or (2) the relocation is approved by a majority of the association and agreed to by the developer.~~

Existing law provides that if a time-share instrument authorizes the developer to withdraw units from the time-share plan, any unit that is subject to withdrawal may not be withdrawn if a time share attributable to that unit is owned by a purchaser. (NRS 119A.495) Section 2 of this bill allows units or parcels to be withdrawn from a time-share plan by the developer if all the requirements for such a withdrawal are met, including consent by any remaining owners, amendment of the time-share instrument to reflect the withdrawal, and the establishment or amendment of agreements between the developer and the association to share certain costs equitably.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 119A of NRS is hereby amended by adding thereto a new section to read as follows:

*1. Any time share that is an undivided fee simple interest or leasehold interest in a unit or parcel on which units are located, and any time share that is a license, may be relocated to another unit or parcel on which units are located:*

*(a) If the replacement unit or parcel:*

*(1) Is within the same project and governed by the same time-share instrument as the original unit or parcel;*

*(2) ~~Has a value which is greater than or equal to the value of~~ Provides the owner of the time share the opportunity to enjoy a substantially similar vacation experience as available with the original unit or parcel; and*

(3) Contains similar sleeping accommodations for at least the same number of persons as the original unit or original unit type within the parcel;

(b) If there is to be no increase in the amount of the maintenance fees allocable to the time share to be relocated solely as the result of the relocation;

(c) If a one-to-one use night to use right ratio is to be maintained after the relocation;

(d) If the location and historical use of the time share to be relocated are considered in furthering the best interests of the owner with respect to the owner's opportunity to use and enjoy the time-share plan;

(e) If the time share is not a fixed-unit time share; and

~~((e))~~ (f) If the time share is a fixed-week time share or the rights of use for the time share are within a particular season of the year, if use of the time share in the same fixed week or season is available to the owner of the time share after the relocation.

2. Relocation of a time share pursuant to this section only applies to a time share that is owned by the developer, unless the relocation is:

(a) Approved by the vote or the written consent of members of the association, excluding the developer, constituting the minimum percentage of the voting power of the association which constitutes a quorum pursuant to NRS 82.291; and

(b) Agreed to in writing by the developer.

3. The relocation of each time share pursuant to this section must be made by the recordation of an instrument signed by the developer that identifies:

(a) The names of the record owners of each time share to be relocated;

(b) The permanent identifying number, if any, of each time share;

(c) A legal description of the unit or parcel and a description of the unit type ~~to which each permanent identifying number was originally assigned,~~ of each time share to be relocated; and

(d) A legal description of the unit or parcel and a description of the unit type to which each ~~(permanent identifying number)~~ time share will be reassigned.

4. Upon recordation of the instrument described in subsection 3 and the mailing of the recorded instrument to the owner by certified mail, return receipt requested, to the last known address of the owner as shown in the records of the association, the owner of the time share identified in the recorded instrument shall be deemed to have no further right, title or interest in the unit or parcel originally conveyed or assigned to the owner.

5. For the purposes of this section, in determining whether the replacement unit or parcel "provides the owner of the time share the opportunity to enjoy a substantially similar vacation experience as available with the original unit or parcel," the following factors must be considered with respect to the similarity of the replacement unit or parcel and the original unit or parcel:

(a) Size;

(b) Furnishings;

(c) Reservation rights;

(d) Standards of maintenance; and

(e) Location, including scenery, topography and geographic location.

6. As used in this section:

(a) "Fixed-unit time share" means a time share in which the owner's rights of use are in a single designated unit.

(b) "Fixed-week time share" means a time share in which the owner's rights of use are within a certain week or weeks on a recurrent, periodic basis, and the weeks of use may rotate based on a fixed-week calendar.

(c) "One-to-one use night to use right ratio" means that the sum of the number of nights that owners are entitled to use in a 12-month period does not exceed the number of nights available for use by those owners during that 12-month period. For the purposes of this paragraph:

(1) No individual time-share unit may be counted as providing more than 365 nights of use per 12-month period or more than 366 nights of use per 12-month period that includes February 29; and

(2) The rights of use of each owner must be counted without regard to whether that owner's rights of use have been suspended as the result of the failure to pay assessments or for any other reason.

Sec. 2. NRS 119A.495 is hereby amended to read as follows:

119A.495 ~~HH~~

1. Except as otherwise provided in subsection 2, if a time-share instrument authorizes the developer to withdraw units from the time-share plan, any unit that is subject to withdrawal may not be withdrawn if a time share attributable to that unit is owned by a purchaser.

2. Any legally created units or parcels within a project may be withdrawn from the time-share plan by the developer if:

(a) All remaining owners having an interest in the unit or parcel, if there are any such remaining owners, give written consent to the withdrawal;

(b) The developer amends the time-share instrument which established the time-share plan to reduce the number of units or parcels included in the time-share plan by the number of units or parcels withdrawn pursuant to this subsection;

(c) Any existing cost-sharing agreement between the developer and the association covering shared common areas or amenities is amended to reflect the reduction in the number of units or parcels included in the time-share plan as the result of the withdrawal of units or parcels pursuant to this subsection; and

(d) A new cost-sharing agreement which covers any common areas or amenities that are shared by the remaining units or parcels within the time-share plan and the units or parcels withdrawn pursuant to this subsection and which allocates the shared costs proportionately between the developer and the association according to the number and size of the units withdrawn

*pursuant to this subsection is entered into between the developer and the association.*

Senator Care moved that the Senate concur in the Assembly amendment to Senate Bill No. 176.

Remarks by Senator Care.

Senator Care requested that his remarks be entered in the Journal.

Thank you Mr. President. The Committee discussed the changes made by the Assembly as to the additional conditions to the relocation of units and the Committee recommend concurrence.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 227.

The following Assembly amendment was read:

Amendment No. 716.

"SUMMARY—Revises certain provisions concerning identity theft. (BDR 52-72)"

"AN ACT relating to security of personal information; requiring the compliance with certain standards or the use of encryption by data collectors when transferring personal information; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill requires that a data collector comply with certain standards or use encryption to protect information that is either transmitted electronically or contained on a data storage device that is moved beyond the controls of the data collector. Section 1 also renders a data collector not liable for a breach of the security of the system data in certain circumstances.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 603A of NRS is hereby amended by adding thereto a new section to read as follows:

1. *If a data collector doing business in this State accepts a payment card in connection with a sale of goods or services, the data collector shall comply with the current version of the Payment Card Industry (PCI) Data Security Standard, as adopted by the PCI Security Standards Council or its successor organization, with respect to those transactions, not later than the date for compliance set forth in the Payment Card Industry (PCI) Data Security Standard or by the PCI Security Standards Council or its successor organization.*

2. *A data collector doing business in this State to whom subsection 1 does not apply shall not:*

*(a) Transfer any personal information through an electronic, nonvoice transmission other than a facsimile to a person outside of the secure system of the data collector unless the data collector uses encryption to ensure the security of electronic transmission; or*

(b) Move any data storage device containing personal information beyond the logical or physical controls of the data collector or its data storage contractor unless the data collector uses encryption to ensure the security of the information.

3. A data collector shall not be liable for damages for a breach of the security of the system data if:

(a) The data collector is in compliance with this section; and

(b) The breach is not caused by the gross negligence or intentional misconduct of the data collector, its officers, employees or agents.

4. The requirements of this section do not apply to:

(a) A telecommunication provider acting solely in the role of conveying the communications of other persons, regardless of the mode of conveyance used, including, without limitation:

(1) Optical, wire line and wireless facilities;

(2) Analog transmission; and

(3) Digital subscriber line transmission, voice over Internet protocol and other digital transmission technology.

(b) Data transmission over a secure, private communication channel for:

(1) Approval or processing of negotiable instruments, electronic fund transfers or similar payment methods; or

(2) Issuance of reports regarding account closures due to fraud, substantial overdrafts, abuse of automatic teller machines or related information regarding a customer.

5. As used in this section:

(a) "Data storage device" means any device that stores information or data from any electronic or optical medium, including, but not limited to, computers, cellular telephones, magnetic tape, electronic computer drives and optical computer drives, and the medium itself.

(b) "Encryption" means the protection of data in electronic or optical form, in storage or in transit, using:

(1) An encryption technology that has been adopted by an established standards setting body, including, but not limited to, the Federal Information Processing Standards issued by the National Institute of Standards and Technology, which renders such data indecipherable in the absence of associated cryptographic keys necessary to enable decryption of such data; and

(2) Appropriate management and safeguards of cryptographic keys to protect the integrity of the encryption using guidelines promulgated by an established standards setting body, including, but not limited to, the National Institute of Standards and Technology.

(c) "Facsimile" means an electronic transmission between two dedicated fax machines using Group 3 or Group 4 digital formats that conform to the International Telecommunications Union T.4 or T.38 standards or computer modems that conform to the International Telecommunications Union T.31 or T.32 standards. The term does not include onward transmission to a third

device after protocol conversion, including, but not limited to, any data storage device.

(d) "Payment card" has the meaning ascribed to it in NRS 205.602.

(e) "Telecommunication provider" has the meaning ascribed to it in NRS 704.027.

Sec. 2. NRS 597.970 is hereby repealed.

Sec. 3. This act becomes effective on January 1, 2010.

TEXT OF REPEALED SECTION

597.970 Restrictions on transfer of personal information through electronic transmission.

1. A business in this State shall not transfer any personal information of a customer through an electronic transmission other than a facsimile to a person outside of the secure system of the business unless the business uses encryption to ensure the security of electronic transmission.

2. As used in this section:

(a) "Encryption" has the meaning ascribed to it in NRS 205.4742.

(b) "Personal information" has the meaning ascribed to it in NRS 603A.040.

Senator Care moved that the Senate concur in the Assembly amendment to Senate Bill No. 227.

Remarks by Senator Care.

Senator Care requested that his remarks be entered in the Journal.

Thank you Mr. President. The Assembly added some additional exemptions to the requirements in Section 1 of the bill. Senator Wiener sponsored the Identity Theft Bill and she and the Committee are in agreement with the additional exemptions.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 261.

The following Assembly amendment was read:

Amendment No. 748.

"SUMMARY—Makes various changes relating to common-interest ownership. (BDR 10-789)"

"AN ACT relating to common-interest ownership; revising the provisions governing the applicability of the Uniform Common-Interest Ownership Act; ~~enacting certain provisions governing master-planned communities;~~ making various other changes relating to common-interest ownership; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill makes various changes relating to common-interest ownership to: (1) incorporate certain revisions to the Uniform Common-Interest Ownership Act promulgated by the Uniform Law Commission; and (2) eliminate references to the preparation of certain plans regarding certain common-interest communities and condominium hotels.

Sections 2, 3, 6 and 9 of this bill provide that the provisions of the Uniform Act only apply to a nonresidential condominium if the declaration so provides.

Sections 4 and 7 of this bill clarify the applicability of the Uniform Act by revising the definition of "common-interest community" to: (1) reflect the revisions promulgated by the Uniform Law Commission; and (2) clarify that certain agreements to share expenses do not create a common-interest community. (NRS 116.021)

~~Section 5 of this bill allows a declaration for a common interest community to state that the common interest community is a master planned community under certain circumstances.~~

Sections 8 and 10-26 of this bill eliminate references to the preparation of certain plans for certain common-interest communities and condominium hotels. (NRS 116.089, 116.1206, 116.2105, 116.2109, 116.211, 116.2112, 116.2113, 116.2114, 116.2117, 116.345, 116.4103, 116.4109, 116B.225, 116B.295, 116B.350, 116B.365, 116B.760)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 116 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. *"Nonresidential condominium" means a condominium in which all units are restricted exclusively to nonresidential use.*

Sec. 3. 1. *The provisions of this chapter do not apply to a nonresidential condominium except to the extent that the declaration for the nonresidential condominium provides that:*

*(a) This entire chapter applies to the condominium;*

*(b) Only the provisions of NRS 116.001 to 116.2122, inclusive, and NRS 116.3116 to 116.31168, inclusive, apply to the condominium; or*

*(c) Only the provisions of NRS 116.3116 to 116.31168, inclusive, apply to the condominium.*

2. *If this entire chapter applies to a nonresidential condominium, the declaration may also require, subject to NRS 116.1112, that:*

*(a) Notwithstanding NRS 116.3105, any management, maintenance operations or employment contract, lease of recreational or parking areas or facilities and any other contract or lease between the association and a declarant or an affiliate of a declarant continues in force after the declarant turns over control of the association; and*

*(b) Notwithstanding NRS 116.1104 and subsection 2 of NRS 116.311, purchasers of units must execute proxies, powers of attorney or similar devices in favor of the declarant regarding particular matters enumerated in those instruments.*

Sec. 4. 1. *An agreement between the associations for two or more common-interest communities to share the costs of real estate taxes, insurance premiums, services, maintenance or improvements of real estate or other activities specified in the agreement or declarations does not create a*

separate common-interest community. If the declarants of the common-interest communities are affiliates, the agreement may not unreasonably allocate the costs among those common-interest communities.

2. An agreement between an association and the owner of real estate that is not part of a common-interest community to share the costs of real estate taxes, insurance premiums, services, maintenance or improvements of real estate, or other activities specified in the agreement, does not create a separate common-interest community. However, the assessments against the units in the common-interest community required by the agreement must be included in the periodic budget for the common-interest community, and the agreement must be disclosed in all public offering statements and resale certificates required by this chapter.

3. An agreement between the owners of separately owned parcels of real estate to share costs or other obligations associated with a party wall, road, driveway or well or other similar use does not create a common-interest community unless the owners otherwise agree.

4. As used in this section, "party wall" means any wall or fence constructed along the common boundary line between parcels. The term does not include any shared building structure systems, including, without limitation, foundations, walls and roof structures.

~~Sec. 5. {1. The declaration for a common interest community may state that it is a master planned community if the declarant has reserved the development right to create at least 1,000 units that may be used for residential purposes and, at the time of the reservation, that the declarant owns or controls more than 500 acres on which the units may be built.~~

~~2. If the requirements of subsection 1 are satisfied, the declaration for the master planned community need not state a maximum number of units and need not contain any of the information required pursuant to paragraphs (e) to (m), inclusive, of subsection 1 of NRS 116.2105, until the declaration is amended pursuant to subsection 3.~~

~~3. When each unit in a master planned community is conveyed to a purchaser, the declaration must contain:~~

~~(a) A sufficient legal description of the unit and all portions of the master planned community in which any other units have been conveyed to a purchaser; and~~

~~(b) All the information required by paragraphs (e) to (m), inclusive, of subsection 1 of NRS 116.2105 with respect to that real estate.~~

~~4. The only real estate in a master planned community which is subject to this chapter is units that have been declared or which are being offered for sale and any other real estate described pursuant to subsection 3. Other real estate that is or may become part of the master planned community is only subject to other law and to any other restrictions and limitations that appear of record.~~

~~5. If the public offering statement conspicuously identifies the fact that the community is a master planned community, the disclosure requirements~~

~~contained in NRS 116.4101 to 116.412, inclusive, apply only with respect to units that have been declared or are being offered for sale in connection with the public offering statement and to the real estate described pursuant to subsection 2.~~

~~6. Limitations in this chapter on the addition of unspecified real estate do not apply to a master planned community.~~

~~7. The period of declarant control of the association for a master planned community terminates in accordance with any conditions specified in the declaration or otherwise at the time the declarant, in a recorded instrument and after giving written notice in a record to all the units' owners, voluntarily surrenders all rights to control the activities of the association. (Deleted by amendment.)~~

Sec. 6. NRS 116.003 is hereby amended to read as follows:

116.003 As used in this chapter and in the declaration and bylaws of an association, unless the context otherwise requires, the words and terms defined in NRS 116.005 to 116.095, inclusive, and section 2 of this act have the meanings ascribed to them in those sections.

Sec. 7. NRS 116.021 is hereby amended to read as follows:

116.021 1. "Common-interest community" means real estate *described in a declaration* with respect to which a person, by virtue of ~~his~~ the person's ownership of a unit, is obligated to pay for a share of real estate taxes, insurance premiums, maintenance or improvement of, or services or other expenses related to, common elements, other units or other ~~than that unit.~~ "Ownership" real estate described in that declaration.

2. The term does not include an agreement described in section 4 of this act.

3. For purposes of this section, "ownership of a unit" does not include holding a leasehold interest of less than 20 years in a unit, including options to renew.

Sec. 8. NRS 116.089 is hereby amended to read as follows:

116.089 "Special declarant's rights" means rights reserved for the benefit of a declarant to:

1. Complete improvements indicated on plats ~~and plans~~ or in the declaration (NRS 116.2109) or, in a cooperative, to complete improvements described in the public offering statement pursuant to subsection 2 of NRS 116.4103;

2. Exercise any developmental right (NRS 116.211);

3. Maintain sales offices, management offices, signs advertising the common-interest community and models (NRS 116.2115);

4. Use easements through the common elements for the purpose of making improvements within the common-interest community or within real estate which may be added to the common-interest community (NRS 116.2116);

5. Make the common-interest community subject to a master association (NRS 116.212);

6. Merge or consolidate a common-interest community with another common-interest community of the same form of ownership (NRS 116.2121); or

7. Appoint or remove any officer of the association or any master association or any member of an executive board during any period of declarant's control (NRS 116.31032).

Sec. 9. NRS 116.1201 is hereby amended to read as follows:

116.1201 1. Except as otherwise provided in this section and NRS 116.1203, this chapter applies to all common-interest communities created within this State.

2. This chapter does not apply to:

(a) A limited-purpose association, except that a limited-purpose association:

(1) Shall pay the fees required pursuant to NRS 116.31155;

(2) Shall register with the Ombudsman pursuant to NRS 116.31158;

(3) Shall comply with the provisions of:

(I) NRS 116.31038, 116.31083 and 116.31152; and

(II) NRS 116.31075, if the limited-purpose association is created for a rural agricultural residential common-interest community;

(4) Shall comply with the provisions of NRS 116.4101 to 116.412, inclusive, as required by the regulations adopted by the Commission pursuant to paragraph (b) of subsection 5; and

(5) Shall not enforce any restrictions concerning the use of units by the units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter *or a part of this chapter* does apply to that planned community ~~[-]~~ *pursuant to section 3 of this act*. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted only if the declaration so provides or if the real estate comprising the units that may be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.

(c) Common-interest communities or units located outside of this State, but the provisions of NRS 116.4102 to 116.4108, inclusive, apply to all contracts for the disposition thereof signed in this State by any party unless exempt under subsection 2 of NRS 116.4101.

(d) A common-interest community that was created before January 1, 1992, is located in a county whose population is less than 50,000, and has less than 50 percent of the units within the community put to residential use, unless a majority of the units' owners otherwise elect in writing.

(e) Except as otherwise provided in this chapter, time shares governed by the provisions of chapter 119A of NRS.

3. The provisions of this chapter do not:

- (a) Prohibit a common-interest community created before January 1, 1992, from providing for separate classes of voting for the units' owners;
- (b) Require a common-interest community created before January 1, 1992, to comply with the provisions of NRS 116.2101 to 116.2122, inclusive;
- (c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992; or
- (d) Prohibit a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government.

4. The provisions of chapters 117 and 278A of NRS do not apply to common-interest communities.

5. The Commission shall establish, by regulation:

- (a) The criteria for determining whether an association, a limited-purpose association or a common-interest community satisfies the requirements for an exemption or limited exemption from any provision of this chapter; and
- (b) The extent to which a limited-purpose association must comply with the provisions of NRS 116.4101 to 116.412, inclusive.

6. As used in this section, "limited-purpose association" means an association that:

- (a) Is created for the limited purpose of maintaining:
  - (1) The landscape of the common elements of a common-interest community;
  - (2) Facilities for flood control; or
  - (3) A rural agricultural residential common-interest community; and
- (b) Is not authorized by its governing documents to enforce any restrictions concerning the use of units by units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

Sec. 10. NRS 116.1206 is hereby amended to read as follows:

116.1206 1. Any provision contained in a declaration, bylaw or other governing document of a common-interest community that violates the provisions of this chapter shall be deemed to conform with those provisions by operation of law, and any such declaration, bylaw or other governing document is not required to be amended to conform to those provisions.

2. In the case of amendments to the declaration, bylaws or plats ~~and plans~~ of any common-interest community created before January 1, 1992:

- (a) If the result accomplished by the amendment was permitted by law before January 1, 1992, the amendment may be made either in accordance with that law, in which case that law applies to that amendment, or it may be made under this chapter; and
- (b) If the result accomplished by the amendment is permitted by this chapter, and was not permitted by law before January 1, 1992, the amendment may be made under this chapter.

3. An amendment to the declaration, bylaws or plats ~~and plans~~ authorized by this section to be made under this chapter must be adopted in conformity with the applicable provisions of chapter 117 or 278A of NRS and with the procedures and requirements specified by those instruments. If an amendment grants to any person any rights, powers or privileges permitted by this chapter, all correlative obligations, liabilities and restrictions in this chapter also apply to that person.

Sec. 11. NRS 116.2105 is hereby amended to read as follows:

116.2105 1. The declaration must contain:

(a) The names of the common-interest community and the association and a statement that the common-interest community is either a condominium, cooperative or planned community;

(b) The name of every county in which any part of the common-interest community is situated;

(c) A sufficient description of the real estate included in the common-interest community;

(d) A statement of the maximum number of units that the declarant reserves the right to create;

(e) In a condominium or planned community, a description of the boundaries of each unit created by the declaration, including the unit's identifying number or, in a cooperative, a description, which may be by plats, ~~for plans,~~ of each unit created by the declaration, including the unit's identifying number, its size or number of rooms, and its location within a building if it is within a building containing more than one unit;

(f) A description of any limited common elements, other than those specified in subsections 2 and 4 of NRS 116.2102, as provided in paragraph (g) of subsection 2 of NRS 116.2109 and, in a planned community, any real estate that is or must become common elements;

(g) A description of any real estate, except real estate subject to developmental rights, that may be allocated subsequently as limited common elements, other than limited common elements specified in subsections 2 and 4 of NRS 116.2102, together with a statement that they may be so allocated;

(h) A description of any developmental rights and other special declarant's rights reserved by the declarant, together with a legally sufficient description of the real estate to which each of those rights applies, and a time within which each of those rights must be exercised;

(i) If any developmental right may be exercised with respect to different parcels of real estate at different times, a statement to that effect together with:

(1) Either a statement fixing the boundaries of those portions and regulating the order in which those portions may be subjected to the exercise of each developmental right or a statement that no assurances are made in those regards; and

(2) A statement whether, if any developmental right is exercised in any portion of the real estate subject to that developmental right, that

developmental right must be exercised in all or in any other portion of the remainder of that real estate;

(j) Any other conditions or limitations under which the rights described in paragraph (h) may be exercised or will lapse;

(k) An allocation to each unit of the allocated interests in the manner described in NRS 116.2107;

(l) Any restrictions:

(1) On use, occupancy and alienation of the units; and

(2) On the amount for which a unit may be sold or on the amount that may be received by a unit's owner on sale, condemnation or casualty to the unit or to the common-interest community, or on termination of the common-interest community;

(m) The file number and book or other information to show where easements and licenses are recorded appurtenant to or included in the common-interest community or to which any portion of the common-interest community is or may become subject by virtue of a reservation in the declaration; and

(n) All matters required by NRS 116.2106 to 116.2109, inclusive, 116.2115 and 116.2116 and 116.31032.

2. The declaration may contain any other matters the declarant considers appropriate.

Sec. 12. NRS 116.2109 is hereby amended to read as follows:

116.2109 1. Plats ~~and plans~~ are a part of the declaration, and are required for all common-interest communities except cooperatives. Each plat ~~and plan~~ must be clear and legible and contain a certification that the plat ~~or plan~~ contains all information required by this section.

2. Each plat must comply with the provisions of chapter 278 of NRS and show:

(a) The name and a survey of the area which is the subject of the plat;

(b) A sufficient description of the real estate;

(c) The extent of any encroachments by or upon any portion of the property which is the subject of the plat;

(d) The location and dimensions of all easements having a specific location and dimension which serve or burden any portion of the common-interest community;

(e) The location and dimensions, *with reference to an established datum*, of any vertical unit boundaries and that unit's identifying number;

(f) The location with reference to an established datum of any horizontal unit boundaries not shown or projected on ~~plans~~ plats recorded pursuant to subsection ~~4~~ 3 and that unit's identifying number; and

(g) The location and dimensions of limited common elements, including porches, balconies and patios, other than parking spaces and the other limited common elements described in subsections 2 and 4 of NRS 116.2102.

3. ~~To the extent not shown or projected on the~~ The plats ~~plans of the units~~ must show or project any units in which the declarant has reserved the

right to create additional units or common elements (paragraph (h) of subsection 1 of NRS 116.2105), identified appropriately.

4. Unless the declaration provides otherwise, *when* the horizontal boundaries of part of a unit located outside a building have the same elevation as the horizontal boundaries of the inside part ~~[and]~~, *the elevations* need not be depicted on the plats . ~~[and plans of the units.]~~

5. ~~[A declarant shall also provide a plan of development for the common-interest community with its initial phase of development. The declarant shall revise the plan of development with each subsequent phase. The plan of development may show the intended location and dimensions of any contemplated improvement to be constructed anywhere within the common-interest community. Any contemplated improvement shown must be labeled either "MUST BE BUILT" or "NEED NOT BE BUILT." The plan of development must also show or project:~~

~~(a) The location and dimensions of all real estate not subject to developmental rights, or subject only to the developmental right to withdraw, and the location and dimensions of all existing improvements within that real estate;~~

~~(b) A sufficient description of any real estate subject to developmental rights, labeled to identify the rights applicable to each parcel; and~~

~~(c) A sufficient description of any real estate in which the units' owners will own only an estate for years, labeled as "leasehold real estate."~~

~~6.] Upon exercising any developmental right, the declarant shall record new or amended plats necessary to conform to the requirements of subsection 2 . ~~[and provide new or amended plans of the units and a new or amended plan of development or new certifications of those plans if the plans otherwise conform to the requirements of subsections 3 and 5.~~~~

~~7.] 6. Each plat must be certified by ~~[an independent]~~ a professional land surveyor. ~~[The plans of the units must be certified by an independent professional engineer or architect. If the plan of development is not certified by an independent professional land surveyor or an independent professional engineer or architect, it must be acknowledged by the declarant.]~~~~

Sec. 13. NRS 116.211 is hereby amended to read as follows:

116.211 1. To exercise any developmental right reserved under paragraph (h) of subsection 1 of NRS 116.2105, the declarant shall prepare, execute and record an amendment to the declaration (NRS 116.2117) and in a condominium or planned community comply with NRS 116.2109. The declarant is the owner of any units thereby created. The amendment to the declaration must assign an identifying number to each new unit created, and, except in the case of subdivision or conversion of units described in subsection 2, reallocate the allocated interests among all units. The amendment must describe any common elements and any limited common elements thereby created and, in the case of limited common elements, designate the unit to which each is allocated to the extent required by NRS 116.2108.

2. Developmental rights may be reserved within any real estate added to the common-interest community if the amendment adding that real estate includes all matters required by NRS 116.2105 or 116.2106, as the case may be, and, in a condominium or planned community, the plats ~~and plans~~ include all matters required by NRS 116.2109. This provision does not extend the time limit on the exercise of developmental rights imposed by the declaration pursuant to paragraph (h) of subsection 1 of NRS 116.2105.

3. Whenever a declarant exercises a developmental right to subdivide or convert a unit previously created into additional units, common elements, or both:

(a) If the declarant converts the unit entirely to common elements, the amendment to the declaration must convey it to the association or reallocate all the allocated interests of that unit among the other units as if that unit had been taken by eminent domain (NRS 116.1107); and

(b) If the declarant subdivides the unit into two or more units, whether or not any part of the unit is converted into common elements, the amendment to the declaration must reallocate all the allocated interests of the unit among the units created by the subdivision in any reasonable manner prescribed by the declarant.

4. If the declaration provides, pursuant to paragraph (h) of subsection 1 of NRS 116.2105, that all or a portion of the real estate is subject to a right of withdrawal:

(a) If all the real estate is subject to withdrawal, and the declaration does not describe separate portions of real estate subject to that right, none of the real estate may be withdrawn after a unit has been conveyed to a purchaser; and

(b) If any portion is subject to withdrawal, it may not be withdrawn after a unit in that portion has been conveyed to a purchaser.

Sec. 14. NRS 116.2112 is hereby amended to read as follows:

116.2112 1. Subject to the provisions of the declaration and other provisions of law, the boundaries between adjoining units may be relocated by an amendment to the declaration upon application to the association by the owners of those units. If the owners of the adjoining units have specified a reallocation between their units of their allocated interests, the application must state the proposed reallocations. Unless the executive board determines, within 30 days, that the reallocations are unreasonable, the association shall prepare an amendment that identifies the units involved and states the reallocations. The amendment must be executed by those units' owners, contain words of conveyance between them, and, on recordation, be indexed in the name of the grantor and the grantee, and in the grantee's index in the name of the association.

2. The association:

(a) In a condominium or planned community shall prepare and record plats ~~for plans~~ necessary to show the altered boundaries between adjoining units, and their dimensions and identifying numbers; and

(b) In a cooperative shall prepare and record amendments to the declaration ~~[, including any plans,]~~ necessary to show or describe the altered boundaries between adjoining units, and their dimensions and identifying numbers.

Sec. 15. NRS 116.2113 is hereby amended to read as follows:

116.2113 1. If the declaration expressly so permits, a unit may be subdivided into 2 or more units. Subject to the provisions of the declaration and other provisions of law, upon application of the unit's owner to subdivide a unit, the association shall prepare, execute and record an amendment to the declaration, including in a condominium or planned community the plats, ~~and plans,~~ subdividing that unit.

2. The amendment to the declaration must be executed by the owner of the unit to be subdivided, assign an identifying number to each unit created, and reallocate the allocated interests formerly allocated to the subdivided unit to the new units in any reasonable manner prescribed by the owner of the subdivided unit.

Sec. 16. NRS 116.2114 is hereby amended to read as follows:

116.2114 The existing physical boundaries of a unit or the physical boundaries of a unit reconstructed in substantial accordance with the description contained in the original declaration are its legal boundaries, rather than the boundaries derived from the description contained in the original declaration, regardless of vertical or lateral movement of the building or minor variance between those boundaries and the boundaries derived from the description contained in the original declaration. This section does not relieve a unit's owner of liability in case of his willful misconduct or relieve a declarant or any other person of liability for failure to adhere to any plats ~~and plans~~ or, in a cooperative, to any representation in the public offering statement.

Sec. 17. NRS 116.2117 is hereby amended to read as follows:

116.2117 1. Except as otherwise provided in NRS 116.21175, and except in cases of amendments that may be executed by a declarant under subsection ~~6~~ 5 of NRS 116.2109 or NRS 116.211, or by the association under NRS 116.1107, subsection 4 of NRS 116.2106, subsection 3 of NRS 116.2108, subsection 1 of NRS 116.2112 or NRS 116.2113, or by certain units' owners under subsection 2 of NRS 116.2108, subsection 1 of NRS 116.2112, subsection 2 of NRS 116.2113 or subsection 2 of NRS 116.2118, and except as otherwise limited by subsection 4, the declaration, including any plats, ~~and plans,~~ may be amended only by vote or agreement of units' owners of units to which at least a majority of the votes in the association are allocated, or any larger majority the declaration specifies. The declaration may specify a smaller number only if all of the units are restricted exclusively to nonresidential use.

2. No action to challenge the validity of an amendment adopted by the association pursuant to this section may be brought more than 1 year after the amendment is recorded.

3. Every amendment to the declaration must be recorded in every county in which any portion of the common-interest community is located and is effective only upon recordation. An amendment, except an amendment pursuant to NRS 116.2112, must be indexed in the grantee's index in the name of the common-interest community and the association and in the grantor's index in the name of the parties executing the amendment.

4. Except to the extent expressly permitted or required by other provisions of this chapter, no amendment may change the boundaries of any unit, the allocated interests of a unit or the uses to which any unit is restricted, in the absence of unanimous consent of the units' owners affected and the consent of a majority of the owners of the remaining units.

5. Amendments to the declaration required by this chapter to be recorded by the association must be prepared, executed, recorded and certified on behalf of the association by any officer of the association designated for that purpose or, in the absence of designation, by the president of the association.

Sec. 18. NRS 116.345 is hereby amended to read as follows:

116.345 1. An association of a planned community may not restrict, prohibit or otherwise impede the lawful residential use of any property that is within or encompassed by the boundaries of the planned community and that is not designated as part of the planned community.

2. Except as otherwise provided in this subsection, an association may not restrict the access of a person to any of his property. An association may restrict access to and from a unit within a planned community if the right to restrict such access was included in the declaration or in a separate recorded instrument at the time that the owner of the unit acquired title to the unit. The provisions of this subsection do not prohibit an association from charging the owner of the property a reasonable and nondiscriminatory fee to operate or maintain a gate or other similar device designed to control access to the planned community that would otherwise impede ingress or egress to the property.

3. An association may not expand, construct or situate a building or structure that is not part of any plat ~~for plan~~ of the planned community if the expansion, construction or situation of the building or structure was not previously disclosed to the units' owners of the planned community unless the association obtains the written consent of a majority of the units' owners and residents of the planned community who own property or reside within 500 feet of the proposed location of the building or structure.

4. The provisions of this section do not abrogate any easement, restrictive covenant, decision of a court, agreement of a party or any contract, governing document or declaration of covenants, conditions and restrictions, or any other decision, rule or regulation that a local governing body or other entity that makes decisions concerning land use or planning is authorized to make or enact that exists before October 1, 1999, including, without limitation, a zoning ordinance, permit or approval process or any other

requirement of a local government or other entity that makes decisions concerning land use or planning.

Sec. 19. NRS 116.4103 is hereby amended to read as follows:

116.4103 1. Except as otherwise provided in NRS 116.41035, a public offering statement must set forth or fully and accurately disclose each of the following:

(a) The name and principal address of the declarant and of the common-interest community, and a statement that the common-interest community is either a condominium, cooperative or planned community.

(b) A general description of the common-interest community, including to the extent possible, the types, number and declarant's schedule of commencement and completion of construction of buildings, and amenities that the declarant anticipates including in the common-interest community.

(c) The estimated number of units in the common-interest community.

(d) Copies of the declaration, bylaws, and any rules or regulations of the association, but a plat ~~for plan~~ is not required.

(e) A current year-to-date financial statement, including the most recent audited or reviewed financial statement, and the projected budget for the association, either within or as an exhibit to the public offering statement, for 1 year after the date of the first conveyance to a purchaser, and thereafter the current budget of the association. The budget must include, without limitation:

(1) A statement of the amount included in the budget as reserves for repairs, replacement and restoration pursuant to NRS 116.3115; and

(2) The projected monthly assessment for common expenses for each type of unit, including the amount established as reserves pursuant to NRS 116.3115.

(f) A description of any services or subsidies being provided by the declarant or an affiliate of the declarant, not reflected in the budget.

(g) Any initial or special fee due from the purchaser at closing, together with a description of the purpose and method of calculating the fee.

(h) The terms and significant limitations of any warranties provided by the declarant, including statutory warranties and limitations on the enforcement thereof or on damages.

(i) A statement that unless the purchaser or his agent has personally inspected the unit, the purchaser may cancel, by written notice, his contract for purchase until midnight of the fifth calendar day following the date of execution of the contract, and the contract must contain a provision to that effect.

(j) A statement of any unsatisfied judgments or pending suits against the association, and the status of any pending suits material to the common-interest community of which a declarant has actual knowledge.

(k) Any current or expected fees or charges to be paid by units' owners for the use of the common elements and other facilities related to the common-interest community.

(l) The information statement set forth in NRS 116.41095.

2. A declarant is not required to revise a public offering statement more than once each calendar quarter, if the following warning is given prominence in the statement: "THIS PUBLIC OFFERING STATEMENT IS CURRENT AS OF (insert a specified date). RECENT DEVELOPMENTS REGARDING (here refer to particular provisions of NRS 116.4103 and 116.4105) MAY NOT BE REFLECTED IN THIS STATEMENT."

Sec. 20. NRS 116.4109 is hereby amended to read as follows:

116.4109 1. Except in the case of a sale in which delivery of a public offering statement is required, or unless exempt under subsection 2 of NRS 116.4101, a unit's owner or his authorized agent shall furnish to a purchaser a resale package containing all of the following:

(a) A copy of the declaration, other than any plats, ~~and plans,~~ the bylaws, the rules or regulations of the association and the information statement required by NRS 116.41095;

(b) A statement setting forth the amount of the monthly assessment for common expenses and any unpaid assessment of any kind currently due from the selling unit's owner;

(c) A copy of the current operating budget of the association and current year-to-date financial statement for the association, which must include a summary of the reserves of the association required by NRS 116.31152 and which must include, without limitation, a summary of the information described in paragraphs (a) to (e), inclusive, of subsection 3 of NRS 116.31152; and

(d) A statement of any unsatisfied judgments or pending legal actions against the association and the status of any pending legal actions relating to the common-interest community of which the unit's owner has actual knowledge.

2. The purchaser may, by written notice, cancel the contract of purchase until midnight of the fifth calendar day following the date of receipt of the resale package described in subsection 1, and the contract for purchase must contain a provision to that effect. If the purchaser elects to cancel a contract pursuant to this subsection, he must hand deliver the notice of cancellation to the unit's owner or his authorized agent or mail the notice of cancellation by prepaid United States mail to the unit's owner or his authorized agent. Cancellation is without penalty, and all payments made by the purchaser before cancellation must be refunded promptly. If the purchaser has accepted a conveyance of the unit, the purchaser is not entitled to:

(a) Cancel the contract pursuant to this subsection; or

(b) Damages, rescission or other relief based solely on the ground that the unit's owner or his authorized agent failed to furnish the resale package, or any portion thereof, as required by this section.

3. Within 10 days after receipt of a written request by a unit's owner or his authorized agent, the association shall furnish all of the following to the unit's owner or his authorized agent for inclusion in the resale package:

(a) Copies of the documents required pursuant to paragraphs (a) and (c) of subsection 1; and

(b) A certificate containing the information necessary to enable the unit's owner to comply with paragraphs (b) and (d) of subsection 1.

4. If the association furnishes the documents and certificate pursuant to subsection 3:

(a) The unit's owner or his authorized agent shall include the documents and certificate in the resale package provided to the purchaser, and neither the unit's owner nor his authorized agent is liable to the purchaser for any erroneous information provided by the association and included in the documents and certificate.

(b) The association may charge the unit's owner a reasonable fee to cover the cost of preparing the certificate furnished pursuant to subsection 3. Such a fee must be based on the actual cost the association incurs to fulfill the requirements of this section in preparing the certificate. The Commission shall adopt regulations establishing the maximum amount of the fee that an association may charge for preparing the certificate.

(c) The association may charge the unit's owner a reasonable fee, not to exceed 25 cents per page, to cover the cost of copying the other documents furnished pursuant to subsection 3.

(d) Except for the fees allowed pursuant to paragraphs (b) and (c), the association may not charge the unit's owner any other fees for preparing or furnishing the documents and certificate pursuant to subsection 3.

5. Neither a purchaser nor the purchaser's interest in a unit is liable for any unpaid assessment or fee greater than the amount set forth in the documents and certificate prepared by the association. If the association fails to furnish the documents and certificate within the 10 days allowed by this section, the seller is not liable for the delinquent assessment.

6. Upon the request of a unit's owner or his authorized agent, or upon the request of a purchaser to whom the unit's owner has provided a resale package pursuant to this section or his authorized agent, the association shall make the entire study of the reserves of the association which is required by NRS 116.31152 reasonably available for the unit's owner, purchaser or authorized agent to inspect, examine, photocopy and audit. The study must be made available at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties.

Sec. 21. (Deleted by amendment.)

Sec. 22. NRS 116B.225 is hereby amended to read as follows:

116B.225 "Special declarant's rights" means rights reserved for the benefit of a declarant to:

1. Complete improvements indicated on plats ~~and plans~~ or in the declaration;

2. Exercise any developmental right;

3. Maintain sales offices, management offices and signs advertising the condominium hotel and models, provided, however, that the declarant is not required to reserve the right to maintain such offices or signs within the hotel unit or shared components or within any unit owned by the declarant;

4. Use easements through the common elements, shared components or hotel unit for the purpose of making improvements within the condominium hotel;

5. Merge or consolidate a condominium hotel with another condominium hotel; or

6. Appoint or remove any officer of the association or any member of an executive board during any period of declarant's control.

Sec. 23. NRS 116B.295 is hereby amended to read as follows:

116B.295 1. Any provision contained in a declaration, bylaw or other governing document of a condominium hotel that violates the provisions of this chapter shall be deemed to conform with those provisions by operation of law, and any such declaration, bylaw or other governing document is not required to be amended to conform to those provisions.

2. In the case of amendments to a declaration, bylaws or plats ~~and plans~~ of any condominium hotel created before January 1, 2008:

(a) If the result accomplished by the amendment was permitted before January 1, 2008, the amendment may be made in accordance with that law, in which case that law applies to that amendment, or it may be made under this chapter; and

(b) If the result accomplished by the amendment is permitted by this chapter and was not permitted by law before January 1, 2008, the amendment may be made under this chapter.

Sec. 24. NRS 116B.350 is hereby amended to read as follows:

116B.350 1. Plats ~~and plans~~ are a part of the declaration and are required for all condominium hotels. Each plat ~~and plan~~ must be clear and legible and contain a certification that the plat ~~or plan~~ contains all information required by this section.

2. Each plat must comply with the provisions of chapter 278 of NRS and show:

(a) The name and a survey of the area which is the subject of the plat;

(b) A sufficient description of the real estate;

(c) The extent of any encroachments by or upon any portion of the property which is the subject of the plat;

(d) The location and dimensions of all easements having a specific location and dimension which serve or burden any portion of the condominium hotel;

(e) The location and dimensions with reference to an established datum of any vertical residential unit boundaries and that unit's identifying number;

(f) The location with reference to an established datum of any horizontal unit boundaries not shown or projected on ~~plans~~ plats recorded pursuant to subsection 4 and that unit's identifying number;

(g) The location and dimensions of the units, shared components and common elements; and

(h) The location and dimensions of limited common elements, if any, including porches, balconies and patios.

3. Each plat must be certified by ~~an independent~~ a professional land surveyor. ~~{The plans of the units must be certified by an independent professional engineer or architect.~~

~~4. Plats and plans need not show the location and dimensions of the units' boundaries and their limited common elements if:~~

~~(a) The plat shows the location and dimensions of all buildings containing or comprising the units; and~~

~~(b) The declaration includes other information that shows or contains a narrative description of the general layout of the units in those buildings and the limited common elements, if any, allocated to those units.~~

~~5. To the extent not shown or projected on the~~

4. The plats ~~{, plans of the units}~~ must show or project any units in which the declarant has reserved the right to create additional units or common elements, or portions of the shared components or hotel unit, identified appropriately.

~~{6.}~~ 5. Unless the declaration provides otherwise, *when* the horizontal boundaries of part of a unit located outside a building have the same elevation as the horizontal boundaries of the inside part ~~{and}~~, *the elevations* need not be depicted on the plats. ~~{and plans of the units.}~~

~~{7.}~~ 6. Upon exercising any developmental right, the declarant shall prepare, execute and record new or amended plats necessary to conform to the requirements of this section.

Sec. 25. NRS 116B.365 is hereby amended to read as follows:

116B.365 The existing physical boundaries of a residential unit or a hotel unit are its legal boundaries, rather than the boundaries derived from the description contained in the original declaration, regardless of vertical or lateral movement of the building or minor variance between those boundaries and the boundaries derived from the description contained in the original declaration. This section does not relieve a unit's owner of liability in case of his willful misconduct or relieve a declarant or any other person of liability for failure to adhere to any plats. ~~{and plans.}~~

Sec. 26. NRS 116B.760 is hereby amended to read as follows:

116B.760 1. Except in the case of a sale in which delivery of a public offering statement is required, a unit's owner or his authorized agent shall furnish to a purchaser a resale package containing all of the following:

(a) A copy of this chapter, the declaration, other than any plats, ~~{and plans,}~~ the bylaws, the rules or regulations of the association and the hotel unit owner and the information statement required by NRS 116B.765;

(b) A statement setting forth the amount of the monthly assessment for common expenses and any unpaid assessment of any kind currently due from the selling unit's owner;

(c) A copy of the current operating budget of the association and current year-to-date financial statement for the association, which must include a summary of the reserves of the association required by this chapter;

(d) A current year-to-date statement of the shared expenses charged to the units and the projected budget for the shared expenses, either within or as an exhibit to the public offering statement. The budget must include, without limitation:

(1) A statement of the amount included in the budget as reserves for repairs, replacement and restoration pursuant to this chapter;

(2) The projected monthly shared expenses for each type of unit, including the amount established as reserves pursuant to this chapter;

(e) A description of any other payments, fees and charges that may be charged by the hotel unit owner, including those that may be charged in order to offset the increased burden placed on the shared components as a result of use of residential units as transient rentals; and

(f) A statement of any unsatisfied judgments or pending legal actions against the association or the hotel unit owner which affect the shared components and the status of any pending legal actions relating to the condominium hotel of which the unit's owner has actual knowledge.

2. The purchaser may, by written notice, cancel the contract of purchase until midnight of the fifth calendar day following the date of receipt of the resale package described in subsection 1, and the contract for purchase must contain a provision to that effect. If the purchaser elects to cancel a contract pursuant to this subsection, he must hand deliver the notice of cancellation to the residential unit owner or his authorized agent or mail the notice of cancellation by prepaid United States mail to the residential unit owner or his authorized agent. Cancellation is without penalty, and all payments made by the purchaser before cancellation must be refunded promptly. If the purchaser has accepted a conveyance of the residential unit, the purchaser is not entitled to:

(a) Cancel the contract pursuant to this subsection; or

(b) Damages, rescission or other relief based solely on the ground that the residential unit owner or his authorized agent failed to furnish the resale package, or any portion thereof, as required by this section.

3. Within 10 days after receipt of a written request by a residential unit owner or his authorized agent, the hotel unit owner shall furnish all of the following to the residential unit owner or his authorized agent for inclusion in the resale package:

(a) Copies of the documents required pursuant to paragraphs (a) and (c) of subsection 1; and

(b) A certificate containing the information necessary to enable the residential unit owner to comply with paragraphs (b) and (d) of subsection 1.

4. If the hotel unit owner furnishes the documents and certificate pursuant to subsection 3:

(a) The residential unit owner or his authorized agent shall include the documents and certificate in the resale package provided to the purchaser, and neither the residential unit owner nor his authorized agent is liable to the purchaser for any erroneous information provided by the hotel unit owner and included in the documents and certificate.

(b) The hotel unit owner may charge the residential unit owner a reasonable fee to cover the cost of preparing the certificate furnished pursuant to subsection 3. Such a fee must be based on the actual cost the association incurs to fulfill the requirements of this section in preparing the certificate. The Commission shall adopt regulations establishing the maximum amount of the fee that the hotel unit owner may charge for preparing the certificate.

(c) The hotel unit owner may charge the residential unit owner a reasonable fee, not to exceed 25 cents per page, to cover the cost of copying the other documents furnished pursuant to subsection 3.

(d) Except for the fees allowed pursuant to paragraphs (b) and (c), the hotel unit owner may not charge the residential unit owner any other fees for preparing or furnishing the documents and certificate pursuant to subsection 3.

5. Neither a purchaser nor the purchaser's interest in a residential unit is liable for any unpaid assessment or fee greater than the amount set forth in the documents and certificate prepared by the hotel unit owner. If the hotel unit owner fails to furnish the documents and certificate within the 10 days allowed by this section, the seller is not liable for the delinquent assessment.

6. Upon the request of a residential unit owner or his authorized agent, or upon the request of a purchaser to whom the hotel unit owner has provided a resale package pursuant to this section or his authorized agent, the hotel unit owner shall make the entire study of the reserves of the association or the shared components reasonably available for the residential unit owner, purchaser or authorized agent to inspect, examine, photocopy and audit. The study must be made available at the business office of the association or the hotel unit owner or some other suitable location within the county where the condominium hotel is situated or, if it is situated in more than one county, within one of those counties.

Senator Care moved that the Senate concur in the Assembly amendment to Senate Bill No. 261.

Remarks by Senator Care.

Senator Care requested that his remarks be entered in the Journal.

Thank you Mr. President. This bill deals with homeowners associations and was brought forth at the request of the real property section of the State Bar. The Assembly deleted the language that applied to master plan communities and the Committee is in concurrence.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 277.

The following Assembly amendment was read:

Amendment No. 730.

"SUMMARY—Revises various provisions relating to estates. (BDR 12-657)"

"AN ACT relating to estates; revising provisions relating to the succession of property under certain circumstances; modifying the compensation structure authorized for attorneys for personal representatives; making various other changes relating to the administration of estates of deceased persons; revising provisions governing declaratory relief for certain probate matters; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~f Section 1 of this bill provides that, unless a will expressly provides otherwise, the adoption of an adult person by someone other than the testator of the will must be disregarded for purposes of identifying the devisees, who are the persons designated in the will to receive a disposition of real or personal property. Section 4 of this bill sets forth a similar provision with regard to the heirs of a person who died without a will. Section 34 of this bill sets forth a similar provision with regard to the beneficiaries of a trust that is established in a will or in a trust instrument.~~

Existing law provides, with certain exceptions, that a will is revoked as to a person's spouse if the person married the spouse after making a will and the spouse survives him. Section 2 of this bill additionally provides that the will is not revoked if the spouse is provided for by a transfer of property outside of the will under certain circumstances. (NRS 133.110) Further, section 2 provides that if a will is revoked as to a spouse, the spouse is entitled to the same share of the property as if the person who made the will had died intestate, meaning without a will. Section 3 of this bill amends the law in a similar manner as section 2 with regard to a child who is born after his parent made a will that does not provide for the child. (NRS 133.160)

Existing law provides that if a person dies without a will and he leaves no issue, meaning children, grandchildren or more remote lineal descendants, surviving spouse, father or mother, the person's estate must be distributed in equal shares to his brothers and sisters and to the children of his deceased brother or sister in equal shares per person. Section 5 of this bill provides that under such circumstances, the person's brothers and sisters each receive a share and the lawful issue of any deceased brother or sister receive shares by right of representation, which means the lawful issue receive the same share their parents would have received. (NRS 134.060)

Section 8 of this bill generally provides for the enforcement of a no-contest clause in a will with certain exceptions, including that a devisee's share will not be reduced or eliminated if the devisee institutes legal action to invalidate a will in good faith and based on probable cause. Section 35 of this bill amends the law in a similar manner as section 8 with regard to a no-contest clause in a trust.

Existing law sets forth the qualifications for an executor of an estate, which include that a person must not have been convicted of a felony relating to the position of an executor. Section 9 of this bill gives the court discretion to determine whether a conviction for a felony should disqualify the person from serving in the position of an executor. (NRS 138.020) Existing law sets forth the qualifications for appointment as an administrator of an estate, which include that a person must not have been convicted of a felony relating to the position of an administrator. Section 10 of this bill: (1) amends the law in a similar manner as section 9 with regard to the qualifications for an administrator; and (2) revises the circumstances in which a person who is not a resident of Nevada may be qualified to serve as an administrator and in which a banking corporation not authorized to do business in Nevada may be qualified to serve as an administrator. (NRS 139.010) Existing law provides for the appointment by the court of a special administrator to collect and take charge of the estate of a decedent. Section 13 of this bill amends existing law to require a court to appoint as special administrators of an estate only those persons who satisfy the qualifications for appointment as an administrator of an estate. (NRS 140.020)

~~Section~~ Sections 15-18 of this bill revise certain provisions regarding the support of a decedent's family to authorize the court to make certain decisions if it is deemed advisable considering the family's needs and resources. (NRS 146.010, 146.020, 146.030, 146.050)

Existing law provides for compensation of an attorney for a personal representative. (NRS 150.060) Sections 21-24 and 27 of this bill provide for compensation of such an attorney based upon, among other things, an hourly basis, the value of the estate and a contingency fee basis. Section 21 also provides for compensation of such an attorney for extraordinary services and defines the term "extraordinary services" for that purpose.

Sections 30 and 31 of this bill provide that certain persons may seek declaratory relief under chapter 30 of NRS regarding a will, trust or certain other probate matters, but such proceedings for declaratory relief must only be commenced pursuant to titles 12 and 13 of NRS, as appropriate. (NRS 30.040, 30.060) Section 32 of this bill revises the definition of "community property" as used in various provisions throughout NRS. (NRS 41B.050, 123.220, 132.075)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. ~~Chapter 133 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~Except as otherwise expressly provided by a testator in his will, the adoption of a person who is 18 years of age or older at the time of the adoption, by someone other than the testator, must be disregarded for purposes of identifying the devisees of the will. (Deleted by amendment.)~~

Sec. 2. NRS 133.110 is hereby amended to read as follows:

133.110 1. If a person marries after making a will and the spouse survives the maker, the will is revoked as to the spouse, unless ~~[provision]~~ :

(a) Provision has been made for the spouse by marriage contract ~~[, or unless the]~~ ;

(b) The spouse is provided for in the will, or in such a way mentioned therein as to show an intention not to make such provision; ~~[and no other evidence to rebut the presumption of revocation shall be received.] or~~

(c) The spouse is provided for by a transfer of property outside of the will and it appears that the maker intended the transfer to be in lieu of a testamentary provision.

2. When a will is revoked as to the spouse pursuant to subsection 1:

(a) The spouse is entitled to the same share in the estate of the deceased spouse as if the deceased spouse had died intestate; and

(b) The remaining provisions of the will remain intact to the extent those provisions are not inconsistent with paragraph (a), including, without limitation, any provision concerning the appointment of a personal representative.

Sec. 3. NRS 133.160 is hereby amended to read as follows:

133.160 1. When a child is born after the making of a will by a parent of that child and no provision is made for the child in the will, the child is entitled to the same share in the estate of the testator as if the testator had died intestate, unless ~~[it]~~ :

(a) It is apparent from the will that it was the intention of the testator that no provision should be made for that child ~~[;]~~ ; or

(b) The testator provided for the omitted child by a transfer of property outside of the will and it appears that the testator intended the transfer to be in lieu of a testamentary provision.

2. If, pursuant to subsection 1, a child is entitled to take the same share in the estate of the testator as if the testator had died intestate, the remaining provisions of the will remain intact to the extent those provisions are not inconsistent with this subsection, including, without limitation, any provision concerning the appointment of a personal representative.

Sec. 4. ~~[Chapter 134 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~The adoption of a person who is 18 years of age or older at the time of the adoption, by someone other than the decedent, must be disregarded for purposes of identifying the heirs of the decedent pursuant to this chapter.]~~  
~~(Deleted by amendment.)~~

Sec. 5. NRS 134.060 is hereby amended to read as follows:

134.060 If there is no issue, surviving spouse, or father or mother, then the estate goes in equal shares to the brothers and sisters of the decedent and to the ~~[children]~~ lawful issue of any deceased brother or sister ~~[in equal shares, per capita.]~~ by right of representation as follows:

1. To the brothers and sisters, each a share; and

2. *To the lawful issue of each deceased brother and sister, by right of representation, the same share that the parent would have received if the parent had been living at the time of the death of the decedent.*

Sec. 6. NRS 136.090 is hereby amended to read as follows:

136.090 1. A petition for the probate of a will and issuance of letters must state:

- (a) The jurisdictional facts;
- (b) Whether the person named as personal representative consents to act or renounces the right to letters;
- (c) The names and residences of the heirs, next of kin and devisees of the decedent, the age of any heir, next of kin or devisee who is a minor, and the relationship of the heirs and next of kin to the decedent, so far as known to the petitioner;
- (d) The character and estimated value of the property of the estate;
- (e) The name of the person for whom letters are requested, and ~~that~~ *whether* the person has ~~never~~ been convicted of a felony; and
- (f) The name of any devisee who is deceased.

2. No defect of form or in the statement of jurisdictional facts actually existing voids the probate of a will.

Sec. 7. NRS 136.240 is hereby amended to read as follows:

136.240 1. The petition for the probate of a lost or destroyed will must include a copy of the will, or if no copy is available state, or be accompanied by a written statement of, the testamentary words, or the substance thereof.

2. If offered for probate, a lost or destroyed will must be proved in the same manner as other wills are proved under this chapter.

3. In addition, no will may be proved as a lost or destroyed will unless it is proved to have been in existence at the death of the person whose will it is claimed to be, or is shown to have been fraudulently destroyed in the lifetime of that person, nor unless its provisions are clearly and distinctly proved by at least two credible witnesses.

4. The testimony of each witness must be reduced to writing, signed by the witness and filed, and is admissible in evidence in any contest of the will if the witness has died or permanently moved from the State.

5. *Notwithstanding any provision of this section to the contrary:*

(a) *The production of a person's lost or destroyed will, whose primary beneficiary is a nontestamentary trust established by the person and in existence at his death, creates a rebuttable presumption that the will had not been revoked.*

(b) *If the proponent of a lost or destroyed will makes a prima facie showing that it was more likely than not left unrevoked by the person whose will it is claimed to be before his death, then the will must be admitted to probate in absence of an objection. If such prima facie showing has been made, the court shall accept a copy of such a will as sufficient proof of the terms thereof without requiring further evidence in the absence of any objection.*

6. If the will is established, its provisions must be set forth specifically in the order admitting it to probate, or a copy of the will must be attached to the order.

Sec. 8. Chapter 137 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Except as otherwise provided in subsections 3 and 4, a no-contest clause in a will must be enforced by the court.*

2. *A no-contest clause must be construed to carry out the testator's intent. Except to the extent the will is vague or ambiguous, extrinsic evidence is not admissible to establish the testator's intent concerning the no-contest clause. The provisions of this subsection do not prohibit such evidence from being admitted for any other purpose authorized by law.*

3. *Notwithstanding any provision to the contrary in the will, a devisee's share must not be reduced or eliminated if the devisee seeks only to:*

- (a) Enforce the terms of the will;*
- (b) Enforce the devisee's legal rights in the probate proceeding; or*
- (c) Obtain a court ruling with respect to the construction or legal effect of the will.*

4. *Notwithstanding any provision to the contrary in the will, a devisee's share must not be reduced or eliminated under a no-contest clause because the devisee institutes legal action seeking to invalidate a will if the legal action is instituted in good faith and based on probable cause that would have led a reasonable person, properly informed and advised, to conclude that there was a substantial likelihood that the will was invalid.*

5. *As used in this section, "no-contest clause" means one or more provisions in a will that express a directive to reduce or eliminate the share allocated to a devisee or to reduce or eliminate the distributions to be made to a devisee if the devisee takes action to frustrate or defeat the testator's intent as expressed in the will.*

Sec. 9. NRS 138.020 is hereby amended to read as follows:

138.020 1. No person is qualified to serve as an executor who, at the time the will is probated:

- (a) Is under the age of majority;
- (b) Has been convicted of a felony ~~{relating to}~~, unless the court determines that such a conviction should not disqualify the person from serving in the position of an executor;
- (c) Upon proof, is adjudged by the court disqualified to execute the duties of executor by reason of conflict of interest, drunkenness, improvidence or lack of integrity or understanding; or

(d) Is a bank not authorized to do business in the State of Nevada, unless it associates as coexecutor a bank authorized to do business in this State. An out-of-state bank is qualified to appoint a substitute executor, pursuant to NRS 138.045, without forming such an association, but any natural person so appointed must be a resident of this State.

2. If a disqualified person is named as the sole executor in a will, or if all persons so named are disqualified or renounce their right to act, or fail to appear and qualify, letters of administration with the will annexed must issue.

Sec. 10. NRS 139.010 is hereby amended to read as follows:

139.010 No person is entitled to letters of administration ~~[who]~~ if the person:

1. Is under the age of majority;
2. Has been convicted of a felony ~~[relating to]~~, unless the court determines that such a conviction should not disqualify the person from serving in the position of an administrator;
3. Upon proof, is adjudged by the court disqualified by reason of conflict of interest, drunkenness, improvidence, or lack of integrity or understanding; ~~[or]~~

4. Is not a resident of the State of Nevada ~~[and who does not associate]~~, unless the person:

(a) ~~Associates as coadministrator a resident of the State of Nevada [or which, in the case of a banking corporation, is not authorized to do business in this State and does not associate as coadministrator a resident of the State of Nevada]~~ or a banking corporation authorized to do business in this State ~~[ ]~~; or

(b) *Is named as personal representative in the will if the will is the subject of a pending petition for probate, and the court in its discretion believes it would be appropriate to make such an appointment; or*

5. *Is a banking corporation that is not authorized to do business in this State, unless the banking corporation:*

(a) *Associates as coadministrator a resident of the State of Nevada or a banking corporation authorized to do business in this State; or*

(b) *Is named as personal representative in the will if the will is the subject of a pending petition for probate, and the court in its discretion believes it would be appropriate to make such an appointment.*

Sec. 11. NRS 139.040 is hereby amended to read as follows:

139.040 1. Administration of the intestate estate of a decedent must be granted to one or more of the persons mentioned in this section, and they are respectively entitled to priority for appointment in the following order:

- (a) The surviving spouse.
- (b) The children.
- (c) The father or the mother.
- (d) The brother or the sister.
- (e) The grandchildren.
- (f) Any other of the kindred entitled to share in the distribution of the estate.
- (g) The public administrator.
- (h) Creditors who have become such during the lifetime of the decedent.
- (i) Any of the kindred not above enumerated, within the fourth degree of consanguinity.

(j) Any person or persons legally qualified.

2. A person in each of the foregoing classes is entitled:

(a) To appointment, if the person is:

(1) A resident of the State of Nevada or ~~associates~~ *the person*:

(I) *Associates* as coadministrator a resident of the State of Nevada ~~[-]~~ or a banking corporation authorized to do business in this State; or

(II) *Is named as personal representative in the will if the will is the subject of a pending petition for probate, and the court in its discretion believes it would be appropriate to make such an appointment; or*

(2) A banking corporation which is authorized to do business in this State or which ~~associates~~ :

(I) *Associates* as coadministrator a resident of the State of Nevada or a banking corporation authorized to do business in this State ~~[-]~~ ; or

(II) *Is named as personal representative in the will if the will is the subject of a pending petition for probate, and the court in its discretion believes it would be appropriate to make such an appointment.*

(b) To nominate a resident of the State of Nevada or a qualified banking corporation for appointment, whether or not the nominator is a resident of the State of Nevada or a qualified banking corporation. The nominee has the same priority as the nominator. That priority is independent of the residence or corporate qualification of the nominator.

3. If any heir who is otherwise entitled to appointment is a minor or an incompetent person for whom a guardian has been appointed, the court may appoint the guardian of the minor or incompetent person as administrator.

Sec. 12. NRS 139.090 is hereby amended to read as follows:

139.090 1. A petition for letters of administration must be in writing, signed by the petitioner or the attorney for the petitioner and filed with the clerk of the court, and must state:

(a) The jurisdictional facts;

(b) The names and addresses of the heirs of the decedent and their relationship to the decedent, so far as known to the petitioner, and the age of any who is a minor;

(c) The character and estimated value of the property of the estate; and

(d) ~~That~~ *Whether* the person to be appointed as administrator has ~~never~~ been convicted of a felony.

2. No defect of form or in the statement of jurisdictional facts actually existing voids an order appointing an administrator or any of the subsequent proceedings.

Sec. 13. NRS 140.020 is hereby amended to read as follows:

140.020 1. The appointment of a special administrator may be made at chambers or in open court, and without notice or upon such notice to such interested persons as the court deems reasonable, and must be made by entry upon the minutes of the court or by written order signed and filed, which must specify the powers to be exercised by the special administrator.

2. Upon the filing of the order, and after the person appointed has given bond if fixed by the court, the clerk shall issue special letters of administration, with a copy of the order attached.

3. In making the appointment of a special administrator, the court ~~may~~ :

(a) *Must appoint a person who satisfies the qualifications set forth in NRS 139.010; and*

(b) *May give preference to the person or persons entitled to letters testamentary or letters of administration, but no appeal may be taken from the appointment.*

Sec. 14. NRS 145.020 is hereby amended to read as follows:

145.020 All proceedings taken under this chapter, whether or not the decedent left a will, must be originated by a petition for letters testamentary or letters of administration containing:

1. Jurisdictional information;
2. A description of the property of the decedent, including the character and estimated value of the property;
3. The names and residences of the heirs and devisees of the decedent and the age of any who is a minor and the relationship of each heir and devisee to the decedent, so far as known to the petitioner; and
4. A statement ~~that~~ *indicating whether* the person to be appointed as personal representative has ~~never~~ been convicted of a felony.

Sec. 15. NRS 146.010 is hereby amended to read as follows:

146.010 Except as *otherwise* provided in *this chapter or in NRS 125.510*, if a person dies leaving a surviving spouse or a minor child or minor children, the surviving spouse, minor child or minor children are entitled to remain in possession of the homestead and of all the wearing apparel and provisions in the possession of the family, and all the household furniture, and are also entitled to a reasonable provision for their support, to be allowed by the court.

Sec. 16. NRS 146.020 is hereby amended to read as follows:

146.020 Upon the filing of the inventory or at any time thereafter during the administration of the estate, the court, on its own motion or upon petition by an interested person, ~~shall~~ *may, if deemed advisable considering the needs and resources of the surviving spouse, minor child or minor children*, set apart for the use of the ~~family~~ *surviving spouse, minor child or minor children* of the decedent all of the personal property which is exempt by law from execution, and shall, *in accordance with NRS 146.050*, set apart the homestead, as designated by the general homestead law then in force, whether the homestead has theretofore previously been selected as required by law or not, and the property thus set apart is not subject to administration.

Sec. 17. NRS 146.030 is hereby amended to read as follows:

146.030 1. If the whole property exempt by law is set apart and is not sufficient for the support of the surviving spouse, minor child or minor children, the court ~~shall~~ *may, if deemed advisable considering the needs*

and resources of the surviving spouse, minor child or minor children, make such reasonable allowance out of the estate as is necessary for the maintenance of the family according to their circumstances during the progress of the administration of the estate, which, in case of an insolvent estate, may not be longer than 1 year after granting letters of administration.

2. If the surviving spouse or any minor child has a reasonable maintenance derived from other property, and there are other persons entitled to a family allowance, the allowance must be granted only to those who do not have such maintenance, or the allowance may be apportioned in such manner as may be just.

Sec. 18. NRS 146.050 is hereby amended to read as follows:

146.050 1. If the homestead was selected by the spouses, or either of them, during their marriage, and recorded while both were living, as provided in chapter 115 of NRS, it vests, on the death of either spouse, absolutely in the survivor, unless vesting is otherwise required pursuant to subsection 2 of NRS 115.060.

2. If no homestead was so selected, a homestead may be set apart by the court to the ~~family~~ *surviving spouse, minor child or minor children* of the decedent for a limited period if deemed advisable considering the needs and resources of the family and the nature, character and obligations of the estate. The duration of the homestead must be designated in the order setting it apart and may not extend beyond the lifetime of the surviving spouse or the minority of any child of the decedent, whichever is longer. A homestead so set apart then vests, subject to the setting apart:

(a) If set apart from the separate property of the decedent, in the heirs or devisees of the decedent.

(b) If set apart from community property, one-half in the surviving spouse and one-half in the devisees of the decedent, or if no disposition is made, then entirely in the surviving spouse.

3. In either case referred to in subsection 1 or 2, the homestead is not subject to the payment of any debt or liability existing against the spouses, or either of them, at the time of death of either, unless the debt or liability is secured by a mortgage or lien.

Sec. 19. NRS 148.120 is hereby amended to read as follows:

148.120 When an offer is presented for confirmation by the court, other offerors may submit higher bids and the court may confirm the highest bid. ~~Upon~~ *Except as otherwise provided in this section, upon confirmation, the real estate commission must be divided between the listing agent and the agent, if any, who procured the purchaser to whom the sale was confirmed, in accordance with the listing agreement. If the agent who procured the offer presented for confirmation by the court is not the agent who procured the purchaser to whom the sale was confirmed, then the real estate commission payable to the agent who procured the purchaser must be divided equally between the agent who procured the offer and the agent who procured the purchaser unless otherwise directed by the court.*

Sec. 20. Chapter 150 of NRS is hereby amended by adding thereto the provisions set forth as sections 21 to 25, inclusive, of this act.

Sec. 21. 1. *If an attorney for a personal representative receives compensation pursuant to NRS 150.060 based on the value of the estate accounted for by the personal representative, the court may allow additional compensation for extraordinary services by the attorney for the personal representative in an amount the court determines is just and reasonable after petition, notice and hearing in the manner provided in NRS 150.060.*

2. *Extraordinary services by the attorney for a personal representative for which the court may allow compensation include extraordinary services performed by a paralegal under the direction and supervision of the attorney.*

3. *The petition requesting approval for compensation for extraordinary services must include the following information:*

- (a) Reference to time and hours;*
- (b) The nature and extent of services rendered;*
- (c) The complexity of the work required;*
- (d) The hours spent and services performed by a paralegal if the compensation includes extraordinary services performed by a paralegal as described in subsection 2; and*
- (e) Other information considered to be relevant to a determination of entitlement.*

4. *An attorney for a personal representative may agree to perform extraordinary services on a contingency fee basis if:*

- (a) There is a written agreement between the personal representative and the attorney that sets forth the manner in which the compensation is to be calculated and that is approved by the court after a hearing; and*
- (b) The court determines that the compensation provided in the agreement is just and reasonable and that the agreement will be to the advantage of the estate and is in the best interests of the persons interested in the estate.*

5. *Notice of a hearing required by subsection 4 must be given for the period and in the manner provided in NRS 155.010.*

6. *As used in this section, "extraordinary services" include, without limitation:*

- (a) Sales or mortgages of real or personal property;*
- (b) Operating a decedent's business;*
- (c) Participating in litigation relating to the estate;*
- (d) Securing a loan to pay debts relating to the estate; and*
- (e) Preparing and filing income tax returns for the estate.*

Sec. 22. *If there are two or more attorneys for a personal representative, the compensation must be apportioned among the attorneys by the court according to the services actually rendered by each attorney unless otherwise provided in an agreement by the attorneys.*

Sec. 23. 1. *At any time after the expiration of the period for creditors of the estate to file their claims in a summary or full administration pursuant*

to NRS 145.060 or 147.040, as applicable, the personal representative or the attorney for the personal representative may file a petition with the court for an allowance upon the compensation of the attorney for the personal representative.

2. The clerk shall set the petition for hearing and the petitioner shall give notice of the petition to the personal representative if he is not the petitioner and to all known heirs in an intestacy proceeding and devisees in a will proceeding. The notice must be given for the period and in the manner provided in NRS 155.010. If a complete copy of the petition is not attached to the notice, the notice must include a statement of the amount of the compensation which the court will be requested to approve or allow and the manner in which the compensation was determined.

3. On the hearing, the court may enter an order allowing the portion of the compensation of the attorney for the personal representative for such services rendered up to that time as the court deems proper. The order must authorize the personal representative to charge against the estate the amount of compensation allowed by the court pursuant to this subsection.

Sec. 24. 1. At the time of the filing of the final account and of a petition for an order for final distribution of the estate, the personal representative or the attorney for the personal representative may file a petition with the court for an order fixing and allowing the compensation of the attorney for the personal representative for all services rendered in the estate proceeding.

2. The request for compensation described in subsection 1 may be included in the final account or in the petition for an order for final distribution of the estate or may be made in a separate petition.

3. The clerk shall set the petition for hearing and the petitioner shall give notice of the petition to the personal representative if he is not the petitioner and to all known heirs in an intestacy proceeding and devisees in a will proceeding. The notice must be given for the period and in the manner provided in NRS 155.010. If a complete copy of the petition is not attached to the notice, the notice must include a statement of the amount of the compensation which the court will be requested to approve or allow and the manner in which the compensation was determined.

4. On the hearing, the court shall make an order fixing and allowing the compensation for all services rendered in the estate proceeding. The order must authorize the personal representative to pay the attorney out of the estate the amount of compensation allowed by the court pursuant to this subsection less any amount paid to the attorney out of the estate pursuant to section 23 of this act.

Sec. 25. Except as otherwise provided by the donor or decedent in writing:

1. Except as otherwise provided in subsection 3, for gifts that were made subject to the federal gift tax and in cases where the decedent's estate is insufficient to pay all federal gift taxes due at the time of the decedent's

*death, the unpaid federal gift tax must be borne on a pro rata basis by those receiving the transfers that triggered the tax in the proportion that the value of the property, interest or benefit of each such person bears to the total value of the property subject to the federal gift tax.*

*2. The federal generation-skipping transfer tax must be borne on a pro rata basis by those persons receiving the transfers that triggered the tax in the proportion that the value of the property, interest or benefit of each such person bears to the total value of the property subject to the federal generation-skipping transfer tax.*

*3. The application of exclusions, exemptions, deferrals or other provisions of the law available at the time of each transfer must be applied in chronological order to the transfers to which they relate.*

*4. To the extent issues remain unresolved after applying the principles set forth in subsections 1, 2 and 3, the provisions of NRS 150.290 to 150.380, inclusive:*

*(a) Must be applied to determine the allocation, apportionment and collection of federal transfer taxes other than the federal estate tax, including, without limitation, the federal gift tax and the federal generation-skipping transfer tax; and*

*(b) Must be applied to determine the procedures for the judicial determination of the apportionment of federal transfer taxes other than the federal estate tax, including, without limitation, the federal gift tax and the federal generation-skipping transfer tax.*

Sec. 26. NRS 150.020 is hereby amended to read as follows:

150.020 1. If no compensation is provided by the will, or the personal representative renounces all claims thereto, fees must be allowed upon the whole amount of the estate which has been accounted for, less liens and encumbrances, as follows:

(a) For the first \$15,000, at the rate of 4 percent.

(b) For the next \$85,000, at the rate of 3 percent.

(c) For all above \$100,000, at the rate of 2 percent.

2. The same fees must be allowed to the personal representative if there is no will.

3. If there are two or more personal representatives, the compensation must be apportioned among them by the court according to the services actually rendered by each.

4. *In addition to the fees described in subsection 1, the court may allow such fees as it deems just and reasonable if the fees authorized pursuant to subsection 1 are not sufficient to reasonably compensate the personal representative.*

Sec. 27. NRS 150.060 is hereby amended to read as follows:

150.060 1. Attorneys for personal representatives are entitled to reasonable compensation for their services, to be paid out of the decedent's estate.

2. *An attorney for a personal representative may be compensated based on:*

- (a) The applicable hourly rate of the attorney;*
- (b) The value of the estate accounted for by the personal representative;*
- (c) An agreement as set forth in subsection 4 of section 21 of this act; or*
- (d) Any other method preapproved by the court pursuant to a request in the initial petition for the appointment of the personal representative.*

3. *If the attorney is requesting compensation based on the hourly rate of the attorney, he may include, as part of that compensation for ordinary services, a charge for legal services or paralegal services performed by a person under his direction and supervision.*

4. *If the attorney is requesting compensation based on the value of the estate accounted for by the personal representative, the allowable compensation of the attorney for ordinary services must be determined as follows:*

- (a) For the first \$100,000, at the rate of 4 percent;*
- (b) For the next \$100,000, at the rate of 3 percent;*
- (c) For the next \$800,000, at the rate of 2 percent;*
- (d) For the next \$9,000,000, at the rate of 1 percent;*
- (e) For the next \$15,000,000, at the rate of .05 percent; and*
- (f) For all amounts above \$25,000,000, a reasonable amount to be determined by the court.*

5. *Before an attorney may receive compensation based on the value of the estate accounted for by the personal representative, the personal representative must sign a written agreement as required by subsection 8. The agreement must be prepared by the attorney and must include detailed information, concerning, without limitation:*

- (a) The schedule of fees to be charged by the attorney;*
- (b) The manner in which compensation for extraordinary services may be charged by the attorney; and*
- (c) The fact that the court is required to approve the compensation of the attorney pursuant to subsection 8 before the personal representative pays any such compensation to the attorney.*

6. *For the purposes of determining the compensation of an attorney pursuant to subsection 4, the value of the estate accounted for by the personal representative:*

- (a) Is the total amount of the appraisal of property in the inventory, plus:
  - (1) The gains over the appraisal value on sales; and*
  - (2) The receipts, less losses from the appraisal value on sales; and**
- (b) Does not include encumbrances or other obligations on the property of the estate.*

7. *In addition to the compensation for ordinary services of an attorney set forth in this section, an attorney may also be entitled to receive compensation for extraordinary services as set forth in section 21 of this act.*

8. The ~~amount~~ *compensation of the attorney* must be fixed by written agreement between the personal representative and the attorney, and is subject to approval by the court, after petition, notice and hearing as provided in ~~subsection 2.~~ *this section*. If the personal representative and the attorney fail to reach agreement, or if the attorney is also the personal representative, the amount must be determined and allowed by the court. The petition *requesting approval of the compensation of the attorney* must contain specific and detailed information supporting the entitlement to compensation, including:

(a) *If the attorney is requesting compensation based upon the value of the estate accounted for by the personal representative, the attorney must provide the manner of calculating the compensation in the petition; and*

(b) *If the attorney is requesting compensation based on an hourly basis, or is requesting compensation for extraordinary services, the attorney must provide the following information to the court:*

(1) Reference to time and hours;

~~(b)~~ (2) The nature and extent of services rendered;

~~(c)~~ (3) Claimed ordinary and extraordinary services;

~~(d)~~ (4) The complexity of the work required; and

~~(e)~~ (5) Other information considered to be relevant to a determination of entitlement.

~~2.~~ 9. The clerk shall set the petition for hearing, and the petitioner shall give notice of the petition to the personal representative if he is not the petitioner and to all known heirs in an intestacy proceeding and devisees in a will proceeding. The notice must be given for the period and in the manner provided in NRS 155.010. If a complete copy of the petition is not attached to the notice, the notice must include a statement of the amount of the fee which the court will be requested to approve or allow.

~~3.~~ 10. On similar petition, notice and hearing, the court may make an allowance to an attorney for services rendered up to a certain time during the proceedings.

~~4.~~ *If the attorney is requesting compensation based upon the value of the estate as accounted for by the personal representative, the court may apportion the compensation as it deems appropriate given the amount of work remaining to close the estate.*

11. An heir or devisee may file objections to a petition filed pursuant to this section, and the objections must be considered at the hearing.

~~5.~~ 12. Except as otherwise provided in this subsection, an attorney for minor, absent, unborn, incapacitated or nonresident heirs is entitled to compensation primarily out of the estate of the distributee so represented by him in those cases and to such extent as may be determined by the court. If the court finds that all or any part of the services performed by the attorney for the minor, absent, unborn, incapacitated or nonresident heirs was of value to the decedent's entire estate as such and not of value only to those heirs, the court shall order that all or part of the attorney's fee be paid to the attorney

out of the money of the decedent's entire estate as a general administrative expense of the estate. The amount of these fees must be determined in the same manner as the other attorney's fees provided for in this section.

Sec. 28. NRS 153.031 is hereby amended to read as follows:

153.031 1. A trustee or beneficiary may petition the court regarding any aspect of the affairs of the trust, including:

- (a) Determining the existence of the trust;
- (b) Determining the construction of the trust instrument;
- (c) Determining the existence of an immunity, power, privilege, right or duty;
- (d) Determining the validity of a provision of the trust;
- (e) Ascertaining beneficiaries and determining to whom property is to pass or be delivered upon final or partial termination of the trust, to the extent not provided in the trust instrument;
- (f) Settling the accounts and reviewing the acts of the trustee, including the exercise of discretionary powers;
- (g) Instructing the trustee;
- (h) Compelling the trustee to report information about the trust or account, to the beneficiary;
- (i) Granting powers to the trustee;
- (j) Fixing or allowing payment of the trustee's compensation, or reviewing the reasonableness of his compensation;
- (k) Appointing or removing a trustee;
- (l) Accepting the resignation of a trustee;
- (m) Compelling redress of a breach of the trust;
- (n) Approving or directing the modification or termination of the trust;
- (o) Approving or directing the combination or division of trusts;
- (p) Amending or conforming the trust instrument in the manner required to qualify the estate of a decedent for the charitable estate tax deduction under federal law, including the addition of mandatory requirements for a charitable-remainder trust; ~~and~~
- (q) Compelling compliance with the terms of the trust or other applicable law ~~+~~; and

(r) *Permitting the division or allocation of the aggregate value of community property assets in a manner other than on a pro rata basis.*

2. A petition under this section must state the grounds of the petition and the name and address of each interested person, including the Attorney General if the petition relates to a charitable trust, and the relief sought by the petition. Except as otherwise provided in this chapter, the clerk shall set the petition for hearing and the petitioner shall give notice for the period and in the manner provided in NRS 155.010. The court may order such further notice to be given as may be proper.

3. If the court grants any relief to the petitioner, the court may, in its discretion, order any or all of the following additional relief if the court

determines that such additional relief is appropriate to redress or avoid an injustice:

(a) Order a reduction in the trustee's compensation.

(b) Order the trustee to pay to the petitioner or any other party all reasonable costs incurred by the party to adjudicate the affairs of the trust pursuant to this section, including, without limitation, reasonable attorney's fees. The trustee may not be held personally liable for the payment of such costs unless the court determines that the trustee was negligent in the performance of or breached his fiduciary duties.

Sec. 29. NRS 155.190 is hereby amended to read as follows:

155.190 ~~{1}~~

1. *Except as otherwise provided in subsection 2, in addition to any order from which an appeal is expressly permitted by this title, an appeal may be taken to the Supreme Court within 30 days after the notice of entry of an order:*

~~{1}~~ (a) Granting or revoking letters testamentary or letters of administration.

~~{2}~~ (b) Admitting a will to probate or revoking the probate thereof.

~~{3}~~ (c) Setting aside an estate claimed not to exceed ~~[\$50,000]~~ \$100,000 in value.

~~{4}~~ (d) Setting apart property as a homestead, or claimed to be exempt from execution.

~~{5}~~ (e) Granting or modifying a family allowance.

~~{6}~~ (f) Directing or authorizing the sale or conveyance or confirming the sale of property.

~~{7}~~ (g) Settling an account of a personal representative or trustee.

~~{8}~~ (h) Instructing or appointing a trustee.

~~{9}~~ (i) Instructing or directing a personal representative.

~~{10}~~ (j) Directing or allowing the payment of a debt, claim, devise or attorney's fee.

~~{11}~~ (k) Determining heirship or the persons to whom distribution must be made or trust property must pass.

~~{12}~~ (l) Distributing property.

~~{13}~~ (m) Refusing to make any order mentioned in this section. ~~{or}~~

(n) *Making* any decision wherein the amount in controversy equals or exceeds, exclusive of costs, ~~[\$5,000]~~ \$10,000.

~~{14}~~ (o) Granting or denying a motion to enforce the liability of a surety filed pursuant to NRS 142.035.

~~{15}~~ (p) Granting an order for conveyance or transfer pursuant to NRS 148.410.

2. *If a party timely files in the district court any of the following motions under the Nevada Rules of Civil Procedure, the time to file a notice of appeal pursuant to this section runs for all parties from entry of an order disposing of the last such remaining motion, and the notice of appeal must be filed not*

later than 30 days after the date of service of written notice of entry of that order:

(a) A motion for judgment under Rule 50(b);

(b) A motion under Rule 52(b) to amend or make additional findings of fact;

(c) A motion under Rule 59 to alter or amend the judgment; or

(d) A motion for a new trial under Rule 59.

Sec. 30. NRS 30.040 is hereby amended to read as follows:

30.040 1. Any person interested under a deed, ~~will,~~ written contract or other writings constituting a contract, or whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract or franchise and obtain a declaration of rights, status or other legal relations thereunder.

2. A maker or legal representative of a maker of a will, trust or other writings constituting a testamentary instrument may have determined any question of construction or validity arising under the instrument and obtain a declaration of rights, status or other legal relations thereunder. Any action for declaratory relief under this subsection may only be made in a proceeding commenced pursuant to the provisions of title 12 or 13 of NRS, as appropriate.

Sec. 31. NRS 30.060 is hereby amended to read as follows:

30.060 1. Any person interested as or through an executor, administrator, trustee, guardian or other fiduciary, creditor, devisee, legatee, heir, next of kin or cestui que trust, in the administration of a trust, or of the estate of a decedent, an infant, lunatic or insolvent, may have a declaration of rights or legal relations in respect thereto:

~~1.~~ (a) To ascertain any class of creditors, devisees, legatees, heirs, next of kin or others; ~~or~~

~~2.~~ (b) To direct the executors, administrators or trustees to do or abstain from doing any particular act in their fiduciary capacity; or

~~3.~~ (c) To determine any question arising in the administration of the estate or trust, including questions of construction of wills, trusts and other writings.

2. Any action for declaratory relief under this section may only be made in a proceeding commenced pursuant to the provisions of title 12 or 13 of NRS, as appropriate.

Sec. 32. NRS 123.220 is hereby amended to read as follows:

123.220 All property, other than that stated in NRS 123.130, acquired after marriage by either husband or wife, or both, is community property unless otherwise provided by:

1. An agreement in writing between the spouses . ~~which is effective only as between them.~~

2. A decree of separate maintenance issued by a court of competent jurisdiction.

3. NRS 123.190.

4. A decree issued or agreement in writing entered pursuant to NRS 123.259.

Sec. 33. Chapter 163 of NRS is hereby amended by adding thereto the provisions set forth as sections 34 and 35 of this act.

Sec. 34. ~~1. Except as otherwise expressly provided by a testator in his will, the adoption of a person who is 18 years of age or older at the time of the adoption, by someone other than the testator, must be disregarded for purposes of identifying the beneficiaries of a testamentary trust established pursuant to the terms of the will.~~

~~2. Except as otherwise expressly provided by a settlor in his trust instrument, the adoption of a person who is 18 years of age or older at the time of the adoption, by someone other than the settlor, must be disregarded for purposes of identifying the beneficiaries of the trust.] (Deleted by amendment.)~~

Sec. 35. 1. Except as otherwise provided in subsections 3 and 4, a no-contest clause in a trust must be enforced by the court.

2. A no-contest clause must be construed to carry out the settlor's intent. Except to the extent the no-contest clause in the trust is vague or ambiguous, extrinsic evidence is not admissible to establish the settlor's intent concerning the no-contest clause. The provisions of this subsection do not prohibit such evidence from being admitted for any other purpose authorized by law.

3. Notwithstanding any provision to the contrary in the trust, a beneficiary's share must not be reduced or eliminated if the beneficiary seeks only to:

- (a) Enforce the terms of the trust or any other trust-related instrument;
- (b) Enforce the beneficiary's legal rights related to the trust or any trust-related instrument; or
- (c) Obtain a court ruling with respect to the construction or legal effect of the trust or any other trust-related instrument.

4. Notwithstanding any provision to the contrary in the trust, a beneficiary's share must not be reduced or eliminated under a no-contest clause in a trust because the beneficiary institutes legal action seeking to invalidate a trust or any other trust-related instrument if the legal action is instituted in good faith and based on probable cause that would have led a reasonable person, properly informed and advised, to conclude that there was a substantial likelihood that the trust or other trust-related instrument was invalid.

5. As used in this section:

- (a) "No-contest clause" means one or more provisions in a trust that express a directive to reduce or eliminate the share allocated to a beneficiary or to reduce or eliminate the distributions to be made to a beneficiary if the beneficiary takes action to frustrate or defeat the settlor's intent as expressed in the trust or in a trust-related instrument.

(b) "Trust" means the original trust instrument and each amendment made pursuant to the terms of the original trust instrument.

(c) "Trust-related instrument" means any document purporting to transfer property to or from the trust or any document made pursuant to the terms of the trust purporting to direct the distribution of trust assets or to affect the management of trust assets, including, without limitation, documents that attempt to exercise a power of appointment.

Senator Care moved that the Senate concur in the Assembly amendment to Senate Bill No. 277.

Remarks by Senator Care.

Senator Care requested that his remarks be entered in the Journal.

Thank you Mr. President. The Assembly deleted two sections of the bill dealing with wills. One was Section 1, which has to do with the adoption of a person 18 years or older. The sponsor of the bill, Senator Wiener, is in concurrence along with the Committee.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 313.

The following Assembly amendment was read:

Amendment No. 729.

"SUMMARY—Revises provisions relating to guardianships. (BDR 13-182)"

"AN ACT relating to guardianship; providing that a court may sanction certain persons who are vexatious litigants; requiring a guardian to maintain certain records for certain periods of time; adopting in part the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act; revising certain notice requirements for guardianship proceedings; revising certain procedural requirements for the appointment of a guardian; revising the authority of certain guardians in certain circumstances; making various other changes relating to guardianships; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law sets forth the procedures for the appointment of a guardian for a ward, the powers and duties of a guardian and the termination of a guardianship. (Chapter 159 of NRS) This bill: (1) amends various provisions relating to a guardianship; and (2) adopts, in part, the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act promulgated by the Uniform Law Commission.

Section 4 of this bill provides that a court may determine that a petitioner is a vexatious litigant if the petitioner files a petition that is without merit more than once, and may impose sanctions against the petitioner.

Section 5 of this bill requires a guardian to keep records related to the guardianship, including financial records, for a period of 7 years.

Section 6 of this bill provides that if a ward resides with a care provider which is an institution or facility, the care provider shall furnish itemized accountings of all financial activity pertaining to the ward on a quarterly basis and as requested by the guardian.

Sections 7-20 of this bill adopt in part the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act, which was promulgated by the Uniform Law Commission in 2007. According to the Uniform Law Commission, because of increasing population mobility, cases involving simultaneous and conflicting jurisdiction over guardianship are increasing, and even when all parties agree, steps such as transferring a guardianship to another state can require that the parties start over anew in the second state. Obtaining recognition of a guardian's authority in another state in order to sell property or to arrange for a residential placement is often impossible. The Uniform Act is intended to address those problems concerning jurisdictional issues. The Uniform Act contains five articles, which are incorporated into sections 7-20 and which address the following topics: (1) Article 1 contains definitions and provisions designed to facilitate cooperation between courts in different states; (2) Article 2 specifies which court has jurisdiction to appoint a guardian, with the objective being to locate jurisdiction in one, and only one, state except in cases of emergency or in situations where an individual owns property located in multiple states; (3) Article 3 specifies a procedure for transferring proceedings from one state to another; (4) Article 4 addresses enforcement of orders in other states; and (5) Article 5 contains boilerplate provisions common to all uniform acts. However, sections 7-20 do not contain, or revise, certain provisions of the Uniform Act.

Sections 25 and 42 of this bill revise the provisions relating to the persons who must receive notice of a guardianship petition. (NRS 159.034, 159.115) Section 29 of this bill revises the information contained in a notice for petition for guardianship to include certain findings about the ward's competence. (NRS 159.044) Sections 26-28 and 30 of this bill amend certain provisions concerning venue and jurisdiction for guardianship proceedings. (NRS 159.037, 159.039, 159.041, 159.0487) Sections 32-34 of this bill revise the requirements concerning the supporting documentation necessary for certain petitions. (NRS 159.052, 159.0523, 159.0525) Sections 37-41 and 43 of this bill revise the authority of a guardian to manage the estate and affairs of a ward. (NRS 159.0755, 159.076, 159.079, 159.0895, 159.113, 159.117) Sections 44-52 of this bill revise certain provisions concerning the sale of property of a ward. (NRS 159.123, 159.134, 159.1425, 159.1435, 159.144, 159.1455, ~~159.1515,~~ 159.1535, 159.154)

~~Sections 53 and 54 of this bill exempt certain guardians from service as a juror. (NRS 6.020)~~

Section 55 of this bill exempts certain guardianship property from a presumption of abandonment for the purposes of the statutory provisions relating to unclaimed property. (NRS 120A.500)

Section 57 of this bill revises the provisions relating to possession of the assets held by a guardian of a decedent. (NRS 143.030)

Section 58 of this bill revises the provisions governing responsibility for the repayment of certain expenses of a ward paid for by a county. (NRS 428.070)

Sections 61-64 of this bill revise provisions concerning the release of a ward who was involuntarily committed to provide that: (1) the facility must notify the guardian before the ward is released; (2) the guardian has discretion to determine where to release the ward; and (3) if the guardian does not determine where to release the ward within a certain period, the facility will release the ward according to its own plan. (NRS 433A.220, 433A.380-433A.400)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 159 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 20, inclusive, of this act.

Sec. 2. *"Home state" means the state in which the proposed ward was physically present for at least 6 consecutive months, including any temporary absence from the state, immediately before the filing of a petition for the appointment of a guardian.*

Sec. 3. *"State" means any state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.*

Sec. 4. 1. *A court may find that a petitioner is a vexatious litigant if a person, other than the ward:*

*(a) Files a petition which is without merit or intended to harass or annoy the guardian; and*

*(b) Has previously filed pleadings in a guardianship proceeding that were without merit or intended to harass or annoy the guardian.*

2. *If a court finds a person is a vexatious litigant pursuant to subsection 1, the court may impose sanctions on the petitioner in an amount sufficient to reimburse the estate of the ward for all or part of the expenses incurred by the estate of the ward to defend the petition, to respond to the petition and for any other pecuniary losses which are associated with the petition.*

Sec. 5. *A guardian shall maintain all records and documents for each ward whom the guardian has authority over for a period of not less than 7 years after the court terminates the guardianship and shall maintain all financial records related to the guardianship for a period of not less than 7 years after the date of the last financial transaction.*

Sec. 6. *If a ward resides with a care provider that is an institution or facility, the care provider shall furnish to the guardian an itemized accounting of all financial activity pertaining to the ward:*

1. *On a quarterly basis; and*

2. *At any other time, upon the request of the guardian.*

Sec. 7. Sections 7 to 20, inclusive, of this act may be cited as the *Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act*.

Sec. 8. A court of this State may treat a foreign country as if it were a state for the purpose of applying sections 7 to 20, inclusive, of this act.

Sec. 9. 1. A court of this State may communicate with a court of another state concerning a proceeding arising under sections 7 to 20, inclusive, of this act. The court may allow the parties to participate in the communication. Except as otherwise provided in subsection 2, the court shall make a record of the communication. The record may be limited to the fact that the communication occurred.

2. Courts may communicate concerning schedules, calendars, court records and other administrative matters without making a record.

Sec. 10. 1. In a guardianship proceeding in this State, a court of this State may request the appropriate court of another state to do any of the following:

(a) Hold an evidentiary hearing;

(b) Order a person in that state to produce evidence or give testimony pursuant to the procedures of that state;

(c) Order that an evaluation or assessment be made of the ward;

(d) Order any appropriate investigation of a person involved in a proceeding;

(e) Forward to the court of this State a certified copy of the transcript or other record of a hearing under paragraph (a) or any other proceeding, any evidence otherwise produced under paragraph (b), and any evaluation or assessment prepared in compliance with an order under paragraph (c) or (d);

(f) Issue any order necessary to ensure the appearance in the proceeding of a person whose presence is necessary for the court to make a determination, including the proposed ward, the ward or the incompetent; and

(g) Issue an order authorizing the release of medical, financial, criminal or other relevant information in that state relating to the ward or proposed ward, including protected health information as defined in 45 C.F.R. § 160.103.

2. If a court of another state in which a guardianship or conservatorship proceeding is pending requests assistance of the kind provided in subsection 1, a court of this State has jurisdiction for the limited purpose of granting the request or making reasonable efforts to comply with the request.

Sec. 11. 1. In a guardianship proceeding, in addition to other procedures that may be available, testimony of a witness who is located in another state may be offered by deposition or other means allowable in this State for testimony taken in another state. The court on its own motion may order that the testimony of a witness be taken in another state and may prescribe the manner in which and the terms upon which the testimony is to be taken.

2. In a guardianship proceeding, a court of this State may permit a witness located in another state to be deposed or to testify by telephone or audiovisual or other electronic means. A court of this State shall cooperate with the court of the other state in designating an appropriate location for the deposition or testimony.

3. Documentary evidence transmitted from a court of another state to a court of this State by technological means that do not produce an original writing may not be excluded from evidence on an objection based on NRS 52.235.

Sec. 12. 1. A court of this State has jurisdiction to appoint a guardian if:

- (a) This State is the proposed ward's home state;
- (b) The proposed ward holds property within this State and a court of the proposed ward's home state has declined to exercise jurisdiction because this State is a more appropriate forum;
- (c) The proposed ward has a significant connection with this State and a court of the proposed ward's home state has declined to exercise jurisdiction because this State is a more appropriate forum; or
- (d) The proposed ward does not have a home state.

2. A court of this State lacking jurisdiction under subsection 1 has special jurisdiction to appoint a temporary guardian for a ward:

- (a) To facilitate transfer of the guardianship proceedings from another state pursuant to sections 7 to 20, inclusive, of this act.
- (b) In an emergency if the ward is physically present in this State, and such temporary guardianship will be terminated at the request of a court of the ward's home state before or after the emergency appointment.

3. Except as otherwise provided in this section, a court that has appointed a guardian consistent with sections 7 to 20, inclusive, of this act has exclusive and continuing jurisdiction over the proceedings until it is terminated by the court pursuant to NRS 159.1905 or 159.191.

Sec. 13. 1. A court of this State having jurisdiction to appoint a guardian may decline to exercise its jurisdiction if it determines at any time that a court of another state is a more appropriate forum.

2. If a court of this State declines to exercise its jurisdiction under subsection 1, it shall either dismiss or stay the proceedings. The court may impose any condition the court considers just and proper, including the condition that a petition for the appointment of a guardian be filed promptly in another state.

3. In determining whether it is an appropriate forum, the court shall consider all relevant factors, including, without limitation:

- (a) Any expressed preference of the ward;
- (b) Whether abuse, neglect or exploitation of the ward has occurred or is likely to occur and which state could best protect the ward from the abuse, neglect or exploitation;

(c) *The length of time the ward was physically present in or was a legal resident of this State or another state;*

(d) *The distance of the ward from the court in each state;*

(e) *The financial circumstances of the ward's estate;*

(f) *The nature and location of the evidence;*

(g) *The ability of the court in each state to decide the issue expeditiously and the procedures necessary to present evidence;*

(h) *The familiarity of the court of each state with the facts and issues in the proceeding; and*

(i) *If an appointment were made, the court's ability to monitor the conduct of the guardian.*

Sec. 14. 1. *If at any time a court of this State determines that it acquired jurisdiction to appoint a guardian because of unjustifiable conduct by the guardian or the petitioner, the court may:*

(a) *Decline to exercise jurisdiction;*

(b) *Exercise jurisdiction for the limited purpose of fashioning an appropriate remedy to ensure the health, safety and welfare of the ward or the protection of the ward's property or to prevent a repetition of the unjustifiable conduct, including staying the proceeding until a petition for the appointment of a guardian is filed in a court of another state having jurisdiction; or*

(c) *Continue to exercise jurisdiction after considering:*

(1) *The extent to which the ward and all persons required to be notified of the proceedings have acquiesced in the exercise of the court's jurisdiction;*

(2) *Whether it is a more appropriate forum than the court of any other state; and*

(3) *Whether the court of any other state would have jurisdiction under factual circumstance in substantial conformity with the jurisdictional standard.*

2. *If a court of this State determines that it acquired jurisdiction to appoint a guardian because a party seeking to invoke its jurisdiction engaged in unjustifiable conduct, the court may assess against that party necessary and reasonable expenses, including, without limitation, attorney's fees, investigative fees, court costs, communication expenses, witness fees and expenses, and travel expenses.*

Sec. 15. *Except for a petition for the appointment of a guardian in an emergency, if a petition for the appointment of a guardian is filed in this State and in another state and neither petition has been dismissed or withdrawn, the following rules apply:*

1. *If the court of this State has jurisdiction under sections 7 to 20, inclusive, of this act, it may proceed with the case unless a court of another state acquires jurisdiction under provisions similar to sections 7 to 20, inclusive, of this act before the appointment.*

2. *If the court of this State does not have jurisdiction under sections 7 to 20, inclusive, of this act, whether at the time the petition is filed or at any*

*time before the appointment or issuance of the order, the court shall stay the proceeding and communicate with the court of the other state. If the court of the other state has jurisdiction, the court of this State shall dismiss the petition unless the court of the other state determines that the court of this State is a more appropriate forum.*

*Sec. 16. 1. A guardian appointed in this State may petition the court to transfer the jurisdiction of the guardianship to another state. Notice of the petition must be given to the persons that would be entitled to notice of a petition in this State for the appointment of a guardian.*

*2. The court shall issue an order provisionally granting the petition to transfer a guardianship and shall direct the guardian or other interested party to petition for guardianship in the other state if the court finds that:*

*(a) The ward is physically present in, or is reasonably expected to move permanently to, the other state;*

*(b) An objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the ward; and*

*(c) The plans for care and services for the ward in the other state are reasonable and sufficient.*

*3. The court shall issue a final order confirming the transfer and terminating the guardianship upon a petition for termination pursuant to NRS 159.1905 or 159.191 and filing of a provisional order accepting the proceeding from the court to which the proceeding is to be transferred.*

*Sec. 17. 1. To transfer jurisdiction of a guardianship or conservatorship to this State, the guardian, conservator or other interested party must petition the court of this State for guardianship pursuant to sections 7 to 20, inclusive, of this act to accept guardianship in this State. The petition must include a certified copy of the other state's provisional order of transfer and proof that the ward is physically present in, or is reasonably expected to move permanently to, this State.*

*2. The court shall issue a provisional order granting a petition filed under subsection 1, unless:*

*(a) An objection is made and the objector establishes that transfer of the proceeding would be contrary to the interests of the ward; or*

*(b) The guardian or petitioner is not qualified for appointment as a guardian in this State pursuant to NRS 159.059.*

*3. The court shall issue a final order granting guardianship upon filing of a final order issued by the other state terminating proceedings in that state and transferring the proceedings to this State.*

*4. Not later than 90 days after the issuance of a final order accepting transfer of a guardianship or conservatorship, the court shall determine whether the guardianship or conservatorship needs to be modified to conform to the laws of this State.*

*5. In granting a petition under this section, the court shall recognize a guardianship or conservatorship order from the other state, including the*

determination of the ward's incapacity and the appointment of the guardian or conservator.

Sec. 18. *If a guardian has been appointed in another state and a petition for the appointment of a guardian is not pending in this State, the guardian appointed in the other state, after giving notice to the appointing court of an intent to register and the reason for registration, may register the guardianship order in this State by filing as a foreign judgment in a court, in any appropriate county of this State:*

1. *Certified copies of the order and letters of office; and*
2. *A copy of the guardian's driver's license, passport or other valid photo identification card in a sealed envelope.*

Sec. 19. 1. *Upon registration of a guardianship, the guardian may exercise in this State all powers authorized in the order of appointment except as prohibited under the laws of this State, including maintaining actions and proceedings in this State and, if the guardian is not a resident of this State, subject to any conditions imposed upon nonresident parties.*

2. *A court of this State may grant any relief available under sections 7 to 20, inclusive, of this act and other law of this State to enforce a registered order.*

Sec. 20. *The Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act must be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.*

Sec. 21. NRS 159.013 is hereby amended to read as follows:

159.013 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 159.014 to 159.027, inclusive, and sections 2 and 3 of this act have the meanings ascribed to them in those sections.

Sec. 22. NRS 159.017 is hereby amended to read as follows:

159.017 "Guardian" means any person appointed under this chapter as guardian of the person, of the estate, or of the person and estate for any other person, and includes an organization under NRS 662.245 and joint appointees. The term includes, *without limitation*, a special guardian ~~or~~ *or, if the context so requires, a person appointed in another state who serves in the same capacity as a guardian in this State.*

Sec. 23. NRS 159.024 is hereby amended to read as follows:

159.024 "Private professional guardian" means a person who receives compensation for services as a guardian to three or more wards who are not related to the ~~person~~ guardian by blood or marriage. The term does not include:

1. A governmental agency.
2. A public guardian appointed or designated pursuant to the provisions of chapter 253 of NRS.

~~{3. A banking corporation, as defined in NRS 657.016, or an organization permitted to act as fiduciary pursuant to NRS 662.245 if it is appointed as guardian of an estate only.~~

~~4. A trust company, as defined in NRS 669.070.~~

~~5. A court appointed attorney licensed to practice law in this State.]~~

Sec. 24. NRS 159.025 is hereby amended to read as follows:

159.025 "Proposed ward" means any person for whom proceedings for the appointment of a guardian have been initiated ~~[+] in this State or, if the context so requires, for whom similar proceedings have been initiated in another state.~~

Sec. 25. NRS 159.034 is hereby amended to read as follows:

159.034 1. Except as otherwise provided in this section, by specific statute or as ordered by the court, a petitioner in a guardianship proceeding shall give notice of the time and place of the hearing on the petition to:

(a) Each interested person or the attorney of the interested person;

(b) Any person entitled to notice pursuant to this chapter or his attorney;

~~[and]~~

(c) Any other person who has filed a request for notice in the guardianship proceedings ~~[+]~~ ;

(d) *The proposed guardian, if the petitioner is not the proposed guardian; and*

(e) *Those persons entitled to notice if a proceeding were brought in the proposed ward's home state.*

2. The petitioner shall give notice not later than 10 days before the date set for the hearing:

(a) By mailing a copy of the notice by certified, registered or ordinary first-class mail to the residence, office or post office address of each person required to be notified pursuant to this section;

(b) By personal service; or

(c) In any other manner ordered by the court, upon a showing of good cause.

3. If the address or identity of a person required to be notified of a hearing on a petition pursuant to this section is not known and cannot be ascertained with reasonable diligence, notice must be given:

(a) By publishing a copy of the notice in a newspaper of general circulation in the county where the hearing is to be held at least once every 7 days for 21 consecutive days, the last publication of which must occur not later than 10 days before the date set for the hearing; or

(b) In any other manner ordered by the court, upon a showing of good cause.

4. For good cause shown, the court may waive the requirement of giving notice.

5. A person entitled to notice pursuant to this section may waive such notice. Such a waiver must be in writing and filed with the court.

6. On or before the date set for the hearing, the petitioner shall file with the court proof of giving notice to each person entitled to notice pursuant to this section.

Sec. 26. NRS 159.037 is hereby amended to read as follows:

159.037 1. The venue for the appointment of a guardian *when the ward's home state is this State* must be ~~the~~:

(a) ~~The~~ the county where the proposed ward resides . ~~the~~ or

(b) ~~If the proposed ward does not reside in this state, any county in which any property of the proposed ward is located, or any county in which the proposed ward is physically present.~~

2. If the proper venue may be in two or more counties, the county in which the proceeding is first commenced is the proper county in which to continue the proceedings.

3. Upon the filing of a petition showing that the proper venue is inconvenient, a venue other than that provided in subsection 1 may accept the proceeding.

Sec. 27. NRS 159.039 is hereby amended to read as follows:

159.039 1. If proceedings for the appointment of a guardian for the same proposed ward are commenced in more than one county ~~in~~ *in this State, and the ward's home state is this State*, they shall be stayed, except in the county where first commenced, until final determination of venue in that county. If the proper venue is finally determined to be in another county, the court shall cause a transcript of the proceedings and all original papers filed therein, all certified by the clerk of the court, to be sent to the clerk of the court of the proper county.

2. A proceeding is considered commenced by the filing of a petition.

3. The proceedings first legally commenced for the appointment of a guardian of the estate or of the person and estate extends to all the property of the proposed ward which is in this state.

Sec. 28. NRS 159.041 is hereby amended to read as follows:

159.041 A court having before it any guardianship matter *for a ward whose home state is this State* may transfer the matter to another county in the interest of the ward or, if not contrary to the interest of the ward, for the convenience of the guardian. A petition for the transfer, setting forth the reasons therefor, may be filed in the guardianship proceeding. If the court is satisfied that the transfer is in the interest of the ward or, if not contrary to the interest of the ward, for the convenience of the guardian, the court shall make an order of transfer and cause a transcript of the proceedings in the matter, all original papers filed in such proceedings and the original bond filed by the guardian, to be certified by the clerk of the court originally hearing the matter and sent to the clerk of the court of the other county. Upon receipt of the transcript, papers and bond, and the filing of them for record, the court of the other county has complete jurisdiction of the matter, and thereafter all proceedings shall be as though they were commenced in that court.

Sec. 29. NRS 159.044 is hereby amended to read as follows:

159.044 1. Except as otherwise provided in NRS 127.045, a proposed ward, a governmental agency, a nonprofit corporation or any interested person may petition the court for the appointment of a guardian.

2. To the extent the petitioner knows or reasonably may ascertain or obtain, the petition must include, without limitation:

- (a) The name and address of the petitioner.
- (b) The name, date of birth and current address of the proposed ward.
- (c) A copy of one of the following forms of identification of the proposed ward which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in NRS 239.0115 or as otherwise required to carry out a specific statute, maintained in a confidential manner:

- (1) A social security number;
- (2) A taxpayer identification number;
- (3) A valid driver's license number;
- (4) A valid identification card number; or
- (5) A valid passport number.

↪ If the information required pursuant to this paragraph is not included with the petition, the information must be provided to the court not later than 120 days after the appointment of a guardian or as otherwise ordered by the court.

(d) If the proposed ward is a minor, the date on which he will attain the age of majority and:

- (1) Whether there is a current order concerning custody and, if so, the state in which the order was issued; and
- (2) Whether the petitioner anticipates that the proposed ward will need guardianship after attaining the age of majority.

(e) Whether the proposed ward is a resident or nonresident of this State.

(f) The names and addresses of the spouse of the proposed ward and the relatives of the proposed ward who are within the second degree of consanguinity.

(g) The name, date of birth and current address of the proposed guardian. If the proposed guardian is a private professional guardian, the petition must include proof that the guardian meets the requirements of NRS 159.0595. If the proposed guardian is not a private professional guardian, the petition must include a statement that the guardian currently is not receiving compensation for services as a guardian to more than one ward who is not related to the person by blood or marriage.

(h) A copy of one of the following forms of identification of the proposed guardian which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in NRS 239.0115 or as otherwise required to carry out a specific statute, maintained in a confidential manner:

- (1) A social security number;
- (2) A taxpayer identification number;
- (3) A valid driver's license number;
- (4) A valid identification card number; or
- (5) A valid passport number.

(i) Whether the proposed guardian has ever been convicted of a felony and, if so, information concerning the crime for which he was convicted and whether the proposed guardian was placed on probation or parole.

(j) A summary of the reasons why a guardian is needed and recent documentation demonstrating the need for a guardianship. The documentation ~~may~~ *must* include, without limitation:

(1) A certificate signed by a physician who is licensed to practice medicine in this State *or who is employed by the Department of Veterans Affairs* stating ~~the~~ :

(I) *The need for a guardian;*

(II) *Whether the proposed ward presents a danger to himself or others;*

(III) *Whether the proposed ward's attendance at a hearing would be detrimental to the proposed ward;*

(IV) *Whether the proposed ward would comprehend the reason for a hearing or contribute to the proceeding; and*

(V) *Whether the proposed ward is capable of living independently with or without assistance;*

(2) A letter signed by any governmental agency in this State which conducts investigations stating ~~the~~ :

(I) *The need for a guardian;*

(II) *Whether the proposed ward presents a danger to himself or others;*

(III) *Whether the proposed ward's attendance at a hearing would be detrimental to the proposed ward;*

(IV) *Whether the proposed ward would comprehend the reason for a hearing or contribute to the proceeding; and*

(V) *Whether the proposed ward is capable of living independently with or without assistance; or*

(3) A certificate signed by any other person whom the court finds qualified to execute a certificate stating ~~the~~ :

(I) *The need for a guardian ~~+~~;*

(II) *Whether the proposed ward presents a danger to himself or others;*

(III) *Whether the proposed ward's attendance at a hearing would be detrimental to the proposed ward;*

(IV) *Whether the proposed ward would comprehend the reason for a hearing or contribute to the proceeding; and*

(V) *Whether the proposed ward is capable of living independently with or without assistance.*

(k) Whether the appointment of a general or a special guardian is sought.

(l) A general description and the probable value of the property of the proposed ward and any income to which the proposed ward is or will be entitled, if the petition is for the appointment of a guardian of the estate or a special guardian. If any money is paid or is payable to the proposed ward by

the United States through the Department of Veterans Affairs, the petition must so state.

(m) The name and address of any person or care provider having the care, custody or control of the proposed ward.

(n) ~~The~~ *If the petitioner is not the spouse or natural child of the proposed ward, a declaration explaining the relationship ~~[, if any,]~~ of the petitioner to the proposed ward or to the proposed ward's family or friends, if any, and the interest, if any, of the petitioner in the appointment.*

(o) Requests for any of the specific powers set forth in NRS 159.117 to 159.175, inclusive, necessary to enable the guardian to carry out the duties of the guardianship.

(p) ~~Whether~~ *If the guardianship is sought as the result of an investigation of a report of abuse, ~~for~~ neglect ~~[that is conducted pursuant to chapter 432B of NRS by an agency which provides child welfare services. As used in this paragraph, "agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.]~~ or exploitation of the proposed ward, whether the referral was from a law enforcement agency or a state or county agency.*

(q) Whether the proposed ward is a party to any pending criminal or civil litigation.

(r) Whether the guardianship is sought for the purpose of initiating litigation.

(s) Whether the proposed ward has executed a durable power of attorney for health care, a durable power of attorney for financial matters or a written nomination of guardian and, if so, who the named agents are for each document.

Sec. 30. NRS 159.0487 is hereby amended to read as follows:

159.0487 Any court of competent jurisdiction may appoint:

1. Guardians of the person, of the estate, or of the person and estate for ~~resident~~ incompetents or ~~resident~~ minors ~~[ ] whose home state is this State.~~

2. Guardians of the person or of the person and estate for incompetents or minors who, although not residents of this State, are physically present in this State and whose welfare requires such an appointment.

3. Guardians of the estate for nonresident incompetents or nonresident minors who have property within this State.

4. ~~[Guardians of the person, of the estate, or of the person and estate for incompetents or minors who previously have been appointed by the court of another state and who provide proof of the filing of an exemplified copy of the order from the court of the other state that appointed the guardian and a bond issued in this State as ordered by the court of the other state. As used in this subsection, "guardian" includes, without limitation, a conservator.~~

~~5.]~~ Special guardians.

~~{6.]~~ 5. Guardians ad litem.

Sec. 31. NRS 159.049 is hereby amended to read as follows:

159.049 The court may, without issuing a citation, appoint a guardian for the proposed ward if the {:

~~1. Petitioner} petitioner is a parent who has sole legal and physical custody of the proposed ward as evidenced by a valid court order or birth certificate and who is seeking the appointment of a guardian for the minor child of the parent. If the proposed ward is a minor who is 14 years of age or older:~~

~~{(a)} 1. The petition must be accompanied by the written consent of the minor to the appointment of the guardian; or~~

~~{(b)} 2. The minor must consent to the appointment of the guardian in open court.~~

~~{2. Petitioner is a foreign guardian of a nonresident proposed ward, and the petition is accompanied by:~~

~~(a) An exemplified copy of the record of the appointment of the foreign guardian; and~~

~~(b) Evidence of the existing authority of the foreign guardian.]~~

Sec. 32. NRS 159.052 is hereby amended to read as follows:

159.052 1. A petitioner may request the court to appoint a temporary guardian for a ward who is a minor and who is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention. To support the request, the petitioner must set forth in a petition and present to the court under oath:

~~(a) {Facts which show that the proposed ward faces a substantial and immediate risk of physical harm or needs immediate medical attention;} Documentation which shows that the proposed ward faces a substantial and immediate risk of physical harm or needs immediate medical attention and lacks capacity to respond to the risk of harm or obtain the necessary medical attention. Such documentation must include, without limitation, a certificate signed by a physician who is licensed to practice medicine in this State or who is employed by the Department of Veterans Affairs or a letter signed by any governmental agency in this State which conducts investigations indicating:~~

~~(1) That the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention;~~

~~(2) Whether the proposed ward presents a danger to himself or others; and~~

~~(3) Whether the proposed ward is or has been subjected to abuse, neglect or exploitation; and~~

~~(b) Facts which show that:~~

~~(1) The petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 by telephone or in writing before the filing of the petition;~~

~~(2) The proposed ward would be exposed to an immediate risk of physical harm if the petitioner were to provide notice to the persons entitled~~

to notice pursuant to NRS 159.047 before the court determines whether to appoint a temporary guardian; or

(3) Giving notice to the persons entitled to notice pursuant to NRS 159.047 is not feasible under the circumstances.

2. The court may appoint a temporary guardian to serve for 10 days if the court:

(a) Finds reasonable cause to believe that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention; and

(b) Is satisfied that the petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 or that giving notice to those persons is not feasible under the circumstances, or determines that such notice is not required pursuant to subparagraph (2) of paragraph (b) of subsection 1.

3. Except as otherwise provided in subsection 4, after the appointment of a temporary guardian, the petitioner shall attempt in good faith to notify the persons entitled to notice pursuant to NRS 159.047, including, without limitation, notice of any hearing to extend the temporary guardianship. If the petitioner fails to make such an effort, the court may terminate the temporary guardianship.

4. If, before the appointment of a temporary guardian, the court determined that advance notice was not required pursuant to subparagraph (2) of paragraph (b) of subsection 1, the petitioner shall notify the persons entitled to notice pursuant to NRS 159.047 without undue delay, but not later than 48 hours after the appointment of the temporary guardian or not later than 48 hours after the petitioner discovers the existence, identity and location of the persons entitled to notice pursuant to that section. If the petitioner fails to provide such notice, the court may terminate the temporary guardianship.

5. Not later than 10 days after the date of the appointment of a temporary guardian pursuant to subsection 2, the court shall hold a hearing to determine the need to extend the temporary guardianship. Except as otherwise provided in ~~subsections~~ *subsection 7*, ~~and 8,~~ if the court finds by clear and convincing evidence that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention, the court may extend the temporary guardianship until a general or special guardian is appointed ~~[, but not for more than 30 days.]~~ *pursuant to subsection 8.*

6. If the court appoints a temporary guardian or extends the temporary guardianship pursuant to this section, the court shall limit the powers of the temporary guardian to those necessary to respond to the substantial and immediate risk of physical harm or to a need for immediate medical attention.

7. The court may not extend a temporary guardianship pursuant to subsection 5 beyond the initial period of 10 days unless the petitioner demonstrates that:

- (a) The provisions of NRS 159.0475 have been satisfied; or
- (b) Notice by publication pursuant to N.R.C.P. 4(e) is currently being undertaken.

8. ~~In addition to any other extension granted pursuant to this section, the~~ The court may extend the temporary guardianship, for good cause shown, for not more than two successive 60-day periods, except that the court shall not cause the temporary guardianship to continue longer than 5 months unless extraordinary circumstances are shown.

Sec. 33. NRS 159.0523 is hereby amended to read as follows:

159.0523 1. A petitioner may request the court to appoint a temporary guardian for a ward who is an adult and who is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention. To support the request, the petitioner must set forth in a petition and present to the court under oath:

- (a) ~~Facts which show that the proposed ward:~~
    - ~~(1) Faces a substantial and immediate risk of physical harm or needs immediate medical attention; and~~
    - ~~(2) Lacks capacity to respond to the risk of harm or to obtain the necessary medical attention;~~
- Documentation which shows the proposed ward faces a substantial and immediate risk of physical harm or needs immediate medical attention and lacks capacity to respond to the risk of harm or obtain the necessary medical attention. Such documentation must include, without limitation, a certificate signed by a physician who is licensed to practice medicine in this State or who is employed by the Department of Veterans Affairs or a letter signed by any governmental agency in this State which conducts investigations indicating:*

*(1) That the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention;*

*(2) Whether the proposed ward presents a danger to himself or others;*  
*and*

*(3) Whether the proposed ward is or has been subjected to abuse, neglect or exploitation; and*

(b) Facts which show that:

(1) The petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 by telephone or in writing before the filing of the petition;

(2) The proposed ward would be exposed to an immediate risk of physical harm if the petitioner were to provide notice to the persons entitled to notice pursuant to NRS 159.047 before the court determines whether to appoint a temporary guardian; or

(3) Giving notice to the persons entitled to notice pursuant to NRS 159.047 is not feasible under the circumstances.

2. The court may appoint a temporary guardian to serve for 10 days if the court:

(a) Finds reasonable cause to believe that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention; *and*

(b) Is satisfied that the petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 or that giving notice to those persons is not feasible under the circumstances, or determines that such notice is not required pursuant to subparagraph (2) of paragraph (b) of subsection 1. ~~}; and~~

~~(c) Finds that the petition required pursuant to subsection 1 is accompanied by:~~

~~(1) A certificate signed by a physician who is licensed to practice in this State which states that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention; or~~

~~(2) The affidavit of the petitioner which explains the reasons why the certificate described in subparagraph (1) is not immediately obtainable.}~~

3. Except as otherwise provided in subsection 4, after the appointment of a temporary guardian, the petitioner shall attempt in good faith to notify the persons entitled to notice pursuant to NRS 159.047, including, without limitation, notice of any hearing to extend the temporary guardianship. If the petitioner fails to make such an effort, the court may terminate the temporary guardianship.

4. If, before the appointment of a temporary guardian, the court determined that advance notice was not required pursuant to subparagraph (2) of paragraph (b) of subsection 1, the petitioner shall notify the persons entitled to notice pursuant to NRS 159.047 without undue delay, but not later than 48 hours after the appointment of the temporary guardian or not later than 48 hours after the petitioner discovers the existence, identity and location of the persons entitled to notice pursuant to that section. If the petitioner fails to provide such notice, the court may terminate the temporary guardianship.

5. Not later than 10 days after the date of the appointment of a temporary guardian pursuant to subsection 2, the court shall hold a hearing to determine the need to extend the temporary guardianship. Except as otherwise provided in ~~{subsections} subsection 7, {and 8,}~~ the court may extend the temporary guardianship until a general or special guardian is appointed ~~{, but not for more than 30 days,}~~ pursuant to subsection 8 if:

(a) The ~~{certificate required by subsection 2 has been filed and the}~~ court finds by clear and convincing evidence that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention; ~~{or} and~~

(b) ~~{The certificate required by subsection 2 has not been filed and the court finds by clear and convincing evidence that:~~

~~(1) The proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention;~~

~~(2) Circumstances have prevented the petitioner or temporary guardian from obtaining the certificate required pursuant to subsection 2; and~~

~~(3) The extension of the temporary guardianship is necessary and in the best interests of the proposed ward.~~

6. If the court appoints a temporary guardian or extends the temporary guardianship pursuant to this section, the court shall limit the powers of the temporary guardian to those necessary to respond to the substantial and immediate risk of physical harm or to a need for immediate medical attention.

7. The court may not extend a temporary guardianship pursuant to subsection 5 beyond the initial period of 10 days unless the petitioner demonstrates that:

(a) The provisions of NRS 159.0475 have been satisfied; or

(b) Notice by publication pursuant to N.R.C.P. 4(e) is currently being undertaken.

8. ~~{In addition to any other extension granted pursuant to this section, the}~~ The court may extend the temporary guardianship, for good cause shown, for not more than two successive 60-day periods, except that the court shall not cause the temporary guardianship to continue longer than 5 months unless extraordinary circumstances are shown.

Sec. 34. NRS 159.0525 is hereby amended to read as follows:

159.0525 1. A petitioner may request the court to appoint a temporary guardian for a ward who is unable to respond to a substantial and immediate risk of financial loss. To support the request, the petitioner must set forth in a petition and present to the court under oath:

(a) ~~{Facts which show that the proposed ward:~~

~~(1) Is unable to respond to a substantial and immediate risk of financial loss; and~~

~~(2) Lacks capacity to respond to the risk of loss; and~~

~~(b) Documentation which shows that the proposed ward faces a substantial and immediate risk of financial loss and lacks capacity to respond to the risk of loss. Such documentation must include, without limitation, a certificate signed by a physician who is licensed to practice medicine in this State or who is employed by the Department of Veterans Affairs or a letter signed by any governmental agency in this State which conducts investigations indicating:~~

~~(1) That the proposed ward is unable to respond to a substantial and immediate risk of financial loss;~~

~~(2) Whether the proposed ward can live independently with or without assistance or services; and~~

(3) *Whether the proposed ward is or has been subjected to abuse, neglect or exploitation;*

(b) *A detailed explanation of what risks the proposed ward faces, including, without limitation, termination of utilities or other services because of nonpayment, initiation of eviction or foreclosure proceedings, exploitation or loss of assets as the result of fraud, coercion or undue influence; and*

(c) Facts which show that:

(1) The petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 by telephone or in writing before the filing of the petition;

(2) The proposed ward would be exposed to an immediate risk of financial loss if the petitioner were to provide notice to the persons entitled to notice pursuant to NRS 159.047 before the court determines whether to appoint a temporary guardian; or

(3) Giving notice to the persons entitled to notice pursuant to NRS 159.047 is not feasible under the circumstances.

2. The court may appoint a temporary guardian to serve for 10 days if the court:

(a) Finds reasonable cause to believe that the proposed ward is unable to respond to a substantial and immediate risk of financial loss; *and*

(b) Is satisfied that the petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 or that giving notice to those persons is not feasible under the circumstances, or determines that such notice is not required pursuant to subparagraph (2) of paragraph ~~{(b)}~~ (c) of subsection 1. ~~}; and~~

~~(c) For a proposed ward who is an adult, finds that the petition required pursuant to subsection 1 is accompanied by:~~

~~(1) A certificate signed by a physician who is licensed to practice in this State which states that the proposed ward is unable to respond to a substantial and immediate risk of financial loss; or~~

~~(2) The affidavit of the petitioner which explains the reasons why the certificate described in subparagraph (1) is not immediately obtainable.}~~

3. Except as otherwise provided in subsection 4, after the appointment of a temporary guardian, the petitioner shall attempt in good faith to notify the persons entitled to notice pursuant to NRS 159.047, including, without limitation, notice of any hearing to extend the temporary guardianship. If the petitioner fails to make such an effort, the court may terminate the temporary guardianship.

4. If, before the appointment of a temporary guardian, the court determined that advance notice was not required pursuant to subparagraph (2) of paragraph ~~{(b)}~~ (c) of subsection 1, the petitioner shall notify the persons entitled to notice pursuant to NRS 159.047 without undue delay, but not later than 48 hours after the appointment of the temporary guardian or not later than 48 hours after the petitioner discovers the existence, identity and

location of the persons entitled to notice pursuant to that section. If the petitioner fails to provide such notice, the court may terminate the temporary guardianship.

5. Not later than 10 days after the date of the appointment of a temporary guardian pursuant to subsection 2, the court shall hold a hearing to determine the need to extend the temporary guardianship. Except as otherwise provided in ~~[subsections] subsection 7 , [and 8, if the proposed ward is a minor and the court finds by clear and convincing evidence that the proposed ward is unable to respond to a substantial and immediate risk of financial loss,]~~ the court may extend the temporary guardianship until a general or special guardian is appointed ~~[, but not for more than 30 days. Except as otherwise provided in subsection 7, if the proposed ward is an adult, the court may extend the temporary guardianship until a general or special guardian is appointed, but not for more than 30 days,]~~ pursuant to subsection 8 if:

(a) The ~~[certificate required by subsection 2 has been filed and the]~~ court finds by clear and convincing evidence that the proposed ward is unable to respond to a substantial and immediate risk of financial loss; ~~[or] and~~

(b) ~~[The certificate required by subsection 2 has not been filed and the court finds by clear and convincing evidence that:~~

~~(1) The proposed ward is unable to respond to a substantial and immediate risk of financial loss;~~

~~(2) Circumstances have prevented the petitioner or temporary guardian from obtaining the certificate required pursuant to subsection 2; and~~

~~(3)] The extension of the temporary guardianship is necessary and in the best interests of the ward.~~

6. If the court appoints a temporary guardian or extends the temporary guardianship pursuant to this section, the court shall limit the powers of the temporary guardian to those necessary to respond to the substantial and immediate risk of financial loss ~~[,]~~ , *specifically limiting the temporary guardian's authority to take possession of, close or have access to any accounts of the ward or to sell or dispose of tangible personal property of the ward to only that authority as needed to provide for the ward's basic living expenses until a general or special guardian can be appointed. The court may freeze any or all of the ward's accounts to protect such accounts from loss.*

7. The court may not extend a temporary guardianship pursuant to subsection 5 beyond the initial period of 10 days unless the petitioner demonstrates that:

(a) The provisions of NRS 159.0475 have been satisfied; or

(b) Notice by publication pursuant to N.R.C.P. 4(e) is currently being undertaken.

8. ~~[In addition to any other extension granted pursuant to this section, the]~~ The court may extend the temporary guardianship, for good cause shown, for not more than two successive 60-day periods, except that the

court shall not cause the temporary guardianship to continue longer than 5 months unless extraordinary circumstances are shown.

Sec. 35. NRS 159.059 is hereby amended to read as follows:

159.059 Except as otherwise provided in NRS 159.0595, any qualified person or entity that the court finds suitable may serve as a guardian. A person is not qualified to serve as a guardian who:

1. Is an incompetent.
2. Is a minor.
3. Has been convicted of a felony relating to the position of a guardian, unless the court finds that it is in the best interests of the ward to appoint the convicted felon as the guardian of the ward.

4. Has been suspended for misconduct or disbarred from:

- (a) The practice of law;
- (b) The practice of accounting; or
- (c) Any other profession which:

(1) Involves or may involve the management or sale of money, investments, securities or real property; and

(2) Requires licensure in this State or any other state,

↳ during the period of the suspension or disbarment.

5. Is a nonresident of this State and:

(a) ~~Is not a foreign guardian of a nonresident proposed ward pursuant to subsection 2 of NRS 159.049;~~

~~(b)~~ Has not associated as a coguardian, a resident of this State or a banking corporation whose principal place of business is in this State; and

~~(c)~~ (b) Is not a petitioner in the guardianship proceeding.

6. Has been judicially determined, by clear and convincing evidence, to have committed abuse, neglect or exploitation of a child, spouse, parent or other adult, unless the court finds that it is in the best interests of the ward to appoint the person as the guardian of the ward.

Sec. 36. NRS 159.0595 is hereby amended to read as follows:

159.0595 1. A private professional guardian, if a person, must be qualified to serve as a guardian pursuant to NRS 159.059 and must be a ~~registered guardian or master guardian unless a hearing is held and the court finds that good cause exists to waive the requirement that the private professional guardian be a registered guardian or master~~ certified guardian.

2. A private professional guardian, if an entity, must be qualified to serve as a guardian pursuant to NRS 159.059 and must have a ~~registered guardian or master~~ certified guardian involved in the day-to-day operation or management of the entity. ~~[unless a hearing is held and the court finds that good cause exists to waive the requirement that the private professional guardian have a registered guardian or master guardian involved in the day-to-day operation or management of the entity.]~~

3. As used in this section:

(a) "Certified guardian" means a person who is certified by the Center for Guardianship Certification or any successor organization.

(b) "Entity" includes, without limitation, a corporation, whether or not for profit, a limited-liability company and a partnership.

~~[(b) "Master guardian" means a person who is certified by the National Guardianship Foundation or any successor organization as a master guardian.]~~

(c) "Person" means a natural person.

~~[(d) "Registered guardian" means a person who is certified by the National Guardianship Foundation or any successor organization as a registered guardian.]~~

Sec. 37. NRS 159.0755 is hereby amended to read as follows:

159.0755 If, at the time of the appointment of the guardian or thereafter, the estate of a ward consists of personal property having a value not exceeding by more than ~~[\$5,000]~~ \$10,000 the aggregate amount of unpaid expenses of administration of the guardianship estate and claims against the estate, the guardian of the estate, with prior approval of the court by order, may pay those expenses and claims from the estate and deliver all the remaining personal property to such person as the court may designate in the order, to be held, invested or used as ordered by the court. The recipient of the property so delivered shall give a receipt therefor to the guardian. The receipt is a release and acquittance to the guardian as to the property so delivered. The guardian shall file in the proceeding proper receipts or other evidence satisfactory to the court showing the delivery, and the guardian is released from his trust and his bond exonerated.

Sec. 38. NRS 159.076 is hereby amended to read as follows:

159.076 1. The court may grant a summary administration if, at any time, it appears to the court that after payment of all claims and expenses of the guardianship the value of the ward's property does not exceed ~~[\$5,000.]~~ \$10,000.

2. If the court grants a summary administration, the court may:

(a) Authorize the guardian of the estate or special guardian who is authorized to manage the ward's property to convert the property to cash and sell any of the property, with or without notice, as the court may direct. After the payment of all claims and the expenses of the guardianship, the guardian shall deposit the money in savings accounts or invest the money as provided in NRS 159.117, and hold the investment and all interest, issues, dividends and profits for the benefit of the ward. The court may dispense with annual accountings and all other proceedings required by this chapter.

(b) If the ward is a minor, terminate the guardianship of the estate and direct the guardian to deliver the ward's property to the custodial parent or parents, guardian or custodian of the minor to hold, invest or use as the court may order.

3. Whether the court grants a summary administration at the time the guardianship is established or at any other time, the guardian shall file an inventory and record of value with the court.

4. If, at any time, the net value of the estate of the ward exceeds ~~[\$5,000:]~~ \$10,000:

(a) The guardian shall file an amended inventory and accounting with the court;

(b) The guardian shall file annual accountings; and

(c) The court may require the guardian to post a bond.

Sec. 39. NRS 159.079 is hereby amended to read as follows:

159.079 1. Except as otherwise ordered by the court, a guardian of the person has the care, custody and control of the person of the ward, and has the authority and, subject to subsection 2, shall perform the duties necessary for the proper care, maintenance, education and support of the ward, including, *without limitation*, the following:

(a) Supplying the ward with food, clothing, shelter and all incidental necessities ~~[-]~~, *including locating an appropriate residence for the ward*.

(b) Authorizing medical, surgical, dental, psychiatric, psychological, hygienic or other remedial care and treatment for the ward.

(c) Seeing that the ward is properly trained and educated and that the ward has the opportunity to learn a trade, occupation or profession.

2. In the performance of the duties enumerated in subsection 1 by a guardian of the person, due regard must be given to the extent of the estate of the ward. A guardian of the person is not required to incur expenses on behalf of the ward except to the extent that the estate of the ward is sufficient to reimburse the guardian.

3. *A guardian of the person is the ward's personal representative for purposes of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and any applicable regulations. The guardian of the person has authority to obtain information from any government agency, medical provider, business, creditor or third party who may have information pertaining to the ward's health care or health insurance.*

4. *A guardian of the person may establish and change the residence of the ward at any place within this State without the permission of the court. The guardian shall select the least restrictive appropriate residence which is available and necessary to meet the needs of the ward and which is financially feasible.*

5. *A guardian of the person shall petition the court for an order authorizing the guardian to change the residence of the ward to a location outside of this State. The guardian must show that the placement outside of this State is in the best interest of the ward or that there is no appropriate residence available for the ward in this State. The court shall retain jurisdiction over the guardianship unless the guardian files for termination of the guardianship pursuant to NRS 159.1905 or 159.191 or the jurisdiction of the guardianship is transferred to the other state.*

6. This section does not relieve a parent or other person of any duty required by law to provide for the care, support and maintenance of any dependent.

Sec. 40. NRS 159.0895 is hereby amended to read as follows:

159.0895 1. The guardian may retain assets for the anticipated expense of the ward's funeral and the disposal of his remains. Of the amount so retained, ~~[\$1,500]~~ \$3,000 is exempt from all claims, including those of this state.

2. The guardian may place assets so retained in a pooled account or trust. If the assets are invested in a savings account or other financial account, they are not subject to disposition as unclaimed property during the lifetime of the ward.

3. Assets so retained may be disbursed for the ward's funeral or the disposal of his remains without prior authorization of the court. An amount not so disbursed becomes part of the ward's estate.

Sec. 41. NRS 159.113 is hereby amended to read as follows:

159.113 1. Before taking any of the following actions, the guardian of the estate shall petition the court for an order authorizing the guardian to:

- (a) Invest the property of the ward pursuant to NRS 159.117.
- (b) Continue the business of the ward pursuant to NRS 159.119.
- (c) Borrow money for the ward pursuant to NRS 159.121.
- (d) Except as otherwise provided in NRS 159.079, enter into contracts for the ward or complete the performance of contracts of the ward pursuant to NRS 159.123.
- (e) Make gifts from the ward's estate or make expenditures for the ward's relatives pursuant to NRS 159.125.
- (f) Sell, lease or place in trust any property of the ward pursuant to NRS 159.127.
- (g) Exchange or partition the ward's property pursuant to NRS 159.175.
- (h) Release the power of the ward as trustee, personal representative or custodian for a minor or guardian.
- (i) Exercise or release the power of the ward as a donee of a power of appointment.
- (j) ~~Change the state of residence or domicile of the ward.~~
- ~~(k)~~ Exercise the right of the ward to take under or against a will.
- ~~(l)~~ (k) Transfer to a trust created by the ward any property unintentionally omitted from the trust.
- ~~(m)~~ (l) Submit a revocable trust to the jurisdiction of the court if:
  - (1) The ward or the spouse of the ward, or both, are the grantors and sole beneficiaries of the income of the trust; or
  - (2) The trust was created by the court.
- ~~(n)~~ (m) Pay any claim by the Department of Health and Human Services to recover benefits for Medicaid correctly paid to or on behalf of the ward.
- (n) Transfer money in a minor ward's blocked account to the Nevada Higher Education Prepaid Tuition Trust Fund created pursuant to NRS 353B.140.

2. Before taking any of the following actions, unless the guardian has been otherwise ordered by the court to petition the court for permission to

take specified actions or make specified decisions in addition to those described in subsection 1, the guardian may petition the court for an order authorizing the guardian to:

(a) Obtain advice, instructions and approval of any other proposed act of the guardian relating to the ward's property.

(b) Take any other action which the guardian deems would be in the best interests of the ward.

3. The petition must be signed by the guardian and contain:

(a) The name, age, residence and address of the ward.

(b) A concise statement as to the condition of the ward's estate.

(c) A concise statement as to the advantage to the ward of or the necessity for the proposed action.

(d) The terms and conditions of any proposed sale, lease, partition, trust, exchange or investment, and a specific description of any property involved.

4. Any of the matters set forth in subsection 1 may be consolidated in one petition, and the court may enter one order authorizing or directing the guardian to do one or more of those acts.

5. A petition filed pursuant to paragraphs (b) and (d) of subsection 1 may be consolidated in and filed with the petition for the appointment of the guardian, and if the guardian is appointed, the court may enter additional orders authorizing the guardian to continue the business of the ward, enter contracts for the ward or complete contracts of the ward.

Sec. 42. NRS 159.115 is hereby amended to read as follows:

159.115 1. Upon the filing of any petition under NRS 159.078 or 159.113, or any account, notice must be given:

(a) At least 10 days before the date set for the hearing, by mailing a copy of the notice by regular mail to the residence, office or post office address of each person required to be notified pursuant to subsection 3;

(b) At least 10 days before the date set for the hearing, by personal service;

(c) If the address or identity of the person is not known and cannot be ascertained with reasonable diligence, by publishing a copy of the notice in a newspaper of general circulation in the county where the hearing is to be held, the last publication of which must be published at least 10 days before the date set for the hearing; or

(d) In any other manner ordered by the court, for good cause shown.

2. The notice must:

(a) Give the name of the ward.

(b) Give the name of the petitioner.

(c) Give the date, time and place of the hearing.

(d) State the nature of the petition.

(e) Refer to the petition for further particulars, and notify all persons interested to appear at the time and place mentioned in the notice and show cause why the court order should not be made.

3. At least 10 days before the date set for the hearing, the petitioner shall cause a copy of the notice to be mailed to the following:

(a) Any minor ward who is 14 years of age or older or the parent or legal guardian of any minor ward who is less than 14 years of age.

(b) The spouse of the ward and other heirs of the ward who are related within the second degree of consanguinity so far as known to the petitioner.

(c) The guardian of the person of the ward, if the guardian is not the petitioner.

(d) Any person or care provider ~~having the care, custody or control of~~ *who is providing care for the ward* ~~[-]~~, *except that if the person or care provider is not related to the ward, such person or provider must not be given copies of any inventory or accounting.*

(e) Any office of the Department of Veterans Affairs in this State if the ward is receiving any payments or benefits through the Department of Veterans Affairs.

(f) The Director of the Department of Health and Human Services if the ward has received or is receiving any benefits from Medicaid.

(g) Any other interested person or his attorney who has filed a request for notice in the guardianship proceeding and served a copy of the request upon the guardian. The request for notice must state the interest of the person filing the request, and his name and address, or that of his attorney. If the notice so requests, copies of all petitions and accounts must be mailed to the interested person or his attorney.

4. An interested person who is entitled to notice pursuant to subsection 3 may, in writing, waive notice of the hearing of a petition.

5. Proof of giving notice must be:

(a) Made on or before the date set for the hearing; and

(b) Filed in the guardianship proceeding.

Sec. 43. NRS 159.117 is hereby amended to read as follows:

159.117 1. Upon approval of the court by order, a guardian of the estate may:

(a) Invest the property of the ward, make loans and accept security therefor, in the manner and to the extent authorized by the court.

(b) Exercise options of the ward to purchase or exchange securities or other property.

2. A guardian of the estate may, without securing the prior approval of the court, invest the property of the ward in the following:

(a) Savings accounts in any bank, credit union or savings and loan association in this State, to the extent that the deposits are insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or a private insurer approved pursuant to NRS 678.755.

(b) Interest-bearing obligations of or fully guaranteed by the United States.

(c) Interest-bearing obligations of the United States Postal Service.

(d) Interest-bearing obligations of the Federal National Mortgage Association.

(e) Interest-bearing general obligations of this State.

(f) Interest-bearing general obligations of any county, city or school district of this State.

(g) Money market mutual funds which are invested only in those instruments listed in paragraphs (a) to (f), inclusive.

3. A guardian of the estate for two or more wards may invest the property of two or more of the wards in property in which each ward whose property is so invested has an undivided interest. The guardian shall keep a separate record showing the interest of each ward in the investment and in the income, profits or proceeds therefrom.

4. Upon approval of the court, for a period authorized by the court, a guardian of the estate may maintain the assets of the ward in the manner in which the ward had invested the assets before the ward's incapacity.

5. *A guardian of the estate may access or manage a guardianship account via the Internet on a secured website established by the bank, credit union or broker holding the account.*

Sec. 44. NRS 159.123 is hereby amended to read as follows:

159.123 If a ward for whom a guardian of the estate is appointed was, at the time of the appointment, a party to a contract which has not been fully performed, and which was made by the ward while not under any legal disability, the guardian of the estate, with prior approval of the court by order, may complete the performance of such contract. If such contract requires the conveyance of any real or personal property, or any interest in such property, the court may authorize the guardian to convey the interest and estate of the ward in the property, and the effect of such conveyance shall be the same as though made by the ward while not under legal disability. *If the contract requires a sale, no notice of sale is required under this section unless otherwise ordered by the court.*

Sec. 45. NRS 159.134 is hereby amended to read as follows:

159.134 1. All sales of real property of a ward must be:

(a) Reported to the court; and

(b) Confirmed by the court before the title to the real property passes to the purchaser.

2. The report and a petition for confirmation of the sale must be filed with the court not later than 30 days after the date of each sale.

3. The court shall set the date of the hearing and give notice of the hearing in the manner required pursuant to NRS 159.115 or as the court may order.

4. An interested person may file written objections to the confirmation of the sale. If such objections are filed, the court shall conduct a hearing regarding those objections during which the interested person may offer witnesses in support of the objections.

5. Before the court confirms a sale, the court must find that notice of the sale was given in the manner required pursuant to NRS 159.1425, 159.1435 and 159.144 ~~+~~ , *unless the sale was exempt from notice pursuant to NRS 159.123.*

Sec. 46. NRS 159.1425 is hereby amended to read as follows:

159.1425 1. Except as otherwise provided in this section and except for a sale pursuant to NRS *159.123 or* 159.142, a guardian may sell the real property of a ward only after notice of the sale is published in:

(a) A newspaper that is published in the county in which the property, or some portion of the property, is located; or

(b) If a newspaper is not published in that county:

(1) In a newspaper of general circulation in the county; or

(2) In such other newspaper as the court orders.

2. Except as otherwise provided in this section and except for a sale of real property pursuant to NRS *159.123 or* 159.142:

(a) The notice of a public auction for the sale of real property must be published not less than three times before the date of the sale, over a period of 14 days and 7 days apart.

(b) The notice of a private sale must be published not less than three times before the date on which offers will be accepted, over a period of 14 days and 7 days apart.

3. For good cause shown, the court may order fewer publications and shorten the time of notice, but must not shorten the time of notice to less than 8 days.

4. The court may waive the requirement of publication pursuant to this section if:

(a) The guardian is the sole devisee or heir of the estate; or

(b) All devisees or heirs of the estate consent to the waiver in writing.

5. Publication for the sale of real property is not required pursuant to this section if the property to be sold is reasonably believed to have a value of ~~[\$5,000]~~ \$10,000 or less. In lieu of publication, the guardian shall post notice of the sale in three of the most public places in the county in which the property, or some portion of the property, is located for at least 14 days before:

(a) The date of the sale at public auction; or

(b) The date on which offers will be accepted for a private sale.

6. Any notice published or posted pursuant to this section must include, without limitation:

(a) For a public auction:

(1) A description of the real property which reasonably identifies the property to be sold; and

(2) The date, time and location of the auction.

(b) For a private sale:

(1) A description of the real property which reasonably identifies the property to be sold; and

(2) The date, time and location that offers will be accepted.

Sec. 47. NRS 159.1435 is hereby amended to read as follows:

159.1435 1. Except for a sale pursuant to NRS *159.123 or 159.142*, a public auction for the sale of real property must be held:

- (a) In the county in which the property is located or, if the real property is located in two or more counties, in either county;
- (b) Between the hours of 9 a.m. and 5 p.m.; and
- (c) On the date specified in the notice, unless the sale is postponed.

2. If, on or before the date and time set for the public auction, the guardian determines that the auction should be postponed:

- (a) The auction may be postponed for not more than 3 months after the date first set for the auction; and
- (b) Notice of the postponement must be given by a public declaration at the place first set for the sale on the date and time that was set for the sale.

Sec. 48. NRS 159.144 is hereby amended to read as follows:

159.144 1. Except for the sale of real property pursuant to NRS *159.123 or 159.142*, a sale of real property of a guardianship estate at a private sale:

- (a) Must not occur before the date stated in the notice.
- (b) Except as otherwise provided in this paragraph, must not occur sooner than 14 days after the date of the first publication or posting of the notice. For good cause shown, the court may shorten the time in which the sale may occur to not sooner than 8 days after the date of the first publication or posting of the notice. If the court so orders, the notice of the sale and the sale may be made to correspond with the court order.
- (c) Must occur not later than 1 year after the date stated in the notice.

2. The offers made in a private sale:

- (a) Must be in writing; and
- (b) May be delivered to the place designated in the notice or to the guardian at any time:
  - (1) After the date of the first publication or posting of the notice; and
  - (2) Before the date on which the sale is to occur.

Sec. 49. NRS 159.1455 is hereby amended to read as follows:

159.1455 1. Except as otherwise provided in subsection 2, the court shall not confirm a sale of real property of a guardianship estate at a private sale unless:

- (a) The court is satisfied that the amount offered represents the fair market value of the property to be sold; and
- (b) ~~The~~ Except for a sale of real property pursuant to NRS *159.123*, the real property has been appraised within 1 year before the date of the sale. If the real property has not been appraised within this period, a new appraisal must be conducted pursuant to NRS *159.086 and 159.0865* at any time before the sale or confirmation by the court of the sale.

2. The court may waive the requirement of an appraisal and allow the guardian to rely on the assessed value of the real property for purposes of taxation in obtaining confirmation by the court of the sale.

Sec. 50. ~~[NRS 159.1515 is hereby amended to read as follows:~~

~~159.1515 1. A guardian may sell perishable property and other personal property of the ward without notice, and title to the property passes without confirmation by the court if the property:~~

~~(a) Will depreciate in value if not disposed of promptly; [or]~~

~~(b) Will incur loss or expense by being kept [.]; or~~

~~(c) Is less than \$10,000 net value after deduction of all liens against the property;~~

~~2. The guardian is responsible for the actual value of the personal property unless the guardian obtains confirmation by the court of the sale.]~~

~~(Deleted by amendment.)~~

Sec. 51. NRS 159.1535 is hereby amended to read as follows:

159.1535 1. Except as otherwise provided in NRS 159.1515 and 159.152, a guardian may sell the personal property of the ward only after notice of the sale is published in:

(a) A newspaper that is published in the county in which the property, or some portion of the property, is located; or

(b) If a newspaper is not published in that county:

(1) In a newspaper of general circulation in the county; or

(2) In such other newspaper as the court orders.

2. Except as otherwise provided in this section:

(a) The notice of a public sale ~~for a mobile home, manufactured home, vehicle, airplane, boat or personal property item which does not require transfer of title or registration and which is greater than \$10,000 in net value~~ must be published not less than three times before the date of the sale, over a period of 14 days and 7 days apart.

(b) The notice of a private sale ~~for a mobile home, manufactured home, vehicle, airplane, boat or personal property item which does not require transfer of title or registration and which is greater than \$10,000 in net value~~ must be published not less than three times before the date on which offers will be accepted, over a period of 14 days and 7 days apart.

3. ~~The notice of a public or private sale of household furnishings, clothing, artwork, jewelry, collectibles and other personal property which does not require transfer of title or registration and which is greater than \$10,000 in net value must be published not less than one time, the publication being not less than 8 days before the sale.~~

~~4.]~~ For good cause shown, the court may order fewer publications and shorten the time of notice, but must not shorten the time of notice to less than 8 days.

~~4.]~~ 4. The notice must include, without limitation:

(a) For a public sale:

(1) A description of the personal property to be sold; and

- (2) The date, time and location of the sale.
- (b) For a private sale:
  - (1) A description of the personal property to be sold; and
  - (2) The date, time and location that offers will be accepted.
- (c) *For a sale on an appropriate auction website on the Internet:*
  - (1) *A description of the personal property to be sold;*
  - (2) *The date the personal property will be listed; and*
  - (3) *The Internet address of the website on which the sale will be posted.*

Sec. 52. NRS 159.154 is hereby amended to read as follows:

159.154 1. The guardian may sell the personal property of a ward by public sale at:

- (a) The residence of the ward; *or*
- (b) ~~{The courthouse door; or~~
- ~~{e}~~ Any other location designated by the guardian.

2. The guardian may sell the personal property by public sale only if the property is made available for inspection at the time of the sale ~~[, unless the court orders otherwise.]~~ *or photographs of the personal property are posted on an appropriate auction website on the Internet.*

3. Personal property may be sold at a public or private sale for cash or upon credit.

Sec. 53. ~~[NRS 6.020 is hereby amended to read as follows:~~

~~6.020 1. Except as otherwise provided in subsections 2 and 3 and NRS 67.050, upon satisfactory proof, made by affidavit or otherwise, the following named persons, and no others, are exempt from service as grand or trial jurors:~~

- ~~(a) While the Legislature is in session, any member of the Legislature or any employee of the Legislature or the Legislative Counsel Bureau;~~
- ~~(b) Any person who has a fictitious address pursuant to NRS 217.462 to 217.471, inclusive; [and]~~
- ~~(c) Any police officer as defined in NRS 617.135 [.] ; and~~
- ~~(d) Any person serving as a guardian for three or more persons.~~

~~2. All persons of the age of 70 years or over are exempt from serving as grand or trial jurors. Whenever it appears to the satisfaction of the court, by affidavit or otherwise, that a juror is over the age of 70 years, the court shall order the juror excused from all service as a grand or trial juror, if the juror so desires.~~

~~3. A person who is the age of 65 years or over who lives 65 miles or more from the court is exempt from serving as a grand or trial juror. Whenever it appears to the satisfaction of the court, by affidavit or otherwise, that a juror is the age of 65 years or over and lives 65 miles or more from the court, the court shall order the juror excused from all service as a grand or trial juror, if the juror so desires.] (Deleted by amendment.)~~

Sec. 54. ~~[NRS 6.020 is hereby amended to read as follows:~~

~~6.020 1. Except as otherwise provided in subsections 2 and 3 and NRS 67.050, upon satisfactory proof, made by affidavit or otherwise, the~~

~~following named persons, and no others, are exempt from service as grand or trial jurors:~~

~~(a) While the Legislature is in session, any member of the Legislature or any employee of the Legislature or the Legislative Counsel Bureau; [and]~~

~~(b) Any person who has a fictitious address pursuant to NRS 217.462 to 217.471, inclusive; and~~

~~(c) Any person serving as a guardian for three or more persons.~~

~~2. All persons of the age of 70 years or over are exempt from serving as grand or trial jurors. Whenever it appears to the satisfaction of the court, by affidavit or otherwise, that a juror is over the age of 70 years, the court shall order the juror excused from all service as a grand or trial juror, if the juror so desires.~~

~~3. A person who is the age of 65 years or over who lives 65 miles or more from the court is exempt from serving as a grand or trial juror. Whenever it appears to the satisfaction of the court, by affidavit or otherwise, that a juror is the age of 65 years or over and lives 65 miles or more from the court, the court shall order the juror excused from all service as a grand or trial juror, if the juror so desires.] *(Deleted by amendment.)*~~

Sec. 55. NRS 120A.500 is hereby amended to read as follows:

120A.500 1. ~~[Property]~~ *Except as otherwise provided in subsection 6, property* is presumed abandoned if it is unclaimed by the apparent owner during the time set forth below for the particular property:

(a) A traveler's check, 15 years after issuance;

(b) A money order, 7 years after issuance;

(c) Any stock or other equity interest in a business association or financial organization, including a security entitlement under NRS 104.8101 to 104.8511, inclusive, 3 years after the earlier of the date of the most recent dividend, stock split or other distribution unclaimed by the apparent owner, or the date of the second mailing of a statement of account or other notification or communication that was returned as undeliverable or after the holder discontinued mailings, notifications or communications to the apparent owner;

(d) Any debt of a business association or financial organization, other than a bearer bond or an original issue discount bond, 3 years after the date of the most recent interest payment unclaimed by the apparent owner;

(e) A demand, savings or time deposit, including a deposit that is automatically renewable, 3 years after the earlier of maturity or the date of the last indication by the owner of interest in the property, but a deposit that is automatically renewable is deemed matured for purposes of this section upon its initial date of maturity, unless the owner has consented to a renewal at or about the time of the renewal and the consent is in writing or is evidenced by a memorandum or other record on file with the holder;

(f) Except as otherwise provided in NRS 120A.520, any money or credits owed to a customer as a result of a retail business transaction, 3 years after the obligation accrued;

(g) Any amount owed by an insurer on a life or endowment insurance policy or an annuity that has matured or terminated, 3 years after the obligation to pay arose or, in the case of a policy or annuity payable upon proof of death, 3 years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based;

(h) Any property distributable by a business association or financial organization in a course of dissolution, 1 year after the property becomes distributable;

(i) Any property received by a court as proceeds of a class action and not distributed pursuant to the judgment, 1 year after the distribution date;

(j) Except as otherwise provided in NRS 607.170 and 703.375, any property held by a court, government, governmental subdivision, agency or instrumentality, 1 year after the property becomes distributable;

(k) Any wages or other compensation for personal services, 1 year after the compensation becomes payable;

(l) A deposit or refund owed to a subscriber by a utility, 1 year after the deposit or refund becomes payable;

(m) Any property in an individual retirement account, defined benefit plan or other account or plan that is qualified for tax deferral under the income tax laws of the United States, 3 years after the earliest of the date of the distribution or attempted distribution of the property, the date of the required distribution as stated in the plan or trust agreement governing the plan or the date, if determinable by the holder, specified in the income tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty; and

(n) All other property, 3 years after the owner's right to demand the property or after the obligation to pay or distribute the property arises, whichever first occurs.

2. At the time that an interest is presumed abandoned under subsection 1, any other property right accrued or accruing to the owner as a result of the interest, and not previously presumed abandoned, is also presumed abandoned.

3. Property is unclaimed if, for the applicable period set forth in subsection 1, the apparent owner has not communicated, in writing or by other means reflected in a contemporaneous record prepared by or on behalf of the holder, with the holder concerning the property or the account in which the property is held and has not otherwise indicated an interest in the property. A communication with an owner by a person other than the holder or its representative who has not in writing identified the property to the owner is not an indication of interest in the property by the owner.

4. An indication of an owner's interest in property includes:

(a) The presentment of a check or other instrument of payment of a dividend or other distribution made with respect to an account or underlying stock or other interest in a business association or financial organization or,

in the case of a distribution made by electronic or similar means, evidence that the distribution has been received;

(b) Owner-directed activity in the account in which the property is held, including a direction by the owner to increase, decrease or change the amount or type of property held in the account;

(c) The making of a deposit to or withdrawal from a bank account; and

(d) The payment of a premium with respect to a property interest in an insurance policy, but the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy has otherwise become entitled to the proceeds before the depletion of the cash surrender value of a policy by the application of those provisions.

5. Property is payable or distributable for purposes of this chapter notwithstanding the owner's failure to make demand or present an instrument or document otherwise required to obtain payment.

6. *The following property clearly designated as such must not be presumed abandoned because of inactivity or failure to make a demand:*

(a) *An account or asset managed through a guardianship;*

(b) *An account blocked at the direction of a court;*

(c) *A trust account established to address a special need;*

(d) *A qualified income trust account;*

(e) *A trust account established for tuition purposes;*

(f) *A trust account established on behalf of a client; and*

(g) *An account or fund established to meet the costs of burial.*

Sec. 56. NRS 143.020 is hereby amended to read as follows:

143.020 Except as otherwise provided in NRS 143.030 and 146.010, a personal representative has a right to the possession of all the real, as well as personal, property of the decedent and may receive the rents and profits of the property until the estate is settled, or until delivered over by order of the court to the heirs or devisees, and shall make a reasonable effort to keep in good tenable repair all houses, buildings and appurtenances thereon which are under the control of the personal representative.

Sec. 57. NRS 143.030 is hereby amended to read as follows:

143.030 1. A personal representative shall take into possession all the estate of the decedent, real and personal, except that exempted as provided in this title, and shall collect all receivables due the decedent or the estate.

2. For the purpose of bringing actions to quiet title or for partition of the estate, the possession of the personal representative shall be deemed the possession of the heirs or devisees. The possession of heirs or devisees is subject, however, to the possession of the personal representative for all other purposes.

3. *A personal representative shall not take into possession any assets held by a guardian of the decedent pursuant to chapter 159 of NRS until the guardianship is terminated according to the provisions of NRS 159.1905 or*

159.191 and the guardian is ordered to distribute the assets to the personal representative.

Sec. 58. NRS 428.070 is hereby amended to read as follows:

428.070 1. The father ~~{ }~~ or mother ~~{ }~~ ~~children, brothers or sisters,~~ of sufficient financial ability so to do ~~{ }~~ shall pay to the county which has extended county hospitalization to any ~~{person}~~ natural child under the provisions of NRS 428.030 ~~{ }~~ the amount granted to such ~~{person}~~ natural child.

2. *The child of a natural parent receiving county hospitalization pursuant to NRS 428.030 is not liable for the amount paid by the county for that parent, except where the natural child promised to support his natural parent in writing, has access to and control of his natural parent's assets or income and has sufficient financial ability to support his natural parent.*

3. A recipient of aid under the provisions of NRS 428.030 who later acquires sufficient financial ability so to do shall reimburse the county which extended county hospitalization to him for any unpaid portion of the aid granted. Action against the relatives of such person is not a condition precedent to action against him.

~~{ }~~ 4. *The father, mother or child of sufficient financial ability, as appropriate, shall pay to the county the amount the county paid for the burial, entombment or cremation of a natural child or a natural parent.*

5. The board of county commissioners shall advise the Attorney General of the failure of a responsible person to pay such amount and the Attorney General shall cause appropriate legal action to be taken to enforce the collection of all or part of such amount. If suit is filed to enforce the collection, the court shall determine the question of the sufficiency of the financial ability of the person against whom such action is filed, but the board of county commissioners shall determine the responsible person to be sued, and failure of an action against one such person shall not preclude subsequent or concurrent actions against others.

6. *In determining the amount to be ordered for support pursuant to subsections 2 and 4, the court shall consider the circumstances of each party, including:*

- (a) *The earning capacity and needs of each party;*
- (b) *The obligations and assets of each party;*
- (c) *The age and health of each party;*
- (d) *The relationship between the parties; and*
- (e) *Any other factor which the court deems just and equitable.*

Sec. 59. NRS 433.504 is hereby amended to read as follows:

433.504 1. A client or his legal guardian must be:

- (a) Permitted to inspect ~~{his}~~ the client's records; and
- (b) Informed of ~~{his}~~ the client's clinical status and progress at reasonable intervals of no longer than 3 months in a manner appropriate to his clinical condition.

2. Unless a psychiatrist has made a specific entry to the contrary in a client's records, a client *or his legal guardian* is entitled to obtain a copy of his records at any time upon notice to the administrative officer of the facility and payment of the cost of reproducing the records.

Sec. 60. NRS 433A.190 is hereby amended to read as follows:

433A.190 Within 24 hours of a person's admission under emergency admission, the administrative officer of a public or private mental health facility shall give notice of such admission *in person, by telephone or facsimile and* by certified mail to the spouse or legal guardian of that person.

Sec. 61. NRS 433A.220 is hereby amended to read as follows:

433A.220 1. Immediately after he receives any petition filed pursuant to NRS 433A.200 or 433A.210, the clerk of the district court shall transmit the petition to the appropriate district judge, who shall set a time, date and place for its hearing. The date must be within 5 judicial days after the date on which the petition is received by the clerk.

2. The court shall give notice of the petition and of the time, date and place of any proceedings thereon to the subject of the petition, his attorney, if known, *the person's legal guardian*, the petitioner, the district attorney of the county in which the court has its principal office, the local office of an agency or organization that receives money from the Federal Government pursuant to 42 U.S.C. §§ 10801 et seq., to protect and advocate the rights of persons with mental illness and the administrative office of any public or private mental health facility in which the subject of the petition is detained.

3. The provisions of this section do not preclude a facility from discharging a person before the time set pursuant to this section for the hearing concerning the person, if appropriate. *If the person has a legal guardian, the facility shall notify the guardian prior to discharging the person from the facility. The guardian has discretion to determine where the person will be released, taking into consideration any discharge plan proposed by the facility assessment team. If the guardian does not inform the facility as to where the person will be released within 3 days after the date of notification, the facility shall discharge the person according to its proposed discharge plan.*

Sec. 62. NRS 433A.380 is hereby amended to read as follows:

433A.380 1. Except as otherwise provided in subsection 4, any person involuntarily admitted by a court may be conditionally released from a public or private mental health facility when, in the judgment of the medical director of the facility, the conditional release is in the best interest of the person and will not be detrimental to the public welfare. The medical director or his designee of the facility shall prescribe the period for which the conditional release is effective. The period must not extend beyond the last day of the court-ordered period of treatment pursuant to NRS 433A.310. *If the person has a legal guardian, the facility shall notify the guardian before discharging the person from the facility. The guardian has discretion to determine where the person will be released, taking into consideration any*

*discharge plan proposed by the facility assessment team. If the guardian does not inform the facility as to where the person will be released within 3 days after the date of notification, the facility shall discharge the person according to its proposed discharge plan.*

2. When a person is conditionally released pursuant to subsection 1, the State or any of its agents or employees are not liable for any debts or contractual obligations, medical or otherwise, incurred or damages caused by the actions of the person.

3. When a person who has been adjudicated by a court to be incompetent is conditionally released from a mental health facility, the administrative officer of the mental health facility shall petition the court for restoration of full civil and legal rights as deemed necessary to facilitate the incompetent person's rehabilitation. *If the person has a legal guardian, the petition must be filed with the court having jurisdiction over the guardianship.*

4. A person who was involuntarily admitted by a court because he was likely to harm others if allowed to remain at liberty may be conditionally released only if, at the time of the release, written notice is given to the court which admitted him, *to the person's legal guardian* and to the district attorney of the county in which the proceedings for admission were held.

5. Except as otherwise provided in subsection 7, the administrative officer of a public or private mental health facility or his designee shall order a person who is conditionally released from that facility pursuant to this section to return to the facility if a psychiatrist and a member of that person's treatment team who is professionally qualified in the field of psychiatric mental health determine, pursuant to NRS 433A.115, that the conditional release is no longer appropriate because that person presents a clear and present danger of harm to himself or others. Except as otherwise provided in this subsection, the administrative officer or his designee shall, at least 3 days before the issuance of the order to return, give written notice of the order to the court that admitted the person to the facility ~~[-]~~ *and to the person's legal guardian*. If an emergency exists in which the person presents an imminent threat of danger of harm to himself or others, the order must be submitted to the court *and the legal guardian* not later than 1 business day after the order is issued.

6. The court shall review an order submitted pursuant to subsection 5 and the current condition of the person who was ordered to return to the facility at its next regularly scheduled hearing for the review of petitions for involuntary court-ordered admissions, but in no event later than 5 judicial days after the person is returned to the facility. The administrative officer or his designee shall give written notice to the person who was ordered to return to the facility, *to the person's legal guardian* and to his attorney, if known, of the time, date and place of the hearing and of the facts necessitating that person's return to the facility.

7. The provisions of subsection 5 do not apply if the period of conditional release has expired.

Sec. 63. NRS 433A.390 is hereby amended to read as follows:

433A.390 1. When a client, involuntarily admitted to a mental health facility by court order, is released at the end of the time specified pursuant to NRS 433A.310, written notice must be given to the admitting court *and to the client's legal guardian* at least 10 days before the release of the client. The client may then be released without requiring further orders of the court. *If the client has a legal guardian, the facility shall notify the guardian before discharging the client from the facility. The guardian has discretion to determine where the client will be released, taking into consideration any discharge plan proposed by the facility assessment team. If the guardian does not inform the facility as to where the client will be released within 3 days after the date of notification, the facility shall discharge the client according to its proposed discharge plan.*

2. An involuntarily court-admitted client may be unconditionally released before the period specified in NRS 433A.310 when:

(a) An evaluation team established under NRS 433A.250 or two persons professionally qualified in the field of psychiatric mental health, at least one of them being a physician, determines that the client has recovered from his mental illness or has improved to such an extent that he is no longer considered to present a clear and present danger of harm to himself or others; and

(b) Under advisement from the evaluation team or two persons professionally qualified in the field of psychiatric mental health, at least one of them being a physician, the medical director of the mental health facility authorizes the release and gives written notice to the admitting court *and to the client's legal guardian* at least 10 days before the release of the client. *If the client has a legal guardian, the facility shall notify the guardian before discharging the client from the facility. The guardian has discretion to determine where the client will be released, taking into consideration any discharge plan proposed by the facility assessment team. If the guardian does not inform the facility as to where the client will be released within 3 days after the date of notification, the facility shall discharge the client according to its proposed discharge plan.*

Sec. 64. NRS 433A.400 is hereby amended to read as follows:

433A.400 1. An indigent resident of this state discharged as having recovered from his mental illness, but having a residual medical or surgical disability which prevents him from obtaining or holding remunerative employment, ~~shall~~ *must* be returned to the county of his last residence ~~[-]~~, *except as otherwise provided pursuant to subsection 2.* A nonresident indigent with such disabilities ~~shall~~ *must* be returned to the county from which he was involuntarily court-admitted ~~[-]~~, *except as otherwise provided in subsection 2.* The administrative officer of the mental health facility shall first give notice in writing, not less than 10 days ~~prior to~~ *before* discharge, to the board of county commissioners of the county to which the person will be returned ~~[-]~~ *and to the person's legal guardian.*

2. Delivery of the indigent ~~[resident defined in subsection 1 shall]~~ person must be made to an individual or agency authorized to provide further care. *If the person has a legal guardian, the facility shall notify the guardian before discharging the person from the facility. The guardian has discretion to determine where the person will be released, taking into consideration any discharge plan proposed by the facility assessment team. If the guardian does not inform the facility as to where the person will be released within 3 days after the date of notification, the facility shall discharge the person according to its proposed discharge plan.*

3. This section does not authorize the release of any person held upon an order of a court or judge having criminal jurisdiction arising out of a criminal offense.

Sec. 65. NRS 159.0365 is hereby repealed.

Sec. 66. ~~[1. This section and sections 1 to 53, inclusive, and 55 to 65, inclusive, of this act become effective on October 1, 2009.~~

~~2. Section 53 of this act expires by limitation on June 30, 2011.~~

~~3. Section 54 of this act becomes effective on July 1, 2011.] (Deleted by amendment.)~~

#### TEXT OF REPEALED SECTION

159.0365 Proceedings pending in another state.

1. If the court has reason to believe that guardianship proceedings may be pending in another state concerning a ward or proposed ward, the court may order communication with the court in the other state:

(a) To determine the involvement or interest of each jurisdiction;

(b) To promote cooperation, expand the exchange of information and provide any other form of assistance; and

(c) To determine the appropriate jurisdiction for the proceedings.

2. As used in this section, "guardianship" includes, without limitation, a conservatorship.

Senator Care moved that the Senate concur in the Assembly amendment to Senate Bill No. 313.

Remarks by Senator Care.

Senator Care requested that his remarks be entered in the Journal.

Thank you Mr. President. The Assembly deleted certain provisions of this lengthy act that includes among other things provisions from the Uniform Adult Guardianship Act. They deleted the provision that would have exempted guardians from serving on juries under certain circumstances. The Committee is in concurrence.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 333.

The following Assembly amendment was read:

Amendment No. 644.

"SUMMARY—Makes various changes relating to real property. (BDR 9-865)"

"AN ACT relating to real property; revising certain provisions governing encumbrances that secure future advances of principal; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes a borrower to terminate the operation of a mortgage, deed of trust or other instrument encumbering real property as security for future advances of principal by sending written notice to the lender. (NRS 106.380) This bill revises the procedure for a lender to record a statement regarding such a termination and sets forth the procedure for a lender to provide an address for the purpose of receiving such termination notices that is different from any address that is listed for the lender in the mortgage, deed of trust or other instrument.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 106.380 is hereby amended to read as follows:

106.380 1. ~~{The}~~ A borrower may at any time personally deliver or send by certified mail, return receipt requested, ~~{a}~~ written notice to the lender stating that the borrower elects to terminate the operation of ~~{the}~~ an instrument as security for future advances of principal made after the ~~{date of receipt of the notice by the lender.}~~ lender receives the notice. The notice:

(a) Must be delivered or sent to the lender at each address provided for the lender in the instrument or, if applicable, at each address provided for the lender in a document which is effective pursuant to subsection 5; and

(b) Does not become effective until it is received by the lender.

2. Within 4 ~~{working}~~ business days after ~~{receipt of}~~ receiving the notice, the lender must record in the office of the county recorder ~~{of the county where the original}~~ in which the instrument was recorded a statement ~~{which:}~~ that:

(a) ~~{Refers}~~ Expressly refers to the ~~{original}~~ instrument ~~{:}~~ by:

(1) The date on which the instrument was recorded in the office of the county recorder; and

(2) The book, page and document number, as applicable, of the instrument as recorded;

(b) Contains the legal description of the encumbered real property;

(c) ~~{States}~~ Affirms that the notice given pursuant to subsection 1 was received by the lender, ~~{with}~~ and identifies the date of that receipt; and

(d) ~~{States the total}~~ Separately sets forth:

(1) The amount of principal owed ~~{on the date of receipt of the notice on account of all outstanding debts and obligations}~~ that is secured by the instrument; and

~~{(e) States the total amount of}~~

(2) The outstanding interest accrued on ~~the outstanding debts and obligations~~ the principal described in subparagraph (1) as of the date the statement of the lender is recorded.

3. If the lender does not record the statement ~~pursuant to~~ required by subsection 2 within ~~4 working days,~~ the period set forth in subsection 2, the borrower may record a similar statement . ~~and that~~ The borrower's statement has the same effect ~~as~~ as the lender's statement would have had if the lender had recorded the statement required by subsection 2.

4. If a lender wishes to receive notices pursuant to this section at an address other than the address for the lender provided in the instrument, if any, the lender must:

(a) Record, in the office of the county recorder in which the instrument was recorded, a document entitled "Change of Notice Address" that includes, without limitation, the address at which the lender wishes to receive notices pursuant to this section; and

(b) Personally deliver or send by certified mail, return receipt requested, a copy of the document to the borrower at each address provided for the borrower in the instrument, if any.

5. A document recorded pursuant to subsection 4 does not become effective until it is received by the borrower.

Senator Care moved that the Senate concur in the Assembly amendment to Senate Bill No. 333.

Remarks by Senator Care.

Senator Care requested that his remarks be entered in the Journal.

Thank you Mr. President. The Assembly took the language "the interest accrued" and added a word "the outstanding interest accrued." We are in concurrence.

Motion carried by a constitutional majority.

Senate Bill No. 338.

The following Assembly amendment was read:

Amendment No. 785.

Bill ordered enrolled.

"SUMMARY—Authorizes a landlord who leases or subleases any commercial premises to dispose of any abandoned personal property left on the commercial premises under certain circumstances. (BDR 10-1152)"

"AN ACT relating to property; authorizing a landlord who leases or subleases any commercial premises to dispose of any abandoned personal property left on the commercial premises without incurring any civil or criminal liability under certain circumstances; authorizing the landlord to charge and collect certain reasonable and actual costs before releasing the abandoned personal property; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill authorizes a landlord who leases or subleases any commercial premises under a rental agreement that has been terminated for any reason to dispose of any abandoned personal property left on the commercial premises without incurring any civil or criminal liability if the landlord takes ~~reasonable~~ certain steps to notify any holder of a perfected lien or security interest of the existence of the abandoned property and notifies by certified mail, the tenant who left the property on the premises of his intention to dispose of the property. If the landlord and any holder of a perfected lien or security interest have a written agreement concerning the removal and disposal of abandoned property, that agreement determines the rights and obligations of those parties with respect to the removal and disposal of abandoned property.

Section 2 of this bill defines "abandoned personal property" as any personal property which is left unattended on the commercial premises after the termination of the tenancy ~~[, unless the owner of the personal property expresses his intent in writing to return for the personal property,] and which is not removed within a certain period after the landlord has provided certain notices to the tenant and any holder of a perfected lien or security interest in the property.~~ If the abandoned personal property is a vehicle, section 1 requires the vehicle to be disposed of in the manner provided in chapter 487 of NRS for abandoned vehicles.

Section 1 of this bill also authorizes the landlord to charge and collect the reasonable and actual costs of inventory, moving and safe storage, if necessary, of the abandoned personal property before releasing the abandoned personal property to the tenant or his authorized representative. If the tenant disputes the costs claimed by the landlord, section 1 authorizes the dispute to be resolved using the procedure specified in NRS 40.253, as amended by section 3 of this bill.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 118 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~1A~~ Except as otherwise provided in subsection 2, a landlord who leases or subleases any commercial premises under a rental agreement that has been terminated for any reason may, in accordance with the following provisions, dispose of any abandoned personal property, regardless of its character, left on the commercial premises without incurring any civil or criminal liability:

(a) The landlord may dispose of the abandoned personal property and recover his reasonable costs out of the abandoned personal property or the value thereof if the conditions set forth in subparagraphs (1) and (2) are satisfied:

(1) ~~The landlord has taken reasonable steps to:~~

~~(1) Determine whether the abandoned personal property is subject to a lien or security interest; and~~

~~(H) If the abandoned personal property is subject to a lien or security interest, notify the holder of the lien or the security interest that the abandoned personal property has been left on the premises.~~

~~(2)~~ The landlord has notified the tenant in writing of his intention to dispose of the abandoned personal property and 14 days have elapsed since the notice was ~~given~~ mailed to the tenant. The notice must be mailed, by certified mail, return receipt requested, to the tenant at the tenant's present address, and if that address is unknown, then at the tenant's last known address.

(2) The landlord has taken reasonable steps to:

(I) Determine whether the tenant has subjected the abandoned personal property to a perfected lien or security interest; and

(II) If the landlord determines that the tenant has subjected the abandoned personal property to a perfected lien or security interest, notify the holder of the perfected lien or the security interest that the abandoned personal property has been left on the premises.

➔ The landlord shall be deemed to have taken the reasonable steps required by subparagraph (2) if the landlord has reviewed the results of a current search of the records in which a financing statement must be filed in order to perfect a lien or security interest pursuant to chapter 104 of NRS for a financing statement naming the tenant as the debtor of a debt secured by the abandoned personal property and, if such a financing statement is found, mailed, to any secured party named on the financing statement at the address indicated on the financing statement, by certified mail, return receipt requested, a written notice stating that the abandoned personal property has been left on the premises.

(b) The landlord may charge and collect the reasonable and actual costs of inventory, moving and safe storage, if necessary, before releasing the abandoned personal property to the tenant or his authorized representative rightfully claiming the abandoned personal property within the appropriate period set forth in paragraph (a).

(c) Vehicles must be disposed of in the manner provided in chapter 487 of NRS for abandoned vehicles.

2. If a written agreement between a landlord and a secured party who has a perfected lien on, or a perfected security interest in, any abandoned personal property of the tenant contains provisions which relate to the removal and disposal of abandoned personal property, the provisions of the agreement determine the rights and obligations of the landlord and the secured party with respect to the removal and disposal of the abandoned personal property.

3. Any dispute relating to the amount of the costs claimed by the landlord pursuant to paragraph (b) of subsection 1 may be resolved using the procedure provided in subsection 7 of NRS 40.253.

Sec. 2. NRS 118.171 is hereby amended to read as follows:

118.171 As used in NRS 118.171 to 118.205, inclusive, *and section 1 of this act*, unless the context otherwise requires:

1. *"Abandoned personal property" means any personal property which is left unattended on any commercial premises after the termination of the tenancy [ , unless the owner of the personal property has expressed an intent in writing to return for the personal property. ] and which is not removed by the tenant or a person who has a perfected lien on, or perfected security interest in, the personal property within 14 days after the later of the date on which the landlord:*

*(a) Mailed, by certified mail, return receipt requested, notice of his intention to dispose of the personal property, as required by subparagraph (1) of paragraph (a) of subsection 1 of section 1 of this act; or*

*(b) Provided notice to a person who has a perfected lien on, or a perfected security interest in, the personal property that the personal property has been left on the premises, as required by subparagraph (2) of paragraph (a) of subsection 1 of section 1 of this act.*

2. "Real property" includes an apartment, a dwelling, a mobile home that is owned by a landlord and located on property owned by the landlord and commercial premises.

~~{2}~~ 3. "Rental agreement" means an agreement to lease or sublease real property for a term less than life which provides for the periodic payment of rent.

~~{3}~~ 4. "Tenant" means a person who has the right to possess real property pursuant to a rental agreement.

Sec. 3. NRS 40.253 is hereby amended to read as follows:

40.253 1. Except as otherwise provided in subsection 10, in addition to the remedy provided in NRS 40.2512 and 40.290 to 40.420, inclusive, when the tenant of any dwelling, apartment, mobile home, recreational vehicle or commercial premises with periodic rent reserved by the month or any shorter period is in default in payment of the rent, the landlord or his agent, unless otherwise agreed in writing, may serve or have served a notice in writing, requiring in the alternative the payment of the rent or the surrender of the premises:

(a) At or before noon of the fifth full day following the day of service; or

(b) If the landlord chooses not to proceed in the manner set forth in paragraph (a) and the rent is reserved by a period of 1 week or less and the tenancy has not continued for more than 45 days, at or before noon of the fourth full day following the day of service.

↪ As used in this subsection, "day of service" means the day the landlord or his agent personally delivers the notice to the tenant. If personal service was not so delivered, the "day of service" means the day the notice is delivered, after posting and mailing pursuant to subsection 2, to the sheriff or constable for service if the request for service is made before noon. If the request for service by the sheriff or constable is made after noon, the "day of service"

shall be deemed to be the day next following the day that the request is made for service by the sheriff or constable.

2. A landlord or his agent who serves a notice to a tenant pursuant to paragraph (b) of subsection 1 shall attempt to deliver the notice in person in the manner set forth in paragraph (a) of subsection 1 of NRS 40.280. If the notice cannot be delivered in person, the landlord or his agent:

(a) Shall post a copy of the notice in a conspicuous place on the premises and mail the notice by overnight mail; and

(b) After the notice has been posted and mailed, may deliver the notice to the sheriff or constable for service in the manner set forth in subsection 1 of NRS 40.280. The sheriff or constable shall not accept the notice for service unless it is accompanied by written evidence, signed by the tenant when he took possession of the premises, that the landlord or his agent informed the tenant of the provisions of this section which set forth the lawful procedures for eviction from a short-term tenancy. Upon acceptance, the sheriff or constable shall serve the notice within 48 hours after the request for service was made by the landlord or his agent.

3. A notice served pursuant to subsection 1 or 2 must:

(a) Identify the court that has jurisdiction over the matter; and

(b) Advise the tenant of his right to contest the matter by filing, within the time specified in subsection 1 for the payment of the rent or surrender of the premises, an affidavit with the court that has jurisdiction over the matter stating that he has tendered payment or is not in default in the payment of the rent.

4. If the tenant files such an affidavit at or before the time stated in the notice, the landlord or his agent, after receipt of a file-stamped copy of the affidavit which was filed, shall not provide for the nonadmittance of the tenant to the premises by locking or otherwise.

5. Upon noncompliance with the notice:

(a) The landlord or his agent may apply by affidavit of complaint for eviction to the Justice Court of the township in which the dwelling, apartment, mobile home or commercial premises are located or to the district court of the county in which the dwelling, apartment, mobile home or commercial premises are located, whichever has jurisdiction over the matter. The court may thereupon issue an order directing the sheriff or constable of the county to remove the tenant within 24 hours after receipt of the order. The affidavit must state or contain:

(1) The date the tenancy commenced.

(2) The amount of periodic rent reserved.

(3) The amounts of any cleaning, security or rent deposits paid in advance, in excess of the first month's rent, by the tenant.

(4) The date the rental payments became delinquent.

(5) The length of time the tenant has remained in possession without paying rent.

(6) The amount of rent claimed due and delinquent.

(7) A statement that the written notice was served on the tenant in accordance with NRS 40.280.

(8) A copy of the written notice served on the tenant.

(9) A copy of the signed written rental agreement, if any.

(b) Except when the tenant has timely filed the affidavit described in subsection 3 and a file-stamped copy of it has been received by the landlord or his agent, and except when the landlord is prohibited pursuant to NRS 118A.480, the landlord or his agent may, in a peaceable manner, provide for the nonadmittance of the tenant to the premises by locking or otherwise.

6. Upon the filing by the tenant of the affidavit permitted in subsection 3, regardless of the information contained in the affidavit, and the filing by the landlord of the affidavit permitted by subsection 5, the Justice Court or the district court shall hold a hearing, after service of notice of the hearing upon the parties, to determine the truthfulness and sufficiency of any affidavit or notice provided for in this section. If the court determines that there is no legal defense as to the alleged unlawful detainer and the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant. If the court determines that there is a legal defense as to the alleged unlawful detainer, the court shall refuse to grant either party any relief, and, except as otherwise provided in this subsection, shall require that any further proceedings be conducted pursuant to NRS 40.290 to 40.420, inclusive. The issuance of a summary order for removal of the tenant does not preclude an action by the tenant for any damages or other relief to which he may be entitled. If the alleged unlawful detainer was based upon subsection 5 of NRS 40.2514, the refusal by the court to grant relief does not preclude the landlord thereafter from pursuing an action for unlawful detainer in accordance with NRS 40.251.

7. The tenant may, upon payment of the appropriate fees relating to the filing and service of a motion, file a motion with the court, on a form provided by the clerk of the court, to dispute the amount of the costs, if any, claimed by the landlord pursuant to NRS 118A.460 *or section 1 of this act* for the inventory, moving and storage of personal property left on the premises. The motion must be filed within 20 days after the summary order for removal of the tenant or the abandonment of the premises by the tenant, or within 20 days after:

(a) The tenant has vacated or been removed from the premises; and

(b) A copy of those charges has been requested by or provided to the tenant,

↳ whichever is later.

8. Upon the filing of a motion pursuant to subsection 7, the court shall schedule a hearing on the motion. The hearing must be held within 10 days after the filing of the motion. The court shall affix the date of the hearing to

the motion and order a copy served upon the landlord by the sheriff, constable or other process server. At the hearing, the court may:

(a) Determine the costs, if any, claimed by the landlord pursuant to NRS 118A.460 ~~{}~~ or section 1 of this act and any accumulating daily costs; and

(b) Order the release of the tenant's property upon the payment of the charges determined to be due or if no charges are determined to be due.

9. A landlord shall not refuse to accept rent from a tenant that is submitted after the landlord or his agent has served or had served a notice pursuant to subsection 1 if the refusal is based on the fact that the tenant has not paid collection fees, attorney's fees or other costs other than rent, a reasonable charge for late payments of rent or dishonored checks, or a security. As used in this subsection, "security" has the meaning ascribed to it in NRS 118A.240.

10. This section does not apply to the tenant of a mobile home lot in a mobile home park or to the tenant of a recreational vehicle lot in an area of a mobile home park in this State other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection 6 of NRS 40.215.

Senator Wiener moved that the Senate concur in the Assembly amendment to Senate Bill No. 338.

Conflict of interest declared by Senator Care.

Remarks by Senators Wiener and Raggio.

Senator Wiener requested that the following remarks be entered in the Journal.

SENATOR WIENER:

Thank you Mr. President. This bill deals with abandoned property and commercial leasing arrangements. The amendment further clarifies the responsibilities and obligations of the parties, and we concur with the amendment.

SENATOR RAGGIO:

Thank you Mr. President. Is what is required now that there must be a perfected lien before a person can utilize the abandoned property or dispose of it?

Senator Care moved that Senate Bill No. 338 be taken from Unfinished Business and placed on Unfinished Business for the next legislative day.

Motion carried.

Senate Bill No. 350.

The following Assembly amendment was read:

Amendment No. 749.

"SUMMARY—Makes various changes relating to business. (BDR 7-1118)"

"AN ACT relating to business associations; clarifying that an attorney who is a registered agent is not required to report certain privileged information under certain circumstances; increasing the fine imposed on certain foreign

business entities that transact business in this State without qualifying to do business in this State; imposing a fine on persons purporting to do business in this State as a business entity without legally forming that entity; making various technical corrections to various provisions relating to business associations; revising the provisions relating to dissenters' rights; revising the provisions relating to the maintenance of certain lists by certain business associations; revising the provisions relating to the proper venue for the posting of certain notices and the filing of certain actions and for certain other purposes; establishing provisions relating to restricted limited-liability companies and restricted limited partnerships; making various other changes to the provisions relating to business associations; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires a registered agent to notify the Commissioner of Financial Institutions if the registered agent determines that a represented entity is not properly licensed. (NRS 77.410, 604A.710, 675.380) Sections 1, 81 and 82 of this bill clarify that a registered agent who is an attorney is not required to make such a notification if doing so would violate the attorney-client privilege.

Sections 16, 36.1, 48.5, 55.5 and 56.4 of this bill: (1) increase from \$500 to ~~[\$5,000]~~ a minimum of \$1,000 and a maximum of \$10,000 the fine imposed on certain foreign business entities that transact business in this State without registering with the Secretary of State or otherwise qualifying to do business in this State; and (2) allow the district attorney or Attorney General to recover the cost of a proceeding to recover the fine if the district attorney or Attorney General prevails in the proceeding. (NRS 80.055, 86.548, 87A.610, 88.600, 88A.750) Sections 17.6, 36.6, 39.7 and 49.8 of this bill impose the same fine on foreign nonprofit corporations, foreign registered limited-liability partnerships and foreign limited-liability limited partnerships that do business in this State without registering with the Secretary of State.

Sections 1.5, ~~17.4,~~ 27.5, 36.4, 39.3, 39.5, 49.4, 49.6, 56.2 and 56.6 of this bill provide that: (1) a person is subject to a fine of ~~[\$5,000]~~ not more than \$1,000 but not less than \$10,000 if the person is purporting to do business in this State as a business entity ~~(but does not form that entity in accordance with the provisions of existing law,)~~ and willfully fails or neglects to register with the Secretary of State or file with the Secretary of State certain documents; and (2) the district attorney or Attorney General may recover the cost of a proceeding to recover the fine if the district attorney or Attorney General prevails in the proceeding.

Sections 2-14 of this bill make technical corrections to various provisions relating to corporations. (Chapter 78 of NRS)

Existing law provides that certain notices for certain purposes must be posted and certain actions must be filed in certain counties where the principal office of the entity is located or, if the principal office is not located in this State, in the district court in Carson City. (NRS 78.275, 78.345,

78.630, 82.306, 82.471, 82.486) Sections 7, 8, 15, 19, 21 and 22 of this bill provide that instead of the proper venue being the district court in Carson City, the proper venue will lie in the county in which the entity's registered office is located.

Sections 26 and 27 of this bill provide for the formation of a restricted limited-liability company and prescribe the requirements pertaining to such entities. (Chapter 86 of NRS)

Sections 28 and 33 of this bill provide for certain rights of members relating to recordkeeping and the inspection of certain records.

Sections 38, 39 and 49.2 of this bill provide for the formation of a restricted limited partnership and prescribe the requirements pertaining to such entities. (Chapters 87A and 88 of NRS)

Sections 57 and 58 of this bill revise the provisions relating to professional organizations to permit ownership of such entities if at least one stockholder or member is admitted to the State Bar of Nevada. (NRS 89.040, 89.070)

Sections 59-78 of this bill make various changes relating to dissenters' rights, in accordance with recent changes that were made to the Model Business Corporation Act. (Chapter 92A of NRS)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 77.410 is hereby amended to read as follows:

77.410 1. If a registered agent knows or reasonably should know that the entity for which he is the registered agent engages in any business activity that is regulated pursuant to chapter 604A or 675 of NRS and the registered agent or a subsidiary or affiliate of the registered agent performs any service for the represented entity other than:

- (a) Delivering documents for filing to state or local governmental entities;
- (b) Forwarding unopened mail;
- (c) Any service described in NRS 77.400;
- (d) Accounting services incidental to the formation of the entity for which he serves as registered agent provided in accordance with chapter 628 of NRS; or

(e) Legal services incidental to the formation of the entity for which he serves as registered agent if he is an attorney who is licensed to practice law in this State or performs such services under the supervision of an attorney who is licensed to practice law in this State,

↳ the registered agent shall verify with the Division of Financial Institutions of the Department of Business and Industry that the represented entity is licensed pursuant to chapter 604A or 675 of NRS, as applicable.

2. [If] *Except as otherwise provided in this subsection, if a registered agent determines pursuant to subsection 1 that the represented entity is not licensed as required pursuant to chapter 604A or 675 of NRS, the registered agent shall notify the Commissioner of Financial Institutions. This subsection does not require a registered agent who is an attorney to notify the Commissioner if doing so would violate any privilege pursuant to*

*NRS 49.035 to 49.115, inclusive, or the Nevada Rules of Professional Conduct.*

3. A registered agent who accepts an appointment to act as the registered agent for a represented entity whom the registered agent knows or reasonably should know engages in business activities which are regulated pursuant to chapter 604A or 675 of NRS shall not perform any financial transactions on behalf of the represented entity in his capacity as registered agent.

Sec. 1.5. Chapter 78 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Every person, other than a corporation organized and existing pursuant to the laws of another state, territory, the District of Columbia, a possession of the United States or a foreign country, who is purporting to do business in this State as a corporation and who willfully fails or neglects to ~~comply~~ file with the ~~provisions of NRS 78.030 to 78.045, inclusive, 78A.020, 81.060, 84.015 to 84.040, inclusive, or 89.040, whichever is applicable,~~ Secretary of State articles of incorporation is subject to a fine of not less than ~~[\$5,000.]~~ \$1,000 but not more than \$10,000, to be recovered in a court of competent jurisdiction.*

2. *When the Secretary of State is advised that a person is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.*

3. *The Secretary of State may adopt regulations to administer the provisions of this section.*

Sec. 2. NRS 78.130 is hereby amended to read as follows:

78.130 1. Every corporation must have a president, a secretary and a treasurer ~~[-],~~ *or the equivalent thereof.*

2. Every corporation may also have one or more vice presidents, assistant secretaries and assistant treasurers, and such other officers and agents as may be deemed necessary.

3. All officers must be natural persons and must be chosen in such manner, hold their offices for such terms and have such powers and duties as may be prescribed by the bylaws or determined by the board of directors. Any natural person may hold two or more offices.

4. An officer holds office after the expiration of his term until a successor is chosen or until his resignation or removal before the expiration of his term. A failure to elect officers does not require the corporation to be dissolved. Any vacancy occurring in an office of the corporation by death, resignation, removal or otherwise, must be filled as the bylaws provide, or in the absence of such a provision, by the board of directors.

Sec. 3. NRS 78.139 is hereby amended to read as follows:

78.139 1. Except as otherwise provided in subsection 2 or the articles of incorporation, directors and officers confronted with a change or potential change in control of the corporation have:

- (a) The duties imposed upon them by subsection 1 of NRS 78.138; and
- (b) The benefit of the presumptions established by subsection 3 of that section.

2. If directors and officers take action to resist a change or potential change in control of a corporation which impedes the exercise of the right of stockholders to vote for or remove directors:

- (a) The directors must have reasonable grounds to believe that a threat to corporate policy and effectiveness exists; and
- (b) The action taken which impedes the exercise of the stockholders' rights must be reasonable in relation to that threat.

↳ If those facts are found, the directors and officers have the benefit of the presumption established by subsection 3 of NRS 78.138.

3. The provisions of subsection 2 do not apply to:

- (a) Actions that only affect the time of the exercise of stockholders' voting rights; or
- (b) The adoption or ~~execution~~ *signing* of plans, arrangements or instruments that deny rights, privileges, power or authority to a holder of a specified number or fraction of shares or fraction of voting power.

4. The provisions of subsections 2 and 3 do not permit directors or officers to abrogate any right conferred by statute or the articles of incorporation.

5. Directors may resist a change or potential change in control of the corporation if the directors by a majority vote of a quorum determine that the change or potential change is opposed to or not in the best interest of the corporation:

- (a) Upon consideration of the interests of the corporation's stockholders and any of the matters set forth in subsection 4 of NRS 78.138; or
- (b) Because the amount or nature of the indebtedness and other obligations to which the corporation or any successor to the property of either may become subject, in connection with the change or potential change in control, provides reasonable grounds to believe that, within a reasonable time:

- (1) The assets of the corporation or any successor would be or become less than its liabilities;
- (2) The corporation or any successor would be or become insolvent; or
- (3) Any voluntary or involuntary proceeding pursuant to the federal bankruptcy laws concerning the corporation or any successor would be commenced by any person.

Sec. 4. NRS 78.195 is hereby amended to read as follows:

78.195 1. If a corporation desires to have more than one class or series of stock, the articles of incorporation must prescribe, or vest authority in the

board of directors to prescribe, the classes, series and the number of each class or series of stock and the voting powers, designations, preferences, limitations, restrictions and relative rights of each class or series of stock. If more than one class or series of stock is authorized, the articles of incorporation or the resolution of the board of directors passed pursuant to a provision of the articles must prescribe a distinguishing designation for each class and series. The voting powers, designations, preferences, limitations, restrictions, relative rights and distinguishing designation of each class or series of stock must be described in the articles of incorporation or the resolution of the board of directors before the issuance of shares of that class or series.

2. All shares of a series must have voting powers, designations, preferences, limitations, restrictions and relative rights identical with those of other shares of the same series and, except to the extent otherwise provided in the description of the series, with those of other series of the same class.

3. Unless otherwise provided in the articles of incorporation, no stock issued as fully paid up may ever be assessed and the articles of incorporation must not be amended in this particular.

4. Any rate, condition or time for payment of distributions on any class or series of stock may be made dependent upon any fact or event which may be ascertained outside the articles of incorporation or the resolution providing for the distributions adopted by the board of directors if the manner in which a fact or event may operate upon the rate, condition or time of payment for the distributions is stated in the articles of incorporation or the resolution. As used in this subsection, "fact or event" includes, without limitation, the existence of a fact or occurrence of an event, including, without limitation, a determination or action by a person, the corporation itself or any government, governmental agency or political subdivision of a government.

5. The provisions of this section do not restrict the directors of a corporation from taking action to protect the interests of the corporation and its stockholders, including, but not limited to, adopting or signing plans, arrangements or instruments that grant ~~[rights to stockholders]~~ or ~~[that]~~ deny rights, privileges, power or authority to a holder *or holders* of a specified number of shares or percentage of share ownership or voting power.

Sec. 5. NRS 78.205 is hereby amended to read as follows:

78.205 1. A corporation is not obligated to but may sign and deliver a certificate for or including a fraction of a share.

2. In lieu of signing and delivering a certificate for a fraction of a share, a corporation may:

(a) Pay to any person otherwise entitled to become a holder of a fraction of a share an amount in cash based on a per share value, and that value or the method of determining that value must be specified in the articles, plan of reorganization, plan of merger or exchange, resolution of the board of directors, or other instrument pursuant to which the fractional share would otherwise be issued;

(b) Issue such additional fraction of a share as is necessary to increase the fractional share to a full share; or

(c) Sign and deliver registered or bearer scrip over the manual or facsimile signature of an officer of the corporation or of its agent for that purpose, exchangeable as provided on the scrip for full share certificates, but the scrip does not entitle the holder to any rights as a stockholder except as provided on the scrip. The scrip may provide that it becomes void unless the rights of the holders are exercised within a specified period and may contain any other provisions or conditions that the corporation deems advisable. Whenever any scrip ceases to be exchangeable for full share certificates, the shares that would otherwise have been issuable as provided on the scrip are deemed to be treasury shares unless the scrip contains other provisions for their disposition.

3. Any proposed corporate action that would result in *only money being paid* or scrip being ~~delivered instead of fractional shares~~ issued to stockholders who:

(a) Before the proposed corporate action becomes effective, hold 1 percent or more of the outstanding shares of the affected class or series; and

(b) Would otherwise be entitled to receive ~~fractions of shares~~ a *fraction of a share* in exchange for the cancellation of all their outstanding shares,   
↳ is subject to the provisions of NRS 92A.300 to 92A.500, inclusive. If the proposed corporate action is subject to those provisions, any stockholder who is obligated to accept money or scrip rather than receive a fraction of a share resulting from the action taken pursuant to this section may dissent in accordance with ~~the~~ those provisions ~~of NRS 92A.300 to 92A.500, inclusive,~~ and obtain payment of the fair value of the fraction of a share to which the stockholder would otherwise be entitled.

Sec. 6. NRS 78.2055 is hereby amended to read as follows:

78.2055 1. Unless otherwise provided in the articles of incorporation, a corporation that desires to decrease the number of issued and outstanding shares of a class or series held by each stockholder of record at the effective date and time of the change without correspondingly decreasing the number of authorized shares of the same class or series may do so if:

(a) The board of directors adopts a resolution setting forth the proposal to decrease the number of issued and outstanding shares of a class or series; and

(b) The proposal is approved by the vote of stockholders holding a majority of the voting power of the affected class or series, or such greater proportion as may be provided in the articles of incorporation, regardless of limitations or restrictions on the voting power of the affected class or series.

2. If the proposal required by subsection 1 is approved by the stockholders entitled to vote, the corporation may reissue its stock in accordance with the proposal after the effective date and time of the change.

3. Except as otherwise provided in this subsection, if a proposed decrease in the number of issued and outstanding shares of any class or series would adversely alter or change any preference, or any relative or other right given

to any other class or series of outstanding shares, then the decrease must be approved by the vote, in addition to any vote otherwise required, of the holders of shares representing a majority of the voting power of each class or series whose preference or rights are adversely affected by the decrease, or such greater proportion as may be provided in the articles of incorporation, regardless of limitations or restrictions on the voting power of the adversely affected class or series. The decrease does not have to be approved by the vote of the holders of shares representing a majority of the voting power of each class or series whose preference or rights are adversely affected by the decrease if the articles of incorporation specifically deny the right to vote on such a decrease.

4. Any proposal to decrease the number of issued and outstanding shares of any class or series, if any, that includes provisions pursuant to which only money will be paid or scrip will be issued to stockholders who:

(a) Before the decrease in the number of shares becomes effective, hold 1 percent or more of the outstanding shares of the affected class or series; and

(b) Would otherwise be entitled to receive ~~fractions of shares~~ a *fraction of a share* in exchange for the cancellation of all their outstanding shares,

↪ is subject to the provisions of NRS 92A.300 to 92A.500, inclusive. If the proposal is subject to those provisions, any stockholder who is obligated to accept money or scrip rather than receive a fraction of a share resulting from the action taken pursuant to this section may dissent in accordance with ~~the~~ those provisions ~~of NRS 92A.300 to 92A.500, inclusive,~~ and obtain payment of the fair value of the fraction of a share to which the stockholder would otherwise be entitled.

Sec. 6.5. NRS 78.207 is hereby amended to read as follows:

78.207 1. Unless otherwise provided in the articles of incorporation, a corporation that desires to change the number of shares of a class or series, if any, of its authorized stock by increasing or decreasing the number of authorized shares of the class or series and correspondingly increasing or decreasing the number of issued and outstanding shares of the same class or series held by each stockholder of record at the effective date and time of the change, may, except as otherwise provided in subsections 2 and 3, do so by a resolution adopted by the board of directors, without obtaining the approval of the stockholders. The resolution may also provide for a change of the par value, if any, of the same class or series of the shares increased or decreased. After the effective date and time of the change, the corporation may issue its stock in accordance therewith.

2. A proposal to increase or decrease the number of authorized shares of any class or series, if any, that includes provisions pursuant to which only money will be paid or scrip will be issued to stockholders who:

(a) Before the increase or decrease in the number of shares becomes effective, in the aggregate hold 10 percent or more of the outstanding shares of the affected class or series; and

(b) Would otherwise be entitled to receive ~~fractions of shares~~ a fraction of a share in exchange for the cancellation of all ~~of~~ their outstanding shares, ↪ must be approved by the vote of stockholders holding a majority of the voting power of the affected class or series, or such greater proportion as may be provided in the articles of incorporation, regardless of limitations or restrictions on the voting power thereof.

3. Except as otherwise provided in this subsection, if a proposed increase or decrease in the number of authorized shares of any class or series would adversely alter or change any preference or any relative or other right given to any other class or series of outstanding shares, then the increase or decrease must be approved by the vote, in addition to any vote otherwise required, of the holders of shares representing a majority of the voting power of each class or series whose preference or rights are adversely affected by the increase or decrease, regardless of limitations or restrictions on the voting power thereof. The increase or decrease does not have to be approved by the vote of the holders of shares representing a majority of the voting power in each class or series whose preference or rights are adversely affected by the increase or decrease if the articles of incorporation specifically deny the right to vote on such an increase or decrease.

4. Any proposal to increase or decrease the number of authorized shares of any class or series, if any, that includes provisions pursuant to which only money will be paid or scrip will be issued to stockholders who:

(a) Before the increase or decrease in the number of shares becomes effective, hold 1 percent or more of the outstanding shares of the affected class or series; and

(b) Would otherwise be entitled to receive a fraction of a share in exchange for the cancellation of all of their outstanding shares, ↪ is subject to the provisions of NRS 92A.300 to 92A.500, inclusive. If the proposal is subject to those provisions, any stockholder who is obligated to accept money or scrip rather than receive a fraction of a share resulting from the action taken pursuant to this section may dissent in accordance with those provisions and obtain payment of the fair value of the fraction of a share to which the stockholder would otherwise be entitled.

Sec. 7. NRS 78.275 is hereby amended to read as follows:

78.275 1. The directors may at such times and in such amount, as they may from time to time deem the interest of the corporation to require, levy and collect assessments upon the assessable stock of the corporation in the manner provided in this section.

2. Notice of each assessment must be given to the stockholders personally, or by publication once a week for at least 4 weeks, in some newspaper published in the county in which the principal office of the corporation is located or, if the principal office of the corporation is not located in this State, in ~~Carson City,~~ *the county in which the corporation's registered office is located*, and in a newspaper published in the county wherein the property of the corporation is situated if in this State.

3. If, after the notice has been given, any stockholder defaults in the payment of the assessment upon the shares held by him, so many of those shares may be sold as will be necessary for the payment of the assessment upon all the shares held by him, together with all costs of advertising and expenses of sale. The sale of the shares must be made at the office of the corporation at public auction to the highest bidder, after a notice thereof published for 4 weeks as directed in this section, and a copy of the notice mailed to each delinquent stockholder if his address is known 4 weeks before the sale. At the sale the person who offers to pay the assessment so due, together with the expenses of advertising and sale, for the smallest number of shares, or portion of a share, as the case may be, shall be deemed the highest bidder.

Sec. 8. NRS 78.345 is hereby amended to read as follows:

78.345 1. If any corporation fails to elect directors within 18 months after the last election of directors required by NRS 78.330, the district court has jurisdiction in equity, upon application of any one or more stockholders holding stock entitling them to exercise at least 15 percent of the voting power, to order the election of directors in the manner required by NRS 78.330.

2. The application must be made by petition filed in the county where the principal office of the corporation is located or, if the principal office is not located in this State, in ~~{Carson City,}~~ *the county in which the corporation's registered office is located*, and must be brought on behalf of all stockholders desiring to be joined therein. Such notice must be given to the corporation and the stockholders as the court may direct.

3. The directors elected pursuant to this section have the same rights, powers and duties and the same tenure of office as directors elected by the stockholders at the annual meeting held at the time prescribed therefor, next before the date of the election pursuant to this section, would have had.

Sec. 9. NRS 78.350 is hereby amended to read as follows:

78.350 1. Unless otherwise provided in the articles of incorporation, or in the resolution providing for the issuance of the stock adopted by the board of directors pursuant to authority expressly vested in it by the provisions of the articles of incorporation, every stockholder of record of a corporation is entitled at each meeting of stockholders thereof to one vote for each share of stock standing in his name on the records of the corporation. If the articles of incorporation, or the resolution providing for the issuance of the stock adopted by the board of directors pursuant to authority expressly vested in it by the articles of incorporation, provides for more or less than one vote per share for any class or series of shares on any matter, every reference in this chapter to a majority or other proportion of stock shall be deemed to refer to a majority or other proportion of the voting power of all of the shares or those classes or series of shares, as may be required by the articles of incorporation, or in the resolution providing for the issuance of the stock adopted by the board of directors pursuant to authority expressly vested in it

by the provisions of the articles of incorporation, or the provisions of this chapter.

2. Unless a period of more than 60 days or a period of less than 10 days is prescribed or fixed in the articles of incorporation, the directors may prescribe a period not exceeding 60 days before any meeting of the stockholders during which no transfer of stock on the books of the corporation may be made, or may fix, in advance, a record date not more than 60 or less than 10 days before the date of any such meeting as the date as of which stockholders entitled to notice of and to vote at such meetings must be determined. Only stockholders of record on that date are entitled to notice or to vote at such a meeting. If a record date is not fixed, the record date is at the close of business on the day before the day on which the first notice is given or, if notice is waived, at the close of business on the day before the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders applies to an adjournment of the meeting unless the board of directors fixes a new record date for the adjourned meeting. The board of directors must fix a new record date if the meeting is adjourned to a date more than 60 days later than the date set for the original meeting.

3. The board of directors may adopt a resolution prescribing a date upon which the stockholders of record entitled to give written consent pursuant to NRS 78.320 must be determined. The date prescribed by the board of directors may not precede or be more than 10 days after the date the resolution is adopted by the board of directors. If the board of directors does not adopt a resolution prescribing a date upon which the stockholders of record entitled to give written consent pursuant to NRS 78.320 must be determined and:

(a) No prior action by the board of directors is required by this chapter or chapter 92A of NRS before the matter is submitted for consideration by the stockholders, the date is the first date on which a valid, written consent is delivered in accordance with the provisions of NRS 78.320.

(b) Prior action by the board of directors is required by this chapter or chapter 92A of NRS before the matter is submitted for consideration by the stockholders, the date is at the close of business on the day the board of directors adopts the resolution.

4. The provisions of this section do not restrict the directors from taking action to protect the interests of the corporation and its stockholders, including, but not limited to, adopting or signing plans, arrangements or instruments that *grant or deny* rights, privileges, power or authority to a holder or holders of a specified number of shares or percentage of share ownership or voting power.

Sec. 10. NRS 78.378 is hereby amended to read as follows:

78.378 1. The provisions of NRS 78.378 to 78.3793, inclusive, apply to any acquisition of a controlling interest in an issuing corporation unless the articles of incorporation or bylaws of the corporation in effect on the

10th day following the acquisition of a controlling interest by an acquiring person provide that the provisions of those sections do not apply to the corporation or to an acquisition of a controlling interest specifically by types of existing or future stockholders, whether or not identified.

2. The articles of incorporation, the bylaws or a resolution adopted by the directors of the issuing corporation may impose stricter requirements on the acquisition of a controlling interest in the corporation than the provisions of NRS 78.378 to 78.3793, inclusive.

3. The provisions of NRS 78.378 to 78.3793, inclusive, do not restrict the directors of an issuing corporation from taking action to protect the interests of the corporation and its stockholders, including, but not limited to, adopting or signing plans, arrangements or instruments that *grant or* deny rights, privileges, power or authority to a holder *or holders* of a specified number of shares or percentage of share ownership or voting power.

Sec. 11. NRS 78.416 is hereby amended to read as follows:

78.416 "Combination," when used in reference to any resident domestic corporation and any interested stockholder of the resident domestic corporation, means any of the following:

1. Any merger or consolidation of the resident domestic corporation or any subsidiary of the resident domestic corporation with:

(a) The interested stockholder; or

(b) Any other corporation, whether or not itself an interested stockholder of the resident domestic corporation, which is, or after the merger or consolidation would be, an affiliate or associate of the interested stockholder.

2. Any sale, lease, exchange, mortgage, pledge, transfer or other disposition, in one transaction or a series of transactions, to or with the interested stockholder or any affiliate or associate of the interested stockholder of assets of the resident domestic corporation or any subsidiary of the resident domestic corporation:

(a) Having an aggregate market value equal to 5 percent or more of the aggregate market value of all the assets, determined on a consolidated basis, of the resident domestic corporation;

(b) Having an aggregate market value equal to 5 percent or more of the aggregate market value of all the outstanding shares of the resident domestic corporation; or

(c) Representing 10 percent or more of the earning power or net income, determined on a consolidated basis, of the resident domestic corporation.

3. The issuance or transfer by the resident domestic corporation or any subsidiary of the resident domestic corporation, in one transaction or a series of transactions, of any shares of the resident domestic corporation or any subsidiary of the resident domestic corporation that have an aggregate market value equal to 5 percent or more of the aggregate market value of all the outstanding shares of the resident domestic corporation to the interested stockholder or any affiliate or associate of the interested stockholder except under the exercise of warrants or rights to purchase shares offered, or a

dividend or distribution paid or made, pro rata to all stockholders of the resident domestic corporation.

4. The adoption of any plan or proposal for the liquidation or dissolution of the resident domestic corporation proposed by, or under any agreement, arrangement or understanding, whether or not in writing, with, the interested stockholder or any affiliate or associate of the interested stockholder.

5. Any:

(a) Reclassification of securities, including, without limitation, any splitting of shares, dividend distributed in shares, or other distribution of shares with respect to other shares, or any issuance of new shares in exchange for a proportionately greater number of old shares;

(b) Recapitalization of the resident domestic corporation;

(c) Merger or consolidation of the resident domestic corporation with any subsidiary of the resident domestic corporation; or

(d) Other transaction, whether or not with or into or otherwise involving the interested stockholder,

↳ proposed by, or under any agreement, arrangement or understanding, whether or not in writing, with, the interested stockholder or any affiliate or associate of the interested stockholder, which has the effect, directly or indirectly, of increasing the proportionate share of the outstanding shares of any class or series of voting shares or securities convertible into voting shares of the resident domestic corporation or any subsidiary of the resident domestic corporation which is directly or indirectly owned by the interested stockholder or any affiliate or associate of the interested stockholder, except as a result of immaterial changes because of adjustments of fractional shares.

6. Any receipt by the interested stockholder or any affiliate or associate of the interested stockholder of the benefit, directly or indirectly, except proportionately as a stockholder of the resident domestic corporation, of any loan, advance, guarantee, pledge or other financial assistance or any tax credit or other tax advantage provided by or through the resident domestic corporation.

Sec. 12. NRS 78.424 is hereby amended to read as follows:

78.424 "Market value," when used in reference to the shares or property of any resident domestic corporation, means:

1. In the case of shares, the highest closing sale price of a share during the 30 days immediately preceding the date in question on the composite tape for shares listed on the New York Stock Exchange, or, if the shares are not quoted on the composite tape or not listed on the New York Stock Exchange, on the principal United States securities exchange registered under the Securities Exchange Act on which the shares are listed, or, if the shares are not listed on any such exchange, ~~[the highest closing bid quoted with respect to a share during the 30 days preceding the date in question on the National Association of Securities Dealers, Inc.'s, Automated Quotations System or any system then in use, or if no such quotation is available,]~~ the fair market

value on the date in question of a share as determined by the board of directors of the resident domestic corporation in good faith.

2. In the case of property other than cash or shares, the fair market value of the property on the date in question as determined by the board of directors of the resident domestic corporation in good faith.

Sec. 13. NRS 78.437 is hereby amended to read as follows:

78.437 NRS 78.411 to 78.444, inclusive, do not apply to any combination with an interested stockholder who:

1. Was an interested stockholder on January 1, 1991; or
2. ~~Who first~~ First became an interested stockholder on the date that the resident domestic corporation first became a resident domestic corporation solely as a result of the corporation becoming a resident domestic corporation.

Sec. 14. NRS 78.438 is hereby amended to read as follows:

78.438 1. Except as otherwise provided in NRS 78.433 to 78.437, inclusive, a resident domestic corporation may not engage in any combination with any interested stockholder of the resident domestic corporation for 3 years after the date that the person first became an interested stockholder unless the combination or the transaction by which the person first became an interested stockholder is approved by the board of directors of the resident domestic corporation before the person first became an interested stockholder.

2. If a proposal in good faith regarding a combination is made in writing to the board of directors of the resident domestic corporation, the board of directors shall respond, in writing, within 30 days or such shorter period, if any, as may be required by the Securities Exchange Act, setting forth its reasons for its decision regarding the proposal.

3. If a proposal in good faith to ~~purchase shares~~ *enter into a transaction by which the person will become an interested stockholder* is made in writing to the board of directors of the resident domestic corporation, the board of directors, unless it responds affirmatively in writing within 30 days or such shorter period, if any, as may be required by the Securities Exchange Act, is considered to have disapproved the ~~purchase~~ *transaction*.

Sec. 15. NRS 78.630 is hereby amended to read as follows:

78.630 1. Whenever any corporation becomes insolvent or suspends its ordinary business for want of money to carry on the business, or if its business has been and is being conducted at a great loss and greatly prejudicial to the interest of its creditors or stockholders, any creditors holding 10 percent of the outstanding indebtedness, or stockholders owning 10 percent of the outstanding stock entitled to vote, may, by petition setting forth the facts and circumstances of the case, apply to the district court of the county in which the principal office of the corporation is located or, if the principal office is not located in this State, to the district court in ~~Carson City~~ *the county in which the corporation's registered office is located* for a

writ of injunction and the appointment of a receiver or receivers or trustee or trustees.

2. The court, being satisfied by affidavit or otherwise of the sufficiency of the application and of the truth of the allegations contained in the petition and upon hearing after such notice as the court by order may direct, shall proceed in a summary way to hear the affidavits, proofs and allegations which may be offered in behalf of the parties.

3. If upon such inquiry it appears to the court that the corporation has become insolvent and is not about to resume its business in a short time thereafter, or that its business has been and is being conducted at a great loss and greatly prejudicial to the interests of its creditors or stockholders, so that its business cannot be conducted with safety to the public, it may issue an injunction to restrain the corporation and its officers and agents from exercising any of its privileges or franchises and from collecting or receiving any debts or paying out, selling, assigning or transferring any of its estate, money, lands, tenements or effects, except to a receiver appointed by the court, until the court otherwise orders.

Sec. 15.3. NRS 78.650 is hereby amended to read as follows:

78.650 1. Any holder or holders of one-tenth of the issued and outstanding stock may apply to the district court ~~[, held in the district where the]~~ *in the county in which the corporation has its principal place of business* ~~[,]~~ *or, if the principal place of business is not located in this State, to the district court in the county in which the corporation's registered office is located*, for an order dissolving the corporation and appointing a receiver to wind up its affairs, and by injunction restrain the corporation from exercising any of its powers or doing business whatsoever, except by and through a receiver appointed by the court, whenever:

- (a) The corporation has willfully violated its charter;
- (b) Its trustees or directors have been guilty of fraud or collusion or gross mismanagement in the conduct or control of its affairs;
- (c) Its trustees or directors have been guilty of misfeasance, malfeasance or nonfeasance;
- (d) The corporation is unable to conduct the business or conserve its assets by reason of the act, neglect or refusal to function of any of the directors or trustees;
- (e) The assets of the corporation are in danger of waste, sacrifice or loss through attachment, foreclosure, litigation or otherwise;
- (f) The corporation has abandoned its business;
- (g) The corporation has not proceeded diligently to wind up its affairs, or to distribute its assets in a reasonable time;
- (h) The corporation has become insolvent;
- (i) The corporation, although not insolvent, is for any cause not able to pay its debts or other obligations as they mature; or
- (j) The corporation is not about to resume its business with safety to the public.

2. The application may be for the appointment of a receiver, without at the same time applying for the dissolution of the corporation, and notwithstanding the absence, if any there be, of any action or other proceeding in the premises pending in such court.

3. In any such application for a receivership, it is sufficient for a temporary appointment if notice of the same is given to the corporation alone, by process as in the case of an application for a temporary restraining order or injunction, and the hearing thereon may be had after 5 days' notice unless the court directs a longer or different notice and different parties.

4. The court may, if good cause exists therefor, appoint one or more receivers for such purpose, but in all cases directors or trustees who have been guilty of no negligence nor active breach of duty must be preferred in making the appointment. The court may at any time for sufficient cause make a decree terminating the receivership, or dissolving the corporation and terminating its existence, or both, as may be proper.

5. Receivers so appointed have, among the usual powers, all the functions, powers, tenure and duties to be exercised under the direction of the court as are conferred on receivers and as provided in NRS 78.635, 78.640 and 78.645, whether the corporation is insolvent or not.

Sec. 15.7. NRS 78A.020 is hereby amended to read as follows:

78A.020 1. A close corporation must be formed in accordance with NRS 78.030 to 78.055, inclusive, *and section 1.5 of this act*, subject to the following requirements:

(a) All of the issued stock of the corporation of all classes, exclusive of treasury shares, must be represented by certificates and must be held of record by a specified number of persons, not to exceed 30.

(b) All of the issued stock of all classes must be subject to one or more of the restrictions on transfer pursuant to NRS 78A.050.

(c) The corporation shall not offer any of its stock of any class that would constitute a public offering within the meaning of the Securities Act of 1933, 15 U.S.C. §§ 77a et seq.

2. The articles of incorporation of a close corporation must:

(a) Set forth the matters required by NRS 78.035 except that the articles must state that there will be no board of directors if so agreed pursuant to NRS 78A.070.

(b) Contain a heading stating the name of the corporation and that it is a close corporation.

3. The articles of incorporation of a close corporation may set forth the qualifications of stockholders by specifying the classes of persons who are entitled to be holders of record of stock of any class, the classes of persons who are not entitled to be holders of record of stock of any class, or both.

4. To determine the number of holders of record of the stock of a close corporation, stock that is held in joint or common tenancy or by community property must be treated as held by one stockholder.

Sec. 16. NRS 80.055 is hereby amended to read as follows:

80.055 1. Every corporation which *willfully* fails or neglects to comply with the provisions of NRS 80.010 to 80.040, inclusive, ~~is~~

~~(a) Is~~, *is* subject to a fine of not less than ~~[\$500,] [\$5,000,] \$1,000 but not more than \$10,000,~~ to be recovered in a court of competent jurisdiction, ~~and~~

~~(b) 2.~~ *2. Except as otherwise provided in subsection ~~[2.] 3,~~ every corporation which fails or neglects to comply with the provisions of NRS 80.010 to 80.040, inclusive,* may not commence or maintain any action or proceeding in any court of this State until it has fully complied with the provisions of NRS 80.010 to 80.040, inclusive.

~~[2.] 3.~~ *3. An action or proceeding may be commenced by such a corporation if an extraordinary remedy available pursuant to chapter 31 of NRS is all or part of the relief sought. Such an action or proceeding must be dismissed without prejudice if the corporation does not comply with the provisions of NRS 80.010 to 80.040, inclusive, within 45 days after the action or proceeding is commenced.*

~~[3.] 4.~~ *4. When the Secretary of State is advised that a corporation is doing business in contravention of NRS 80.010 to 80.040, inclusive, he ~~shall report that fact to the Governor. The Governor shall,~~ may, as soon as practicable, instruct the district attorney of the county where the corporation has its principal place of business or the Attorney General, or both, to institute proceedings to recover any applicable fine provided for in this section. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.*

~~[4.] 5.~~ *5. The failure of a corporation to comply with the provisions of NRS 80.010 to 80.040, inclusive, does not impair the validity of any contract or act of the corporation, or prevent the corporation from defending any action, suit or proceeding in any court of this State.*

~~[5.] 6.~~ *6. The Secretary of State may adopt regulations to administer the provisions of this section.*

Sec. 17. NRS 80.190 is hereby amended to read as follows:

80.190 1. Except as otherwise provided in subsection 2, each foreign corporation doing business in this State shall, not later than the month of March in each year, publish a statement of its last calendar year's business in two numbers or issues of a newspaper published in this State that has a total weekly circulation of at least 1,000. The statement must include:

- (a) The name of the corporation.
- (b) The name and title of the corporate officer submitting the statement.
- (c) The mailing or street address of the corporation's principal office.
- (d) The mailing or street address of the corporation's office in this State, if one exists.

~~{(c) The total assets and liabilities of the corporation at the end of the year.}~~

2. If the corporation keeps its records on the basis of a fiscal year other than the calendar, the statement required by subsection 1 must be published not later than the end of the third month following the close of each fiscal year.

3. A corporation which neglects or refuses to publish a statement as required by this section is liable to a penalty of \$100 for each month that the statement remains unpublished.

4. Any district attorney in the State or the Attorney General may sue to recover the penalty. The first county suing through its district attorney shall recover the penalty, and if no suit is brought for the penalty by any district attorney, the State may recover through the Attorney General.

Sec. 17.2. Chapter 82 of NRS is hereby amended by adding thereto the provisions of sections 17.4 and 17.6 of this act.

~~Sec. 17.4. 1. Every person, other than a foreign nonprofit corporation, who is purporting to do business in this State as a corporation and who fails or neglects to establish a corporation in accordance with the provisions of this section and NRS 81.200, 81.450 or 82.081 to 82.116, inclusive, whichever is applicable, is subject to a fine of not less than \$5,000, to be recovered in a court of competent jurisdiction.~~

~~2. When the Secretary of State is advised that a person is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.~~

~~3. The Secretary of State may adopt regulations to administer the provisions of this section. (Deleted by amendment.)~~

Sec. 17.6. 1. Every foreign nonprofit corporation which is doing business in this State and which willfully fails or neglects to qualify to do business in this State in accordance with the laws of this State ~~is~~

~~(a) is~~ is subject to a fine of not less than ~~(\$5,000,) \$1,000 but not more than \$10,000, to be recovered in a court of competent jurisdiction. ~~It~~ and~~

~~(b) 2.~~ 2. Except as otherwise provided in subsection ~~2,~~ 3, every foreign nonprofit corporation which is doing business in this State and which fails or neglects to qualify to do business in this State in accordance with the laws of this State may not commence or maintain any action or proceeding in any court of this State until it has qualified to do business in this State.

~~2,~~ 3. An action or proceeding may be commenced by such a corporation if an extraordinary remedy available pursuant to chapter 31 of NRS is all or part of the relief sought. Such an action or proceeding must be

dismissed without prejudice if the corporation does not qualify to do business in this State within 45 days after the action or proceeding is commenced.

~~{3-}~~ 4. When the Secretary of State is advised that a foreign nonprofit corporation is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county where the foreign nonprofit corporation has its principal place of business or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

~~{4-}~~ 5. The failure of a foreign nonprofit corporation to qualify to do business in this State in accordance with the laws of this State does not impair the validity of any contract or act of the corporation, or prevent the corporation from defending any action, suit or proceeding in any court of this State.

~~{5-}~~ 6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 17.8. NRS 82.183 is hereby amended to read as follows:

82.183 1. A corporation shall ~~{maintain at its registered office or principal place of business in this State:~~

~~(a) A current list of its owners of record; or~~

~~(b) A statement indicating where such a list is maintained.~~

~~2. The corporation shall:~~

~~(a) Provide} provide the Secretary of State with the name and contact information of the custodian of the {list described in} members' ledger or duplicate members' ledger kept by the corporation at its registered office pursuant to paragraph (c) of subsection 1 {1-} of NRS 82.181. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.~~

~~{(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.~~

~~3-} 2. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a corporation to {-~~

~~(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or~~

~~(b) Answer} answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.~~

~~{4-}~~ 3. If a corporation fails to comply with any requirement pursuant to subsection ~~{3-}~~ 2, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the corporation to transact business in this State.

~~{5-}~~ 4. The Secretary of State shall not reinstate or revive the right of a corporation to transact business in this State that was revoked or suspended pursuant to subsection ~~{4-}~~ 3 unless:

(a) The corporation complies with the requirements of subsection ~~{3;}~~ 2;  
or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the corporation to transact business in this State.

~~{6;}~~ 5. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 18. NRS 82.206 is hereby amended to read as follows:

82.206 1. Unless otherwise provided in the articles or bylaws, the board of directors may designate one or more committees which, to the extent provided in the *bylaws or in the resolution or resolutions* ~~for in the bylaws,~~ *designating such committee or committees,* have and may exercise the powers of the board of directors in the management of the business and affairs of the corporation, and may have power to authorize the seal of the corporation to be affixed to all papers on which the corporation desires to place a seal.

2. The committee or committees may have such name or names as may be stated in the bylaws or as may be determined from time to time by resolution adopted by the board of directors.

3. Each committee must have at least one director. Unless it is otherwise provided in the articles or bylaws, the board of directors may appoint natural persons who are not directors to serve on the committees.

4. No such committee may:

- (a) Amend, alter or repeal the bylaws;
- (b) Elect, appoint or remove any member of any such committee or any director ~~for officer~~ of the corporation;
- (c) Amend or repeal the articles, adopt a plan of merger or a plan of consolidation with another corporation;
- (d) Authorize the sale, lease or exchange of all of the property and assets of the corporation;
- (e) Authorize the voluntary dissolution of the corporation or revoke proceedings therefor;
- (f) Adopt a plan for the distribution of the assets of the corporation; or
- (g) Amend, alter or repeal any resolution of the board of directors unless it provides by its terms that it may be amended, altered or repealed by a committee.

Sec. 19. NRS 82.306 is hereby amended to read as follows:

82.306 1. If any corporation fails to elect directors within 18 months after the last election of directors required by NRS 82.286, the district court has jurisdiction in equity, upon application of any one or more of the members of the corporation representing 10 percent of the voting power of the members entitled to vote for the election of directors or for the election of delegates who are entitled to elect directors, or 50 members, whichever is less, to order the election of directors as required by NRS 82.286.

2. The application must be made by petition filed in the county where the principal office of the corporation is located or, if the principal office is not located in this State, in ~~{Carson City,}~~ *the county in which the corporation's registered office is located*, and must be brought on behalf of all members desiring to be joined therein. Such notice must be given to the corporation and the members as the court may direct.

Sec. 20. NRS 82.336 is hereby amended to read as follows:

82.336 1. A corporation having members entitled to vote on the matter involved must hold a special meeting of delegates or members if:

(a) The board of directors or persons authorized to do so by the articles or bylaws demand such a meeting; or

(b) At least 5 percent of the members demand such a meeting.

↪ The demand must state the purpose for the meeting. Those making the demand on the corporation must sign, date and deliver their demand to the president, chairman of the board or the treasurer of the corporation. The corporation must then immediately give notice of a special meeting of delegates or members as set forth in subsections 2 to 7, inclusive ~~{ }~~, *or subsection 9.*

2. Whenever under the provisions of this chapter delegates or members are required or authorized to take any action at a meeting, the notice of the meeting must be in writing and signed by the president or the chairman of the board or a vice president, or the secretary, or an assistant secretary, or by such other person or persons as the bylaws may prescribe or permit or the directors designate.

3. The notice must state the purpose or purposes for which the meeting is called and the time when, and the place, which may be within or without this State, where it is to be held.

4. A copy of the notice must be delivered personally, ~~{or must be}~~ mailed postage prepaid ~~{ }~~ *or given as provided in subsection 9* to each delegate or member, as the case may be, entitled to vote at the meeting not less than 10 nor more than 60 days before such meeting. If mailed, it must be directed to the person at his address as it appears upon the records of the corporation. Upon the mailing of any notice the service thereof is complete, and the time of the notice begins to run from the date upon which the notice is deposited in the mail for transmission to the person. Personal delivery of the notice to any officer of a corporation or association, or to any member of a partnership, constitutes delivery of the notice to the corporation, association or partnership.

5. The articles or bylaws may require that the notice be also published in one or more newspapers.

6. Notice duly delivered or mailed to a delegate or member in accordance with the provisions of this section and the provisions, if any, of the articles or bylaws is sufficient, and in the event of the transfer of a membership after the delivery or mailing and before the holding of the meeting it is not necessary to deliver or mail notice of the meeting to the transferee.

7. Any delegate or member may waive notice of any meeting by a writing signed by him, or his duly authorized attorney, either before or after the meeting.

8. Unless otherwise provided in the articles or bylaws, whenever notice is required to be given, under any provision of this chapter or the articles or bylaws of any corporation, to any member to whom notice of two consecutive annual meetings, and all notices of meetings or of the taking of action by written consent without a meeting to him during the period between those two consecutive annual meetings, have been mailed addressed to him at his address as shown on the records of the corporation and have been returned undeliverable, the giving of further notices to him is not required. Any action or meeting taken or held without notice to that person has the same force and effect as if the notice had been given. If any such person delivers to the corporation a written notice setting forth his current address, the requirement that notice be given to him is reinstated. If the action taken by the corporation is such as to require the filing of a certificate under any of the other sections of this title, the certificate need not state that notice was not given to persons to whom notice was not required to be given pursuant to this subsection.

9. *Any notice to members or delegates given by the corporation pursuant to any provision of this chapter, chapter 92A of NRS, the articles of incorporation or the bylaws is effective if given in the same manner that a corporation is required to give notice to its stockholders pursuant to NRS 78.370.*

Sec. 21. NRS 82.471 is hereby amended to read as follows:

82.471 1. Whenever any corporation becomes insolvent or suspends its ordinary business for want of funds to carry on the business, or if its business has been and is being conducted at a great loss and greatly prejudicial to the interest of its creditors or members, creditors holding 10 percent of the outstanding indebtedness, or members, if any, having 10 percent of the voting power to elect directors, may, by petition or bill of complaint setting forth the facts and circumstances of the case, apply to the district court of the county in which the principal office of the corporation is located or to the district court in ~~{Carson City}~~ *the county in which the corporation's registered office is located* for a writ of injunction and the appointment of a receiver or receivers or trustee or trustees.

2. The court, being satisfied by affidavit or otherwise of the sufficiency of the application and of the truth of the allegations contained in the petition or bill, and upon hearing after such notice as the court by order may direct, shall proceed in a summary way to hear the affidavits, proofs and allegations which may be offered in behalf of the parties.

3. If upon the inquiry it appears to the court that the corporation has become insolvent and is not about to resume its business in a short time thereafter, or that its business has been and is being conducted at a great loss and greatly prejudicial to the interests of its creditors or members, so that its

business cannot be conducted with safety to the public, it may issue an injunction to restrain the corporation and its officers and agents from exercising any of its privileges or franchises and from collecting or receiving any debts or paying out, selling, assigning or transferring any of its estate, money, funds, lands, tenements or effects, except to a receiver appointed by the court, until the court otherwise orders.

Sec. 22. NRS 82.486 is hereby amended to read as follows:

82.486 1. The persons described in subsections 2 and 3 may apply to the district court in the district where the corporation has its principal office or, if the principal office is not located in this State, to the district court in ~~{Carson City,}~~ *the county in which the corporation's registered office is located:*

(a) For an order dissolving the corporation and appointing a receiver to wind up its affairs, and by injunction restrain the corporation from exercising any of its powers or doing business whatsoever, except by or through a receiver appointed by the court; or

(b) For such other equitable relief that is just and proper in the circumstances.

2. A member or members, if any, holding at least one-third of the voting power for the election of directors or a majority of the directors in office, may apply for the relief described in subsection 1 whenever it is established that:

(a) The corporation has willfully violated its charter;

(b) Its trustees or directors have been guilty of fraud or collusion or gross mismanagement in the conduct or control of its affairs;

(c) Its trustees or directors have been guilty of misfeasance, malfeasance or nonfeasance;

(d) The corporation is unable to conduct its activities or conserve its assets by reason of the act, neglect or refusal to function of any of the directors or trustees;

(e) The assets of the corporation are in danger of waste, misapplication, sacrifice or loss;

(f) The corporation has abandoned its business;

(g) The corporation has not proceeded diligently to wind up its affairs or to distribute its assets in a reasonable time;

(h) The corporation has become insolvent;

(i) The corporation, although not insolvent, is for any cause not able to pay its debts or other obligations as they mature;

(j) The corporation is not about to resume its business with safety to the public;

(k) The period of corporate existence has expired and has not been lawfully extended;

(l) The corporation has solicited property and has failed to use it for the purpose solicited;

(m) The corporation has fraudulently used or solicited property; or

(n) The corporation has exceeded its powers.

3. The Attorney General may apply for the relief described in subsection 1 whenever the corporation is a corporation for public benefit and whenever it is established that:

- (a) The corporation has willfully violated its charter;
- (b) Its trustees or directors have been guilty of fraud or collusion or gross mismanagement in the conduct or control of its affairs;
- (c) The corporation has abandoned its business;
- (d) The corporation has become insolvent;
- (e) The corporation, although not insolvent, is for any cause not able to pay its debts or other obligations as they mature;
- (f) The corporation has solicited property and has failed to use it for the purpose solicited;
- (g) The corporation has fraudulently used or solicited property; or
- (h) The period of corporate existence has expired and has not been lawfully extended.

4. Any person or superior organization under which the corporation was formed, if expressly authorized to act by the articles, may apply for the relief described in subsection 1 pursuant to the grounds, if any, set forth in the articles.

Sec. 23. (Deleted by amendment.)

Sec. 24. (Deleted by amendment.)

Sec. 25. Chapter 86 of NRS is hereby amended by adding thereto the provisions set forth as sections 26 to 29, inclusive, of this act.

Sec. 26. *"Restricted limited-liability company" means a limited-liability company organized and existing under this chapter that elects to include the optional provisions permitted by NRS 86.161.*

Sec. 27. *1. If a limited-liability company has elected in its articles of organization to be a restricted limited-liability company pursuant to NRS 86.161, subject to the provisions of NRS 86.343, and unless otherwise provided in the articles of organization, the company shall not make any distributions to its members with respect to their member's interests until 10 years after:*

*(a) The date of formation of the restricted limited-liability company as long as the original articles of organization elected to be treated as a restricted limited-liability company and as long as the company has remained a restricted limited-liability company since the date of formation;*  
*or*

*(b) The effective date of the amendment to the articles of organization in which the company elected to be treated as a restricted limited-liability company and as long as the company has remained a restricted limited-liability company since the effective date of the amendment.*

*2. The provisions of this section apply as the default provisions of a restricted limited-liability company to the extent the provisions of this section are inconsistent with or add to the other provisions of this chapter and to the*

extent not otherwise modified in the articles of organization of the restricted limited-liability company.

Sec. 27.5. 1. Every person, other than a foreign limited-liability company, who is purporting to do business in this State as a limited-liability company and who willfully fails or neglects to ~~form the limited-liability company in accordance with the provisions of NRS 86.151 or 89.040, whichever is applicable,~~ file with the Secretary of State articles of organization is subject to a fine of not less than ~~+\$5,000,~~ \$1,000 but not more than \$10,000, to be recovered in a court of competent jurisdiction.

2. When the Secretary of State is advised that a person is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

3. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 28. 1. The rights authorized by NRS 86.241 may be denied to a member or manager, as the case may be, or to such person's attorney or other agent, upon the refusal of the member or manager to furnish to the limited-liability company an affidavit that the provision or examination of records is not desired for a purpose which is in the interest of a business or object other than the business of the company and that such person has not at any time sold or offered for sale any list of members of any domestic or foreign limited-liability company or any list of stockholders of any domestic or foreign corporation or aided or abetted any person in procuring any such record for any such purpose.

2. Any action to enforce any rights arising under NRS 86.241 must be brought in the district court for the county in which the limited-liability company has its principal place of business or if such principal office is not located in this State, the county in which the company's registered office is located. If the company refuses to permit a member to obtain or a manager to examine the records described in NRS 86.241 or does not reply to a demand within 10 business days after the demand has been made, the demanding member or manager may apply to the district court for an order to compel such action.

3. The district court has exclusive jurisdiction to determine whether or not the person seeking such records is entitled to the records sought. The district court may:

(a) Order the limited-liability company to permit the demanding member to obtain or manager to examine the records described in NRS 86.241 and to make copies or abstracts therefrom;

(b) Order the company to furnish to the demanding member or manager the records described in NRS 86.241 on the condition that the demanding member or manager first pay to the company the reasonable cost of obtaining and furnishing such records and on such other conditions as the district court deems appropriate;

(c) In its discretion, prescribe any limitations or conditions with reference to the obtaining or examining of records, or award such other or further relief including an award of attorney's fees and costs to the prevailing party in the dispute as the district court may deem just and proper; or

(d) Order records, pertinent extracts therefrom, or duly authenticated copies thereof, to be brought within this State and kept in this State upon such terms and conditions as the order may prescribe.

4. It is a defense to any action for penalties or damages under this section that the person bringing such action has at any time sold or offered for sale any list of members of any domestic or foreign limited-liability company or any list of stockholders of any domestic or foreign corporation, or has aided or abetted any person in procuring any such record for any such purpose, or that the person bringing such action desired inspection for a purpose which is in the interest of a business or object other than the business of the company.

5. This section does not impair the power or jurisdiction of any court to compel the production for examination of the records of a limited-liability company in any proper case.

Sec. 29. 1. A person is admitted as an initial member of a limited-liability company:

(a) If the company is a limited-liability company managed by its members, upon the filing of the articles of organization with the Secretary of State or upon a later date specified in the articles of organization; or

(b) If the company is a limited-liability company managed by a manager or managers, as of the time set forth in and upon compliance with the operating agreement or, if the operating agreement does not so provide or if the company has no operating agreement, as of the time of such person's admission as reflected in the records of the company.

2. Unless otherwise provided in the articles of organization, after the admission of the initial member or members of a limited-liability company in accordance with subsection 1, a person is admitted as a member:

(a) In the case of a person who is not a transferee of a member's interest, including a person being admitted as a noneconomic member and a person acquiring a member's interest directly from the company, as of the time set forth in and upon compliance with the operating agreement or, if the operating agreement does not so provide or if the company has no operating agreement, upon the consent of all the members and as of the time of such person's admission as reflected in the records of the company;

(b) In the case of a transferee of a member's interest who is a substituted member pursuant to NRS 86.351, as provided in NRS 86.351 or 86.491 and

*as of the time set forth in and upon compliance with the operating agreement or, if the operating agreement does not so provide or if the company has no operating agreement, as of the time of such person's admission as reflected in the records of the company;*

*(c) In the case of a person being admitted as a member of a surviving or resulting limited-liability company pursuant to a merger, conversion or exchange approved in accordance with NRS 92A.150, as of the time set forth in and upon compliance with the operating agreement of the surviving or resulting limited-liability company or in the plan of merger, conversion or exchange, and in the event of any inconsistency, the terms of the plan of merger, conversion or exchange control; and*

*(d) In the case of a person being admitted as a member of a limited-liability company pursuant to a merger, conversion or exchange in which such limited-liability company is not the surviving or resulting entity, as of the time set forth in and upon compliance with the operating agreement of such limited-liability company.*

*3. In connection with the domestication of an undomesticated organization as a limited-liability company in this State in accordance with NRS 92A.270, a person is admitted as a member of the company as of the time set forth in and upon compliance with the articles of domestication or in the operating agreement of the resulting domestic limited-liability company or, if the articles of domestication and the operating agreement do not so provide or if the articles of domestication do not so provide and the company has no operating agreement, as of the time of such person's admission as reflected in the records of the resulting domestic limited-liability company.*

*4. Unless otherwise provided in the articles of organization, the operating agreement or another agreement approved or adopted by all of the members, no member has a preemptive right to acquire any unissued member's interests or other interests in a limited liability company.*

Sec. 30. NRS 86.011 is hereby amended to read as follows:

86.011 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 86.022 to 86.128, inclusive, *and section 26 of this act* have the meanings ascribed to them in those sections.

Sec. 31. NRS 86.061 is hereby amended to read as follows:

86.061 "Limited-liability company" or "company" means a limited-liability company organized and existing under this chapter ~~+~~, *including a restricted limited-liability company.*

Sec. 32. NRS 86.161 is hereby amended to read as follows:

86.161 1. The articles of organization must set forth:

- (a) The name of the limited-liability company;
- (b) The information required pursuant to NRS 77.310;
- (c) The name and address, either residence or business, of each of the organizers signing the articles;
- (d) If the company is to be managed by:

(1) One or more managers, the name and address, either residence or business, of each initial manager; or

(2) The members, the name and address, either residence or business, of each initial member; ~~and~~

(e) If the company is to have one or more series of members and the debts or liabilities of any series are to be enforceable against the assets of that series only and not against the assets of another series or the company generally, a statement to that effect and a statement:

(1) Setting forth the relative rights, powers and duties of the series; or

(2) Indicating that the relative rights, powers and duties of the series will be set forth in the operating agreement or established as provided in the operating agreement ~~[-]~~; and

(f) *If the company is to be a restricted limited-liability company, a statement to that effect.*

2. The articles may set forth any other provision, not inconsistent with law, which the members elect to set out in the articles of organization for the regulation of the internal affairs of the company, including any provisions which under this chapter are required or permitted to be set out in the operating agreement of the company.

3. It is not necessary to set out in the articles of organization:

(a) The rights of the members to contract debts on behalf of the limited-liability company if the limited-liability company is managed by its members;

(b) The rights of the manager or managers to contract debts on behalf of the limited-liability company if the limited-liability company is managed by a manager or managers; or

(c) Any of the powers enumerated in this chapter.

Sec. 33. NRS 86.241 is hereby amended to read as follows:

86.241 1. Each limited-liability company shall continuously maintain in this State an office, which may but need not be a place of its business in this State, at which it shall keep, unless otherwise provided by an operating agreement:

(a) A current list of the full name and last known business address of each member and manager, separately identifying the members in alphabetical order and the managers, if any, in alphabetical order;

(b) A copy of the filed articles of organization and all amendments thereto, together with signed copies of any powers of attorney pursuant to which any record has been signed; and

(c) Copies of any then effective operating agreement of the company.

2. ~~Records kept pursuant to this section are subject to inspection and copying at the reasonable request, and at the expense, of any member during ordinary business hours, unless otherwise provided in an operating agreement.~~ *In lieu of keeping at an office in this State the information required in paragraphs (a) and (b) of subsection 1, the limited-liability company may keep a statement with the registered agent setting out the name*

of the custodian of the information required in paragraphs (a) and (b) of subsection 1, and the present and complete address, including street and number, if any, where the information required in paragraphs (a) and (b) of subsection 1 is kept.

3. Each member of a limited-liability company is entitled to obtain from the company, from time to time upon reasonable demand, for any purpose reasonably related to the interest of the member as a member of the company:

(a) The records required to be maintained pursuant to subsection 1;

(b) True and, in light of the member's stated purpose, complete records regarding the activities and the status of the business and financial condition of the company;

(c) Promptly after becoming available, a copy of the company's federal, state and local income tax returns for each year;

(d) True and complete records regarding the amount of cash and a description and statement of the agreed value of any other property or services contributed by each member and which each member has agreed to contribute in the future, and the date on which each became a member; and

(e) Other records regarding the affairs of the company as is just and reasonable under the circumstances and in light of the member's stated purpose for demanding such records.

↳ The right to obtain records under this subsection includes, if reasonable, the right to make copies or abstracts by photographic, xerographic, electronic or other means.

4. Each manager of a limited-liability company managed by a manager or managers is entitled to examine from time to time upon reasonable demand, for a purpose reasonably related to the manager's rights, powers and duties as such, the records described in subsection 3.

5. Any demand by a member or manager under subsection 3 or 4 is subject to such reasonable standards regarding at what time and location and at whose expense records are to be furnished as may be set forth in the articles of organization or in an operating agreement adopted or amended as provided in subsection 8 or, if no such standards are set forth in the articles of organization or operating agreement, the records must be provided or made available for examination, as the case may be, during ordinary business hours, at the company's office required to be maintained pursuant to subsection 1 and at the expense of the demanding member or manager.

6. Any demand by a member or manager under this section must be in writing and must state the purpose of such demand. When a demanding member seeks to obtain or a manager seeks to examine the records described in subsection 3, the demanding member or manager must first establish that:

(a) The demanding member or manager has complied with the provisions of this section respecting the form and manner of making a demand for obtaining or examining such records; and

(b) *The records sought by the demanding member or manager are reasonably related to the member's interest as a member or the manager's rights, powers and duties as a manager, as the case may be.*

7. *In every instance where an attorney or other agent of a member or manager seeks to exercise any right arising under this section on behalf of such member or manager, the demand must be accompanied by a power of attorney signed by the member or manager authorizing the attorney or other agent to exercise such rights on his behalf.*

8. *The rights of a member to obtain or a manager to examine records as provided in this section may be restricted or denied entirely in the articles of organization or in an operating agreement adopted by all of the members or by the sole member or in any subsequent amendment adopted by all of the members at the time of amendment.*

Sec. 34. NRS 86.246 is hereby amended to read as follows:

86.246 1. ~~In addition to any records required to be kept pursuant to NRS 86.241, a~~ A limited-liability company shall maintain at its registered office or principal place of business in this State ~~;~~

~~(a) A current list of each member and manager; or~~

~~(b) A~~ a statement indicating where ~~[such a list]~~ the list required pursuant to paragraph (a) of subsection 1 of NRS 86.241 is maintained.

2. A limited-liability company shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1 ~~;~~, *if different than the registered agent for such company*. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the ~~[information contained in]~~ *custodian* of the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a limited-liability company to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to *paragraph (a) of subsection 1* ~~;~~ *of NRS 86.241*; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a limited-liability company fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the charter of the limited-liability company.

5. The Secretary of State shall not reinstate or revive a charter that was revoked or suspended pursuant to subsection 4 unless:

(a) The limited-liability company complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the charter.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 35. NRS 86.286 is hereby amended to read as follows:

86.286 1. A limited-liability company may, but is not required to, adopt an operating agreement. An operating agreement may be adopted only by the unanimous vote or unanimous written consent of the members, or by the sole member, and the operating agreement must be in writing. *If any operating agreement provides for the manner in which it may be amended, including by requiring the approval of a person who is not a party to the operating agreement or the satisfaction of conditions, it may be amended only in that manner or as otherwise permitted by law and any attempt to otherwise amend the operating agreement shall be deemed void and of no legal force or effect unless otherwise provided in the operating agreement.* Unless otherwise provided in the operating agreement, amendments to the agreement may be adopted only by the unanimous vote or unanimous written consent of the persons who are members at the time of amendment.

2. An operating agreement may be adopted before, after or at the time of the filing of the articles of organization and, whether entered into before, after or at the time of the filing, may become effective at the formation of the limited-liability company or at a later date specified in the operating agreement. If an operating agreement is adopted:

(a) Before the filing of the articles of organization or before the effective date of formation specified in the articles of organization, the operating agreement is not effective until the effective date of formation of the limited-liability company.

(b) After the filing of the articles of organization or after the effective date of formation specified in the articles of organization, the operating agreement binds the limited-liability company and may be enforced whether or not the limited-liability company assents to the operating agreement.

3. An operating agreement may provide that a certificate of limited-liability company interest issued by the limited-liability company may evidence a member's interest in a limited-liability company.

4. *An operating agreement:*

(a) *May provide rights to any person, including a person who is not a party to the operating agreement, to the extent set forth therein.*

(b) *Must be interpreted and construed to give the maximum effect to the principle of freedom of contract and enforceability.*

5. *To the extent that a member or manager or other person has duties to a limited-liability company, to another member or manager, or to another person that is a party to or is otherwise bound by the operating agreement, the member, manager or other person's duties may be expanded, restricted or eliminated by provisions in the operating agreement, except that an*

*operating agreement may not eliminate the implied contractual covenant of good faith and fair dealing.*

6. *Unless otherwise provided in an operating agreement, a member or manager or other person is not liable to a limited-liability company, another member or manager, or to another person that is a party to or otherwise bound by an operating agreement for breach of fiduciary duty for the member, manager or other person's good faith reliance on the provisions of the operating agreement.*

7. *An operating agreement may provide for the limitation or elimination of any and all liabilities for breach of contract and breach of duties of a member, manager or other person to a limited-liability company, to another member or manager, or to another person that is a party to or is otherwise bound by the operating agreement. An operating agreement may not limit or eliminate liability for any act or omission that constitutes a bad faith violation of the implied contractual covenant of good faith and fair dealing.*

Sec. 36. NRS 86.291 is hereby amended to read as follows:

86.291 1. Except as otherwise provided in this section or *in the articles of organization ~~and~~ or operating agreement*, management of a limited-liability company is vested in its members in proportion to their contribution to its capital, as adjusted from time to time to reflect properly any additional contributions or withdrawals by the members.

2. Unless otherwise provided in the articles of organization or operating agreement, the management of a series is vested in the members associated with the series in proportion to their contribution to the capital of the series, as adjusted from time to time to reflect properly any additional contributions or withdrawals from the assets or income of the series by the members associated with the series.

3. If provision is made in the articles of organization, management of the company may be vested in a manager or managers, who may but need not be members . ~~[in the manner prescribed by the operating agreement of the company.]~~ The manager or managers ~~[also]~~ shall hold the offices , ~~[and]~~ have the responsibilities ~~[accorded to them by the members and set out in the operating agreement.]~~ and otherwise manage the company as set forth in the operating agreement of the company or, if the company has not adopted an operating agreement, then as prescribed by the members.

Sec. 36.1. NRS 86.548 is hereby amended to read as follows:

86.548 1. ~~[A]~~ Every foreign limited-liability company transacting business in this State ~~[may]~~ which willfully fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 86.544 ~~[~~

~~(a) Is]~~ is subject to a fine of not less than ~~[\$5,000.]~~ \$1,000 but not more than \$10,000, to be recovered in a court of competent jurisdiction . ~~[and~~

~~(b) May]~~

2. Every foreign limited-liability company transacting business in this State which fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 86.544 may not commence or

maintain any action, suit or proceeding in any court of this State until it has registered ~~[in this State.]~~ *with the Secretary of State.*

~~[2.]~~ 3. The failure of a foreign limited-liability company to register ~~[in this State]~~ *with the Secretary of State* does not impair the validity of any contract or act of the foreign limited-liability company, or prevent the foreign limited-liability company from defending any action, suit or proceeding in any court of this State.

~~[3.]~~ 4. *When the Secretary of State is advised that a foreign limited-liability company is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county where the foreign limited-liability company has its principal place of business or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.*

~~[4.]~~ 5. A foreign limited-liability company, by transacting business in this State without ~~[registration.]~~ *registering with the Secretary of State*, appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this State by the foreign limited-liability company.

~~[5.]~~ 6. *The Secretary of State may adopt regulations to administer the provisions of this section.*

Sec. 36.3. Chapter 87 of NRS is hereby amended by adding thereto the provisions set forth as section 36.4 and 36.6 of this act.

Sec. 36.4. *1. Every person, other than a foreign registered limited-liability partnership, who is purporting to do business in this State as a registered limited-liability partnership and who willfully fails or neglects to ~~[comply]~~ file with the ~~[provisions of NRS 87.440]~~ Secretary of State a certificate of registration is subject to a fine of not less than ~~[\$5,000.]~~ \$1,000 but not more than \$10,000, to be recovered in a court of competent jurisdiction.*

*2. When the Secretary of State is advised that a person is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in ~~[this]~~ subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.*

*3. The Secretary of State may adopt regulations to administer the provisions of this section.*

Sec. 36.6. *1. Every foreign registered limited-liability partnership which is doing business in this State and which willfully fails or neglects to*

register with the Secretary of State pursuant to NRS 87.440 to 87.500, inclusive, and 87.541 to 87.544, inclusive ~~is~~

~~(a) Is~~, is subject to a fine of not less than ~~[\$5,000,] \$1,000~~ but not more than ~~\$10,000,~~ to be recovered in a court of competent jurisdiction. ~~is and~~

~~(b) May~~

2. Every foreign registered limited-liability partnership which is doing business in this State and which fails or neglects to register with the Secretary of State pursuant to NRS 87.440 to 87.500, inclusive, and 87.541 to 87.544, inclusive, may not commence or maintain any action, suit or proceeding in any court of this State until it has registered with the Secretary of State pursuant to NRS 87.440 to 87.500, inclusive, and 87.541 to 87.544, inclusive.

~~2.~~ 3. The failure of a foreign registered limited-liability partnership to register in this State does not impair the validity of any contract or act of the foreign registered limited-liability partnership, or prevent the foreign registered limited-liability partnership from defending any action, suit or proceeding in any court of this State.

~~3.~~ 4. When the Secretary of State is advised that a foreign registered limited-liability partnership is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the foreign registered limited-liability partnership's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

~~4.~~ 5. A foreign registered limited-liability partnership, by transacting business in this State without registration, appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this State by the foreign registered limited-liability partnership.

~~5.~~ 6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 36.7. NRS 87.550 is hereby amended to read as follows:

87.550 In addition to any other fees required by NRS 87.440 to 87.540, inclusive, and section 36.4 of this act, and 87.560, the Secretary of State shall charge and collect the following fees for services rendered pursuant to those sections:

1. For certifying records required by NRS 87.440 to 87.540, inclusive, and section 36.4 of this act, and 87.560, \$30 per certification.

2. For signing a certificate verifying the existence of a registered limited-liability partnership, if the registered limited-liability partnership has not filed a certificate of amendment, \$50.

3. For signing a certificate verifying the existence of a registered limited-liability partnership, if the registered limited-liability partnership has filed a certificate of amendment, \$50.

4. For signing, certifying or filing any certificate or record not required by NRS 87.440 to 87.540, inclusive, *and section 36.4 of this act*, and 87.560, \$50.

5. For any copies provided by the Office of the Secretary of State, \$2 per page.

6. For examining and provisionally approving any record before the record is presented for filing, \$125.

Sec. 36.9. NRS 87.560 is hereby amended to read as follows:

87.560 1. To the extent permitted by the law of that jurisdiction:

(a) A partnership, including a registered limited-liability partnership, formed and existing under this chapter, may conduct its business, carry on its operations, and exercise the powers granted by this chapter in any state, territory, district or possession of the United States or in any foreign country.

(b) The internal affairs of a partnership, including a registered limited-liability partnership, formed and existing under this chapter, including the liability of partners for debts, obligations and liabilities of or chargeable to the partnership, are governed by the law of this State.

2. Subject to any statutes for the regulation and control of specific types of business, a registered limited-liability partnership, formed and existing under the law of another jurisdiction, may do business in this State if it first registers with the Secretary of State pursuant to the provisions of NRS 87.440 to 87.500, inclusive, and 87.541 to 87.544, inclusive ~~+~~, *and section 36.6 of this act*.

3. The name of a partnership that is registered as a limited-liability partnership in another jurisdiction and doing business in this State must contain the words "Limited-Liability Partnership" or "Registered Limited-Liability Partnership" or the abbreviations "L.L.P." or "LLP," or such other words or abbreviations as may be required or authorized by the law of the other jurisdiction, as the last words or letters of the name.

Sec. 37. Chapter 87A of NRS is hereby amended by adding thereto the provisions set forth as sections 38 to 39.7, inclusive, of this act.

Sec. 38. *"Restricted limited partnership" means a limited partnership organized and existing under this chapter that elects to include the optional provisions permitted by NRS 87A.235.*

Sec. 39. 1. *If the limited partnership has elected in its certificate of limited partnership to be a restricted limited partnership pursuant to NRS 87A.235, subject to the provisions of NRS 87A.425, and unless otherwise provided in the certificate of limited partnership, the limited partnership shall not make any distributions to its partners until 10 years after:*

(a) *The date of formation of the restricted limited partnership as long as the original certificate of limited partnership elected to be treated as a*

restricted limited partnership and as long as the limited partnership has remained a restricted limited partnership since the date of formation; or

(b) The effective date of the amendment to the certificate of limited partnership in which the limited partnership elected to be treated as a restricted limited partnership and as long as the limited partnership has remained a restricted limited partnership since the effective date of the amendment.

2. The provisions of this section apply as the default provisions of a restricted limited partnership to the extent the provisions of this section are inconsistent with or add to the other provisions of this chapter and to the extent not otherwise modified in the certificate of limited partnership of the restricted limited partnership.

Sec. 39.3. 1. Every person, other than a foreign limited partnership, who is purporting to do business in this State as a limited partnership and who willfully fails or neglects to ~~form a limited partnership in accordance with the provisions of NRS 87A.235 or 88.350~~ file with the Secretary of State a certificate of limited partnership is subject to a fine of not less than ~~[\$5,000,] \$1,000~~ but not more than \$10,000, to be recovered in a court of competent jurisdiction.

2. When the Secretary of State is advised that a person, other than a foreign limited partnership, is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

3. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 39.5. 1. Every person, other than a limited-liability limited partnership formed pursuant to an agreement governed by the laws of another state, who is purporting to do business in this State as a registered limited-liability limited partnership and who willfully fails or neglects to ~~comply~~ file with the ~~provisions of NRS 87A.630 or 88.606, whichever is applicable,~~ Secretary of State a certificate of registration is subject to a fine of not less than ~~[\$5,000,] \$1,000~~ but not more than \$10,000, to be recovered in a court of competent jurisdiction.

2. When the Secretary of State is advised that a person is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in this section, the district attorney or the Attorney General is entitled to recover the costs of the

proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

3. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 39.7. 1. Every limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, which is purporting to transact business in this State as a foreign registered limited-liability limited partnership and which willfully fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575 ~~is~~

~~(a) is~~ is subject to a fine of not less than ~~(\$5,000,)~~ \$1,000 but not more than \$10,000, to be recovered in a court of competent jurisdiction. ~~;~~ and

~~(b) May~~

2. Every limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, which is purporting to transact business in this State as a foreign registered limited-liability limited partnership and which fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575 may not commence or maintain any action, suit or proceeding in any court of this State until it has registered in this State.

~~2.~~ 3. The failure of a limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state and purporting to do business in this State as a foreign registered limited-liability limited partnership, to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575 does not impair the validity of any contract or act of the limited-liability limited partnership or prevent the limited-liability limited partnership from defending any action, suit or proceeding in any court of this State.

~~3.~~ 4. When the Secretary of State is advised that a limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county where the limited-liability limited partnership has its principal place of business or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

~~4.~~ 5. A limited partner of a limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, is not liable as a general partner of the limited-liability limited partnership solely by reason of having transacted business in this State without registration.

~~5.~~ 6. A limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, by transacting business in

*this State without registering with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575, appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this State.*

~~6.7~~ 7. *The Secretary of State may adopt regulations to administer the provisions of this section.*

Sec. 40. NRS 87A.010 is hereby amended to read as follows:

87A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 87A.015 to 87A.140, inclusive, and *section 38 of this act* have the meanings ascribed to them in those sections.

Sec. 41. NRS 87A.060 is hereby amended to read as follows:

87A.060 "Limited partnership," except in the phrases "foreign limited partnership," "foreign limited-liability limited partnership" and "foreign registered limited-liability limited partnership," means an entity, having one or more general partners and one or more limited partners, which is formed under this chapter by two or more persons. The term includes a registered limited-liability limited partnership ~~[-]~~ and a *restricted limited partnership*.

Sec. 41.5. NRS 87A.100 is hereby amended to read as follows:

87A.100 "Registered limited-liability limited partnership" means a limited partnership:

1. Formed pursuant to an agreement governed by this chapter; and
2. Registered pursuant to and complying with NRS 87A.630 to 87A.655, inclusive ~~[-]~~, and *sections 39.5 and 39.7 of this act*.

Sec. 42. NRS 87A.195 is hereby amended to read as follows:

87A.195 A limited partnership shall maintain at its designated office the following information:

1. A current list showing the full name and last known street and mailing address of each partner, separately identifying the general partners, in alphabetical order, and the limited partners, in alphabetical order.

2. A copy of the certificate of limited partnership and all amendments to and restatements of the certificate, together with signed copies of any powers of attorney under which any certificate, amendment or restatement has been signed.

3. A copy of any filed articles of conversion or merger.

4. A copy of the limited partnership's federal, state and local income tax returns and reports, if any, for the 3 most recent years.

5. A copy of any partnership agreement made in a record and any amendment made in a record to any partnership agreement.

6. A copy of any financial statement of the limited partnership for the 3 most recent years.

7. A copy of the three most recent annual lists filed with the Secretary of State pursuant to NRS 87A.290.

8. A copy of any record made by the limited partnership during the past 3 years of any consent given by or vote taken of any partner pursuant to this chapter or the partnership agreement.

9. Unless contained in a partnership agreement made in a record, a record stating:

(a) The amount of cash, and a description and statement of the agreed value of the other benefits, contributed and agreed to be contributed by each partner;

(b) The times at which, or events on the happening of which, any additional contributions agreed to be made by each partner are to be made;

(c) For any person that is both a general partner and a limited partner, a specification of what transferable interest the person owns in each capacity; and

(d) Any events upon the happening of which the limited partnership is to be dissolved and its activities wound up.

➤ *In lieu of keeping at the designated office the information required in subsections 1, 4 and 6 to 9, inclusive, the limited partnership may keep a statement with the registered agent setting out the name of the custodian of the information required in subsections 1, 4 and 6 to 9, inclusive, and the present and complete post office address, including street and number, if any, where the information required in subsections 1, 4 and 6 to 9, inclusive, is kept.*

Sec. 43. NRS 87A.200 is hereby amended to read as follows:

87A.200 1. A limited partnership shall maintain at its registered office or principal place of business in this State ~~[-]~~

~~(a) A current list of each general partner; or~~

~~(b) A] a statement indicating where ~~[- such a list -]~~ the list required pursuant to subsection 1 of NRS 87A.195 is maintained.~~

2. The limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1 ~~[-]~~, *if different than the registered agent for such limited partnership.* The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the ~~[- information contained in -]~~ *custodian of the list described in subsection 1.*

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1 ~~[-]~~ *of NRS 87A.195; or*

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the limited partnership to transact any business in this State.

5. The Secretary of State shall not reinstate or revive the right of a limited partnership to transact any business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the limited partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 44. NRS 87A.235 is hereby amended to read as follows:

87A.235 1. In order for a limited partnership to be formed, a certificate of limited partnership must be delivered to the Secretary of State for filing. The certificate must state:

(a) The name of the limited partnership;

(b) The information required pursuant to NRS 77.310;

(c) The name and the street and mailing address of each general partner; ~~and~~

(d) Any additional information required by chapter 92A of NRS ~~§~~; and

(e) *If the limited partnership is to be a restricted limited partnership, a statement to that effect.*

2. A certificate of limited partnership may also contain any other matters but may not vary or otherwise affect the provisions specified in subsection 2 of NRS 87A.190 in a manner inconsistent with that section.

3. If there has been substantial compliance with subsection 1, a limited partnership is formed on the later of the filing of the certificate of limited partnership or a date specified in the certificate of limited partnership.

4. Subject to subsection 2, if any provision of a partnership agreement is inconsistent with the filed certificate of limited partnership or with a filed certificate of withdrawal, certificate of cancellation or statement of change or filed articles of conversion or merger:

(a) The partnership agreement prevails as to partners and transferees; and

(b) The filed certificate of limited partnership, certificate of withdrawal, certificate of cancellation or statement of change or articles of conversion or merger prevail as to persons, other than partners and transferees, that reasonably rely on the filed record to their detriment.

Sec. 45. NRS 87A.535 is hereby amended to read as follows:

87A.535 Subject to the Constitution of this State:

1. The laws of the state or jurisdiction under which a foreign limited partnership is organized govern ~~it~~:

~~(a) Relations among the partners of the foreign limited partnership and between the partners and the foreign limited partnership; and~~

~~(b) The liability of partners as partners for an obligation of the foreign limited partnership; and~~ *its organization, internal affairs and the liability of its limited partners.*

2. A foreign limited partnership may not be denied registration by reason of any difference between those laws and the laws of this State.

Sec. 46. NRS 87A.550 is hereby amended to read as follows:

87A.550 Except as otherwise provided in NRS 87A.655, a foreign limited partnership may register with the Secretary of State under any name, whether or not it is the name under which it is registered in its state of organization, that ~~[includes without abbreviation]~~ contains the words "limited partnership" or the abbreviations "L.P." or "LP" and that could be registered by a domestic limited partnership.

Sec. 47. NRS 87A.575 is hereby amended to read as follows:

87A.575 1. Each list required to be filed under the provisions of NRS 87A.560 to 87A.600, inclusive, must, after the name of each ~~[managing]~~ general partner listed thereon, set forth the address, either residence or business, of each ~~[managing]~~ general partner.

2. If the addresses are not stated for each person on any list offered for filing, the Secretary of State may refuse to file the list, and the foreign limited partnership for which the list has been offered for filing is subject to all the provisions of NRS 87A.560 to 87A.600, inclusive, relating to failure to file the list within or at the times therein specified, unless a list is subsequently submitted for filing which conforms to the provisions of this section.

Sec. 48. NRS 87A.595 is hereby amended to read as follows:

87A.595 1. Except as otherwise provided in subsections 3 and 4 and NRS 87A.580, the Secretary of State shall reinstate a foreign limited partnership which has forfeited or which forfeits its right to transact business under the provisions of this chapter and shall restore to the foreign limited partnership its right to transact business in this State, and to exercise its privileges and immunities, if it:

(a) Files with the Secretary of State:

- (1) The list required by NRS 87A.560;
- (2) The statement required by NRS 87A.565, if applicable; and
- (3) The information required pursuant to NRS 77.310; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 87A.560 and 87A.585 for each year or portion thereof that its right to transact business was forfeited;

- (2) The fee set forth in NRS 87A.565, if applicable; and
- (3) A fee of \$300 for reinstatement.

2. When the Secretary of State reinstates the foreign limited partnership, he shall issue to the foreign limited partnership a certificate of reinstatement if the foreign limited partnership:

- (a) Requests a certificate of reinstatement; and
- (b) Pays the required fees pursuant to NRS 87A.315.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid and the revocation of the right

to transact business occurred only by reason of failure to pay the fees and penalties.

4. If the right of a foreign limited partnership to transact business in this State has been forfeited pursuant to the provisions of this chapter and has remained forfeited for a period of 5 consecutive years, the right is not subject to reinstatement.

5. ~~If the right of a foreign limited partnership to transact business in this State is reinstated pursuant to this section, the reinstatement relates back to and takes effect on the effective date of the revocation, and the foreign limited partnership's status as a foreign limited partnership continues as if the revocation had never occurred.~~ Except as otherwise provided in NRS 87A.600, a reinstatement pursuant to this section relates back to the date on which the foreign limited partnership forfeited its right to transact business under the provisions of this chapter and reinstates the foreign limited partnership's right to transact business as if such right had at all times remained in full force and effect.

Sec. 48.5. NRS 87A.610 is hereby amended to read as follows:

87A.610 1. ~~[A]~~ Every foreign limited partnership transacting business in this State ~~[may]~~ which willfully fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575 ~~+~~

~~(a) ~~is~~ is subject to a fine of not less than ~~(\$5,000,)~~ \$1,000 but not more than \$10,000, to be recovered in a court of competent jurisdiction. ~~+~~ and~~

~~(b) May]~~

2. Every foreign limited partnership transacting business in this State which fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575 may not commence or maintain any action, suit or proceeding in any court of this State until it has registered ~~[in this State.]~~ with the Secretary of State.

~~[2]~~ 3. The failure of a foreign limited partnership to register ~~[in this State]~~ with the Secretary of State does not impair the validity of any contract or act of the foreign limited partnership or prevent the foreign limited partnership from defending any action, suit or proceeding in any court of this State.

~~[3]~~ 4. When the Secretary of State is advised that a foreign limited partnership is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county where the foreign limited partnership has its principal place of business or the Attorney General, or both, to institute proceedings to recover any applicable fine provided for in this section. If the district attorney or the Attorney General prevails in a proceeding to recover a fine pursuant to this section, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

~~4.4~~ 5. A limited partner of a foreign limited partnership is not liable as a general partner of the foreign limited partnership solely by reason of having transacted business in this State without registration.

~~4.4~~ ~~5.4~~ 6. A foreign limited partnership, by transacting business in this State without ~~registration,~~ *registering with the Secretary of State*, appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this State.

~~6.4~~ 7. *The Secretary of State may adopt regulations to administer the provisions of this section.*

Sec. 49. Chapter 88 of NRS is hereby amended by adding thereto the provisions set forth as sections 49.2 to 49.8, inclusive, of this act.

Sec. 49.2. 1. *If the limited partnership has elected in its certificate of limited partnership to be a restricted limited partnership pursuant to NRS 88.350, subject to the provisions of NRS 88.520, and unless otherwise provided in the certificate of limited partnership, the limited partnership shall not make any distributions to its partners with respect to their partnership interests until 10 years after:*

*(a) The date of formation of the restricted limited partnership as long as the original certificate of limited partnership elected to be treated as a restricted limited partnership and as long as the limited partnership has remained a restricted limited partnership since the date of formation; or*

*(b) The effective date of the amendment to the certificate of limited partnership in which the limited partnership elected to be treated as a restricted limited partnership and as long as the limited partnership has remained a restricted limited partnership since the effective date of the amendment.*

2. *The provisions of this section apply as the default provisions of a restricted limited partnership to the extent the provisions of this section are inconsistent with or add to the other provisions of this chapter and to the extent not otherwise modified in the certificate of limited partnership of the restricted limited partnership.*

Sec. 49.4. 1. *Every person, other than a foreign limited partnership, who is purporting to do business in this State as a limited partnership and who willfully fails or neglects to ~~form a~~ file with the Secretary of State a certificate of limited partnership ~~in accordance with the provisions of NRS 87A.235 or 88.350~~ is subject to a fine of not less than ~~[\$5,000,] \$1,000~~ but not more than \$10,000, to be recovered in a court of competent jurisdiction.*

2. *When the Secretary of State is advised that a person, other than a foreign limited partnership, is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is*

entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

3. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 49.6. 1. Every person, other than a limited-liability limited partnership formed pursuant to an agreement governed by the laws of another state, who is purporting to do business in this State as a registered limited-liability limited partnership and who willfully fails or neglects to ~~comply~~ file with the ~~provisions of NRS 87A.630 or 88.606, whichever is applicable,~~ Secretary of State a certificate of registration is subject to a fine of not less than ~~(\$5,000)~~ \$1,000 but not more than \$10,000, to be recovered in a court of competent jurisdiction.

2. When the Secretary of State is advised that a person is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in this section, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

3. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 49.8. 1. Every limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, which is purporting to transact business in this State as a foreign registered limited-liability limited partnership and which willfully fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575 ~~is~~

~~(a) Is~~ is subject to a fine of not less than ~~(\$5,000)~~ \$1,000 but not more than \$10,000, to be recovered in a court of competent jurisdiction. ~~and~~

~~(b) May~~

2. Every limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, which is purporting to transact business in this State as a foreign registered limited-liability limited partnership and which fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575 may not commence or maintain any action, suit or proceeding in any court of this State until it has registered in this State.

~~2.~~ 3. The failure of a limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state and purporting to do business in this State as a foreign registered limited-liability limited partnership, to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575 does not impair the validity of any contract or act of the limited-liability limited partnership or prevent the

*limited-liability limited partnership from defending any action, suit or proceeding in any court of this State.*

~~3.~~ 4. *When the Secretary of State is advised that a limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county where the limited-liability limited partnership has its principal place of business or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.*

~~4.~~ 5. *A limited partner of a limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, is not liable as a general partner of the limited-liability limited partnership solely by reason of having transacted business in this State without registration.*

~~5.~~ 6. *A limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, by transacting business in this State without registering with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575, appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this State.*

~~6.~~ 7. *The Secretary of State may adopt regulations to administer the provisions of this section.*

Sec. 50. NRS 88.315 is hereby amended to read as follows:

88.315 As used in this chapter, unless the context otherwise requires:

1. "Certificate of limited partnership" means the certificate referred to in NRS 88.350, and the certificate as amended or restated.

2. "Contribution" means any cash, property, services rendered, or a promissory note or other binding obligation to contribute cash or property or to perform services, which a partner contributes to a limited partnership in his capacity as a partner.

3. "Event of withdrawal of a general partner" means an event that causes a person to cease to be a general partner as provided in NRS 88.450.

4. "Foreign limited partnership" means a partnership formed under the laws of any state other than this State and having as partners one or more general partners and one or more limited partners.

5. "Foreign registered limited-liability limited partnership" means a foreign limited-liability limited partnership:

(a) Formed pursuant to an agreement governed by the laws of another state; and

(b) Registered pursuant to and complying with NRS 88.570 to 88.605, inclusive, and 88.609.

6. "General partner" means a person who has been admitted to a limited partnership as a general partner in accordance with the partnership agreement and named in the certificate of limited partnership as a general partner.

7. "Limited partner" means a person who has been admitted to a limited partnership as a limited partner in accordance with the partnership agreement.

8. "Limited partnership" and "domestic limited partnership" mean a partnership formed by two or more persons under the laws of this State and having one or more general partners and one or more limited partners ~~+~~, including a restricted limited partnership.

9. "Partner" means a limited or general partner.

10. "Partnership agreement" means any valid agreement, written or oral, of the partners as to the affairs of a limited partnership and the conduct of its business.

11. "Partnership interest" means a partner's share of the profits and losses of a limited partnership and the right to receive distributions of partnership assets.

12. "Record" means information that is inscribed on tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

13. "Registered limited-liability limited partnership" means a limited partnership:

(a) Formed pursuant to an agreement governed by this chapter; and

(b) Registered pursuant to and complying with NRS 88.350 to 88.415, inclusive, and section 49.4 of this act, 88.606, 88.6065 and 88.607.

14. "Registered agent" has the meaning ascribed to it in NRS 77.230.

15. "Registered office" means the office maintained at the street address of the registered agent.

16. "*Restricted limited partnership*" means a limited partnership organized and existing under this chapter that elects to include the optional provisions permitted by NRS 88.350.

17. "Sign" means to affix a signature to a record.

~~17~~ 18. "Signature" means a name, word, symbol or mark executed or otherwise adopted, or a record encrypted or similarly processed in whole or in part, by a person with the present intent to identify himself and adopt or accept a record. The term includes, without limitation, an electronic signature as defined in NRS 719.100.

~~18~~ 19. "State" means a state, territory or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico.

~~19~~ 20. "Street address" of a registered agent means the actual physical location in this State at which a registered agent is available for service of process.

Sec. 51. NRS 88.3355 is hereby amended to read as follows:

88.3355 1. A limited partnership shall maintain at its registered office or principal place of business in this State ~~+~~

~~(a) A current list of each general partner; or~~  
~~(b) A~~ a statement indicating where ~~{such a list}~~ the list required pursuant to paragraph (a) of subsection 1 of NRS 88.335 is maintained.

2. The limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1 ~~{}~~, *if different than the registered agent for such limited partnership*. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the ~~{information contained in}~~ *custodian of the list* described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to *paragraph (a) of subsection 1* ~~{}~~ of NRS 88.335; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the limited partnership to transact any business in this State.

5. The Secretary of State shall not reinstate or revive the right of a limited partnership to transact any business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the limited partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 52. NRS 88.350 is hereby amended to read as follows:

88.350 1. In order to form a limited partnership, a certificate of limited partnership must be signed and filed in the Office of the Secretary of State. The certificate must set forth:

(a) The name of the limited partnership;  
(b) The information required pursuant to NRS 77.310;  
(c) The name and business address of each organizer executing the certificate;

(d) The name and business address of each initial general partner;

(e) The latest date upon which the limited partnership is to dissolve; ~~{and}~~

(f) *If the limited partnership is to be a restricted limited partnership, a statement to that effect; and*

(g) Any other matters the organizers determine to include therein.

2. A limited partnership is formed at the time of the filing of the certificate of limited partnership in the Office of the Secretary of State or at any later time specified in the certificate of limited partnership if there has been substantial compliance with the requirements of this section.

Sec. 52.5. NRS 88.375 is hereby amended to read as follows:

88.375 1. Each certificate required by NRS 88.350 to 88.390, inclusive, and section 49.4 of this act, to be filed in the Office of the Secretary of State must be signed in the following manner:

(a) An original certificate of limited partnership must be signed by all organizers;

(b) A certificate of amendment must be signed by at least one general partner and by each other general partner designated in the certificate as a new general partner; and

(c) A certificate of cancellation must be signed by all general partners.

2. Any person may sign a certificate by an attorney-in-fact, but a power of attorney to sign a certificate relating to the admission of a general partner must specifically describe the admission.

3. The signing of a certificate by a general partner constitutes an affirmation under the penalties of perjury that the facts stated therein are true.

Sec. 53. NRS 88.570 is hereby amended to read as follows:

88.570 Subject to the constitution of this State:

1. The laws of the state *or jurisdiction* under which a foreign limited partnership is organized govern its organization and internal affairs and the liability of its limited partners; and

2. A foreign limited partnership may not be denied registration by reason of any difference between those laws and the laws of this State.

Sec. 54. NRS 88.575 is hereby amended to read as follows:

88.575 Before transacting business in this State, a foreign limited partnership shall register with the Secretary of State. In order to register, a foreign limited partnership shall submit to the Secretary of State an application for registration as a foreign limited partnership, signed by a general partner. The application for registration must set forth:

1. The name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in this State;

2. The state ~~and date of its formation;~~ *or jurisdiction under whose law the foreign limited partnership is organized and the date of its organization.*

3. The information required pursuant to NRS 77.310;

4. A statement that the Secretary of State is appointed the agent of the foreign limited partnership for service of process if the registered agent's authority has been revoked or if the registered agent cannot be found or served with the exercise of reasonable diligence;

5. The address of the office required to be maintained in the state of its organization by the laws of that state or, if not so required, of the principal office of the foreign limited partnership;

6. The name and business address of each general partner; and

7. The address of the office at which is kept a list of the names and addresses of the limited partners and their capital contributions, together with an undertaking by the foreign limited partnership to keep those records until the foreign limited partnership's registration in this State is cancelled or withdrawn.

Sec. 55. NRS 88.5925 is hereby amended to read as follows:

88.5925 1. Each list required to be filed under the provisions of NRS 88.591 to 88.5945, inclusive, must, after the name of each ~~[managing]~~ *general partner* listed thereon, set forth the address, either residence or business, of each ~~[managing]~~ *general partner*.

2. If the addresses are not stated for each person on any list offered for filing, the Secretary of State may refuse to file the list, and the foreign limited partnership for which the list has been offered for filing is subject to all the provisions of NRS 88.591 to 88.5945, inclusive, relating to failure to file the list within or at the times therein specified, unless a list is subsequently submitted for filing which conforms to the provisions of this section.

Sec. 55.5. NRS 88.600 is hereby amended to read as follows:

88.600 1. ~~[A]~~ *Every foreign limited partnership transacting business in this State ~~[may]~~ which willfully fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575 ~~[is]~~*

~~(a) ~~[is]~~ is subject to a fine of not less than ~~[\$5,000,] \$1,000 but not more than \$10,000, to be recovered in a court of competent jurisdiction. ~~[, and]~~~~~~

~~(b) ~~[May]~~~~

2. Every foreign limited partnership transacting business in this State which fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575 may not commence or maintain any action, suit or proceeding in any court of this State until it has registered in this State.

~~[2.]~~ 3. The failure of a foreign limited partnership to register ~~[in this State]~~ *with the Secretary of State* does not impair the validity of any contract or act of the foreign limited partnership or prevent the foreign limited partnership from defending any action, suit or proceeding in any court of this State.

~~[3.]~~ 4. *When the Secretary of State is advised that a foreign limited partnership is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county where the foreign limited partnership has its principal place of business or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.*

~~4.~~ 5. A limited partner of a foreign limited partnership is not liable as a general partner of the foreign limited partnership solely by reason of having transacted business in this State without registration.

~~4.~~ ~~5.~~ 6. A foreign limited partnership, by transacting business in this State without ~~registration,~~ *registering with the Secretary of State*, appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this State.

~~6.~~ 7. *The Secretary of State may adopt regulations to administer the provisions of this section.*

Sec. 56. NRS 88.608 is hereby amended to read as follows:

88.608 1. Unless otherwise provided by the ~~articles of organization~~ *certificate of limited partnership* or partnership agreement, a partner of a registered limited-liability limited partnership is not personally liable for a debt or liability of the registered limited-liability limited partnership unless the trier of fact determines that adherence to the fiction of a separate entity would sanction fraud or promote a manifest injustice.

2. For purposes of this section, the failure of a registered limited-liability limited partnership to observe the formalities or requirements relating to the management of the registered limited-liability limited partnership, in and of itself, is not sufficient to establish grounds for imposing personal liability on a partner for a debt or liability of the registered limited-liability limited partnership.

Sec. 56.2. Chapter 88A of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Every person, other than a foreign business trust, who is purporting to do business in this State as a business trust and who willfully fails or neglects to ~~comply~~ file with the ~~provisions of NRS 88A.210~~ Secretary of State a certificate of trust is subject to a fine of not less than ~~\$5,000~~ \$1,000 but not more than \$10,000, to be recovered in a court of competent jurisdiction.*

2. *When the Secretary of State is advised that a person, other than a foreign business trust, is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.*

3. *The Secretary of State may adopt regulations to administer the provisions of this section.*

Sec. 56.4. NRS 88A.750 is hereby amended to read as follows:

88A.750 1. ~~[A]~~ *Every foreign business trust transacting business in this State ~~may~~ which willfully fails or neglects to ~~comply~~ register with the Secretary of State pursuant to the provisions of NRS 88A.710 ~~is~~*

~~(a) It~~ is subject to a fine of not less than ~~[\$5,000,] \$1,000~~ but not more than \$10,000, to be recovered in a court of competent jurisdiction. ~~It and~~

~~(b) May~~

2. Every foreign business trust transacting business in this State which fails or neglects to register with the Secretary of State pursuant to the provisions of NRS 88A.710 may not commence or maintain any action, suit or proceeding in any court of this State until it has registered ~~in this State~~

~~2.]~~ with the Secretary of State.

3. The failure of a foreign business trust to register ~~in this State~~ with the Secretary of State does not impair the validity of any contract or act of the foreign business trust or prevent the foreign business trust from defending any action, suit or proceeding in any court of this State.

~~3.]~~ 4. When the Secretary of State is advised that a foreign business trust is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county where the foreign business trust has its principal place of business or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

~~4.]~~ 5. A foreign business trust, by transacting business in this State without ~~registration,~~ registering with the Secretary of State, appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this State.

~~5.]~~ 6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 56.6. Chapter 89 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Every person who is purporting to do business in this State as a professional association and who willfully fails or neglects to ~~comply] file~~ with the ~~provisions of NRS 89.210] Secretary of State articles of association~~ is subject to a fine of not less than ~~[\$5,000,] \$1,000~~ but not more than \$10,000, to be recovered in a court of competent jurisdiction.

2. When the Secretary of State is advised that a person is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

3. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 56.8. NRS 89.025 is hereby amended to read as follows:

89.025 Except as otherwise provided in NRS 89.200 to 89.270, inclusive, and section 56.6 of this act, the fees set forth in NRS 78.755 to 78.785, inclusive, apply to professional corporations and the fees set forth in NRS 86.561 apply to professional limited-liability companies.

Sec. 57. NRS 89.040 is hereby amended to read as follows:

89.040 1. One or more persons may organize a professional entity in the manner provided for organizing a corporation pursuant to chapter 78 of NRS or a limited-liability company pursuant to chapter 86 of NRS. Each person organizing the professional entity must, except as otherwise provided in subsection 2 of NRS 89.050, be authorized to perform the professional service for which the professional entity is organized. The articles must contain the following additional information:

(a) The profession to be practiced by means of the professional entity.

(b) The names and addresses, either residence or business, of the original stockholders and directors of the professional corporation or the original members and managers of the professional limited-liability company.

(c) Except as otherwise provided in ~~paragraph (d) of this subsection,~~ paragraphs (d) and (e), a certificate from the regulating board of the profession to be practiced showing that each of the directors, stockholders, managers or members who is a natural person, is licensed to practice the profession.

(d) For a professional entity organized pursuant to this chapter and practicing pursuant to the provisions of NRS 623.349, a certificate from the regulating board or boards of the profession or professions to be practiced showing that control and two-thirds ownership of the professional entity is held by persons registered or licensed pursuant to the applicable provisions of chapter 623, 623A or 625 of NRS. As used in this paragraph, "control" has the meaning ascribed to it in NRS 623.349.

(e) *For a professional entity formed pursuant to subsection 5 of NRS 89.070, a certificate from the State Bar of Nevada showing at least one stockholder or member who is a natural person is admitted by the Supreme Court of the State of Nevada to practice law as a member of the State Bar of Nevada.*

2. The corporate name of a professional corporation must contain the words "Professional Corporation" or the abbreviation "Prof. Corp.," "P.C." or "PC," or the word "Chartered" or the abbreviation "Chtd.," or "Limited" or the abbreviation "Ltd." The corporate name must contain the last name of one or more of its current or former stockholders.

3. The name of a professional limited-liability company must contain the words "Professional Limited-Liability Company" or the abbreviations "Prof. L.L.C.," "Prof. LLC," "P.L.L.C.," "PLLC," or the word "Chartered" or the abbreviation "Chtd.," or "Limited" or the abbreviation "Ltd." The name of a professional limited-liability company must contain the last name of one or more of its current or former members.

4. The professional entity may render professional services and exercise its authorized powers under a fictitious name if the professional entity has first registered the name in the manner required by chapter 602 of NRS.

Sec. 58. NRS 89.070 is hereby amended to read as follows:

89.070 1. Except as otherwise provided in this section and NRS 623.349:

(a) No professional entity may issue any of its owner's interest to anyone other than a natural person who is licensed to render the same specific professional services as those for which the professional entity was formed.

(b) No owner may enter into a voting trust agreement or any other type of agreement vesting another person with the authority to exercise the voting power of any or all of his owner's interest, unless the other person is licensed to render the same specific professional services as those for which the professional entity was formed.

(c) No owner's interest may be sold or transferred except to a natural person who is eligible to be an owner or to the personal representative or estate of a deceased or legally incompetent stockholder. The personal representative or estate of the owner may continue to own the owner's interest for a reasonable period, but may not participate in any decisions concerning the rendering of professional services.

↪ The articles, bylaws or operating agreement of the professional entity may provide specifically for additional restrictions on the transfer of an owner's interest and may provide for the redemption or purchase of the owner's interest by the professional entity, its owners or an eligible individual account plan complying with the requirements of subsection 2 at prices and in a manner specifically set forth. An owner may transfer his owner's interest in the professional entity or any other interest in the assets of the professional entity to a revocable trust if he acts as trustee of the revocable trust and any person who acts as cotrustee and is not licensed to perform the services for which the professional entity was formed does not participate in any decisions concerning the rendering of those services.

2. Except as otherwise provided in NRS 623.349, a person not licensed to render the professional services for which the professional entity was formed may own a beneficial interest in any of the assets, including an owner's interest, held for his account by an eligible individual account plan sponsored by the professional entity for the benefit of its employees, which is intended to qualify under section 401 of the Internal Revenue Code, 26 U.S.C. § 401, if the terms of the trust are such that the total number of shares which may be distributed for the benefit of persons not licensed to render the professional services for which the professional entity was formed is less than a controlling interest and:

(a) The trustee of the trust is licensed to render the same specific professional services as those for which the professional entity was formed;

or

(b) The trustee is not permitted to participate in any decisions concerning the rendering of professional services in his capacity as trustee.

↪ A trustee who is individually an owner may participate in his individual capacity as an owner, manager, director or officer in any decision.

3. Except as otherwise provided in subsection 4, a professional entity in which all the owners who are natural persons are licensed to render the same specific professional service may acquire and hold an owner's interest in another professional entity or in a similar entity organized pursuant to the corresponding law of another state, only if all the owners who are natural persons of the professional entity whose stock is acquired are licensed in that professional entity's state of formation to render the same specific professional service as the owners who are natural persons of the professional entity that acquires the owner's interest.

4. A professional entity practicing pursuant to NRS 623.349 in which all the owners are natural persons, regardless of whether or not the natural persons are licensed to render the same specific professional service, may acquire and hold an owner's interest in another professional entity or in a similar entity organized pursuant to the corresponding law of another state if control and two-thirds ownership of the business organization or association that is acquired is held by persons registered or licensed pursuant to the applicable provisions of chapter 623, 623A or 625 of NRS. As used in this subsection, "control" has the meaning ascribed to it in NRS 623.349.

5. *An attorney may form a legal services professional entity that is organized or incorporated in the State of Nevada with one or more natural persons, each of whom is a member in good standing and eligible to practice before the bar of any jurisdiction of the United States, and such legal services entity may issue an owner's interest to a natural person who is a member in good standing and eligible to practice before the bar of any jurisdiction of the United States provided that at least one attorney admitted by the Supreme Court of the State of Nevada to practice law as a member of the State Bar of Nevada owns an owner's interest in the professional entity.*

6. Any act in violation of this section is void and does not pass any rights or privileges or vest any powers, except to an innocent person who is not an owner and who has relied on the effectiveness of the action.

Sec. 59. Chapter 92A of NRS is hereby amended by adding thereto a new section to read as follows:

*"Senior executive" means the chief executive officer, chief operating officer, chief financial officer or anyone in charge of a principal business unit or function of a domestic corporation.*

Sec. 60. NRS 92A.005 is hereby amended to read as follows:

92A.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 92A.007 to 92A.097, inclusive, and section 59 of this act have the meanings ascribed to them in those sections.

Sec. 61. NRS 92A.180 is hereby amended to read as follows:

92A.180 1. A parent domestic corporation, whether or not for profit, parent domestic limited-liability company, unless otherwise provided in the articles of organization or operating agreement, or parent domestic limited partnership owning at least 90 percent of the outstanding shares of each class of a subsidiary corporation entitled to vote on a merger, 90 percent of the percentage or other interest in the capital and profits of a subsidiary limited-liability company then owned by each class of members entitled to vote on a merger or 90 percent of the percentage or other interest in the capital and profits of a subsidiary limited partnership then owned by both the general partners and each class of limited partners entitled to vote on a merger may merge the subsidiary into itself without approval of the owners of the owner's interests of the parent domestic corporation, *parent* domestic limited-liability company or *parent* domestic limited partnership or the owners of the owner's interests of ~~the~~ the subsidiary domestic corporation, subsidiary domestic limited-liability company or subsidiary domestic limited partnership.

2. A parent domestic corporation, whether or not for profit, parent domestic limited-liability company, unless otherwise provided in the articles of organization or operating agreement, or parent domestic limited partnership owning at least 90 percent of the outstanding shares of each class of a subsidiary corporation entitled to vote on a merger, 90 percent of the percentage or other interest in the capital and profits of a subsidiary limited-liability company then owned by each class of members entitled to vote on a merger, or 90 percent of the percentage or other interest in the capital and profits of a subsidiary limited partnership then owned by both the general partners and each class of limited partners entitled to vote on a merger may merge with and into the subsidiary without approval of the owners of the owner's interests of the subsidiary domestic corporation, subsidiary domestic limited-liability company or subsidiary domestic limited partnership.

3. The board of directors of a parent corporation, the managers of a parent limited-liability company with managers unless otherwise provided in the operating agreement, all members of a parent limited-liability company without managers unless otherwise provided in the operating agreement, or all general partners of a parent limited partnership shall adopt a plan of merger that sets forth:

- (a) The names of the parent and subsidiary; and
- (b) The manner and basis of converting the owner's interests of the disappearing entity into the owner's interests, obligations or other securities of the surviving or any other entity or into cash or other property in whole or in part.

4. The parent shall mail a copy or summary of the plan of merger to each owner of the subsidiary who does not waive the mailing requirement in writing.

5. Articles of merger under this section may not contain amendments to the constituent documents of the surviving entity except that the name of the surviving entity may be changed.

6. The articles of incorporation of a domestic corporation, the articles of organization of a domestic limited-liability company, the certificate of limited partnership of a domestic limited partnership or the certificate of trust of a domestic business trust may forbid that entity from entering into a merger pursuant to this section.

Sec. 62. (Deleted by amendment.)

*Sec. 62.5. NRS 92A.205 is hereby amended to read as follows:*

92A.205 1. After a plan of conversion is approved as required by this chapter, if the resulting entity is a domestic entity, the constituent entity shall deliver to the Secretary of State for filing:

(a) Articles of conversion setting forth:

(1) The name and jurisdiction of organization of the constituent entity and the resulting entity; and

(2) That a plan of conversion has been adopted by the constituent entity in compliance with the law of the jurisdiction governing the constituent entity.

(b) The charter document of the domestic resulting entity required by the applicable provisions of chapter 78, 78A, ~~82~~, 86, 87A, 88, 88A or 89 of NRS.

(c) The information required pursuant to NRS 77.310.

2. After a plan of conversion is approved as required by this chapter, if the resulting entity is a foreign entity, the constituent entity shall deliver to the Secretary of State for filing articles of conversion setting forth:

(a) The name and jurisdiction of organization of the constituent entity and the resulting entity;

(b) That a plan of conversion has been adopted by the constituent entity in compliance with the laws of this State; and

(c) The address of the resulting entity where copies of process may be sent by the Secretary of State.

3. If the entire plan of conversion is not set forth in the articles of conversion, the filing party must include in the articles of conversion a statement that the complete signed plan of conversion is on file at the registered office or principal place of business of the resulting entity or, if the resulting entity is a domestic limited partnership, the office described in paragraph (a) of subsection 1 of NRS 87A.215 or paragraph (a) of subsection 1 of NRS 88.330.

4. If the conversion takes effect on a later date specified in the articles of conversion pursuant to NRS 92A.240, the charter document to be filed with the Secretary of State pursuant to paragraph (b) of subsection 1 must state the name and the jurisdiction of the constituent entity and that the existence of the resulting entity does not begin until the later date.

5. Any records filed with the Secretary of State pursuant to this section must be accompanied by the fees required pursuant to this title for filing the charter document.

Sec. 63. NRS 92A.270 is hereby amended to read as follows:

92A.270 1. Any undomesticated organization may become domesticated in this State as a domestic entity by:

(a) Paying to the Secretary of State the fees required pursuant to this title for filing the charter document; and

(b) Filing with the Secretary of State:

(1) Articles of domestication which must be signed by an authorized representative of the undomesticated organization approved in compliance with subsection 6;

(2) The appropriate charter document for the type of domestic entity; and

(3) The information required pursuant to NRS 77.310.

2. The articles of domestication must set forth the:

(a) Date when and the jurisdiction where the undomesticated organization was first formed, incorporated, organized or otherwise created;

(b) Name of the undomesticated organization immediately before filing the articles of domestication;

(c) Name and type of domestic entity as set forth in its charter document pursuant to subsection 1; and

(d) Jurisdiction that constituted the principal place of business or central administration of the undomesticated organization, or any other equivalent thereto pursuant to applicable law,

↳ immediately before filing the articles of domestication.

3. Upon filing the articles of domestication and the charter document with the Secretary of State, and the payment of the requisite fee for filing the charter document of the domestic entity, the undomesticated organization is domesticated in this State as the domestic entity described in the charter document filed pursuant to subsection 1. The existence of the domestic entity begins on the date the undomesticated organization began its existence in the jurisdiction in which the undomesticated organization was first formed, incorporated, organized or otherwise created.

4. The domestication of any undomesticated organization does not affect any obligations or liabilities of the undomesticated organization incurred before its domestication.

5. The filing of the charter document of the domestic entity pursuant to subsection 1 does not affect the choice of law applicable to the undomesticated organization. From the date the charter document of the domestic entity is filed, the law of this State applies to the domestic entity to the same extent as if the undomesticated organization was organized and created as a domestic entity on that date.

6. Before filing articles of domestication, the domestication must be approved in the manner required by:

(a) The document, instrument, agreement or other writing governing the internal affairs of the undomesticated organization and the conduct of its business; and

(b) Applicable foreign law.

7. When a domestication becomes effective, all rights, privileges and powers of the undomesticated organization, all property owned by the undomesticated organization, all debts due to the undomesticated organization, and all causes of action belonging to the undomesticated organization are vested in the domestic entity and become the property of the domestic entity to the same extent as vested in the undomesticated organization immediately before domestication. The title to any real property vested by deed or otherwise in the undomesticated organization is not reverted or impaired by the domestication. All rights of creditors and all liens upon any property of the undomesticated organization are preserved unimpaired and all debts, liabilities and duties of an undomesticated organization that has been domesticated attach to the domestic entity resulting from the domestication and may be enforced against it to the same extent as if the debts, liability and duties had been incurred or contracted by the domestic entity.

8. When an undomesticated organization is domesticated, the domestic entity resulting from the domestication is for all purposes deemed to be the same entity as the undomesticated organization. Unless otherwise agreed by the owners of the undomesticated organization or as required pursuant to applicable foreign law, the domestic entity resulting from the domestication is not required to wind up its affairs, pay its liabilities or distribute its assets. The domestication of an undomesticated organization does not constitute the dissolution of the undomesticated organization. The domestication constitutes a continuation of the existence of the undomesticated organization in the form of a domestic entity. If, following domestication, an undomesticated organization that has become domesticated pursuant to this section continues its existence in the foreign country or foreign jurisdiction in which it was existing immediately before the domestication, the domestic entity and the undomesticated organization are for all purposes a single entity formed, incorporated, organized or otherwise created and existing pursuant to the laws of this State and the laws of the foreign country or other foreign jurisdiction.

9. As used in this section, "undomesticated organization" means any incorporated organization, private law corporation, whether or not organized for business purposes, public law corporation, *limited-liability company*, general partnership, registered limited-liability partnership, limited partnership or registered limited-liability limited partnership, proprietorship, joint venture, foundation, business trust, real estate investment trust, common-law trust or any other unincorporated business formed, organized, created or the internal affairs of which are governed by the laws of any foreign country or jurisdiction other than the United States, the District of

Columbia or another state, territory, possession, commonwealth or dependency of the United States.

Sec. 64. NRS 92A.320 is hereby amended to read as follows:

92A.320 "Fair value," with respect to a dissenter's shares, means the value of the shares ~~immediately~~ *determined*:

1. *Immediately* before the effectuation of the corporate action to which he objects, excluding any appreciation or depreciation in anticipation of the corporate action unless exclusion would be inequitable ~~[-]~~;

2. *Using customary and current valuation concepts and techniques generally employed for similar businesses in the context of the transaction requiring appraisal; and*

3. *Without discounting for lack of marketability or minority status.*

Sec. 65. NRS 92A.340 is hereby amended to read as follows:

92A.340 Interest payable pursuant to NRS 92A.300 to 92A.500, inclusive, must be computed from the effective date of the action until the date of payment, at the ~~average rate currently paid by the entity on its principal bank loans or, if it has no bank loans, at a rate that is fair and equitable under all of the circumstances.~~ *rate of interest most recently established pursuant to NRS 99.040.*

Sec. 66. NRS 92A.380 is hereby amended to read as follows:

92A.380 1. Except as otherwise provided in NRS 92A.370 and 92A.390, any stockholder is entitled to dissent from, and obtain payment of the fair value of his shares in the event of any of the following corporate actions:

(a) Consummation of a ~~conversion or~~ plan of merger to which the domestic corporation is a constituent entity:

(1) If approval by the stockholders is required for the ~~conversion or~~ merger by NRS 92A.120 to 92A.160, inclusive, or the articles of incorporation, regardless of whether the stockholder is entitled to vote on the ~~conversion or~~ plan of merger; or

(2) If the domestic corporation is a subsidiary and is merged with its parent pursuant to NRS 92A.180.

(b) *Consummation of a plan of conversion to which the domestic corporation is a constituent entity as the corporation whose subject owner's interests will be converted.*

(c) Consummation of a plan of exchange to which the domestic corporation is a constituent entity as the corporation whose subject owner's interests will be acquired, if his shares are to be acquired in the plan of exchange.

~~[(e)]~~ (d) Any corporate action taken pursuant to a vote of the stockholders to the extent that the articles of incorporation, bylaws or a resolution of the board of directors provides that voting or nonvoting stockholders are entitled to dissent and obtain payment for their shares.

~~[(d)]~~ (e) *Accordance of full voting rights to control shares, as defined in NRS 78.3784, only to the extent provided for pursuant to NRS 78.3793.*

(f) Any corporate action not described in ~~paragraph (a), (b) or (c)~~ *this subsection* that will result in the stockholder receiving money or scrip instead of fractional shares except where the stockholder would not be entitled to receive such payment pursuant to NRS 78.205, 78.2055 or 78.207.

2. A stockholder who is entitled to dissent and obtain payment pursuant to NRS 92A.300 to 92A.500, inclusive, may not challenge the corporate action creating his entitlement unless the action is unlawful or fraudulent with respect to him or the domestic corporation.

3. From and after the effective date of any corporate action described in subsection 1, no stockholder who has exercised his right to dissent pursuant to NRS 92A.300 to 92A.500, inclusive, is entitled to vote his shares for any purpose or to receive payment of dividends or any other distributions on shares. This subsection does not apply to dividends or other distributions payable to stockholders on a date before the effective date of any corporate action from which the stockholder has dissented.

Sec. 67. NRS 92A.390 is hereby amended to read as follows:

92A.390 1. There is no right of dissent with respect to a plan of merger, *conversion* or exchange in favor of stockholders of any class or series which ~~[-at the]~~ is:

(a) *A covered security under section 18(b)(1)(A) or (B) of the Securities Act of 1933, 15 U.S.C. § 77r(b)(1)(A) or (B), as amended;*

(b) *Traded in an organized market and has at least 2,000 stockholders and a market value of at least \$20,000,000, exclusive of the value of such shares held by the corporation's subsidiaries, senior executives, directors and beneficial stockholders owning more than 10 percent of such shares; or*

(c) *Issued by an open end management investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940 and which may be redeemed at the option of the holder at net asset value,*

*↪ unless the articles of incorporation of the corporation issuing the class or series provide otherwise.*

2. *The applicability of subsection 1 must be determined as of:*

(a) ~~The record date fixed to determine the stockholders entitled to receive notice of and to vote at the meeting [at which the plan of merger or exchange is to be acted on, were either listed on a national securities exchange, included in the national market system by the National Association of Securities Dealers, Inc., or held by at least 2,000 stockholders of record, unless:~~

~~(a) The articles of incorporation of the corporation issuing the shares provide otherwise;]~~ *of stockholders to act upon the corporate action requiring dissenter's rights; or*

(b) ~~The holders of the class or series are required under the plan of merger or exchange to accept for the shares anything except:~~

~~(1) Cash, owner's interests or owner's interests and cash in lieu of fractional owner's interests of:~~

(I) The surviving or acquiring entity; or

~~(II) Any other entity which, at the effective date of the plan of merger or exchange, were either listed on a national securities exchange, included in the national market system by the National Association of Securities Dealers, Inc., or held of record by a least 2,000 holders of owner's interests of record;~~  
~~or~~

~~(2) A combination of cash and owner's interests of the kind described in sub-subparagraphs (I) and (II) of subparagraph (1) of paragraph (b).~~

~~2.] The day before the effective date of such corporate action if there is no meeting of stockholders.~~

3. *Subsection 1 is not applicable and dissenter's rights are available pursuant to NRS 92A.380 for the holders of any class or series of shares who are required by the terms of the corporate action requiring dissenter's rights to accept for such shares anything other than cash or shares of any class or any series of shares of any corporation, or any other proprietary interest of any other entity, that satisfies the standards set forth in subsection 1 at the time the corporate action becomes effective.*

4. There is no right of dissent for any holders of stock of the surviving domestic corporation if the plan of merger does not require action of the stockholders of the surviving domestic corporation under NRS 92A.130.

5. *There is no right of dissent for any holders of stock of the parent domestic corporation if the plan of merger does not require action of the stockholders of the parent domestic corporation under NRS 92A.180.*

Sec. 68. NRS 92A.400 is hereby amended to read as follows:

92A.400 1. A stockholder of record may assert dissenter's rights as to fewer than all of the shares registered in his name only if he dissents with respect to all shares *of the class or series* beneficially owned by any one person and notifies the subject corporation in writing of the name and address of each person on whose behalf he asserts dissenter's rights. The rights of a partial dissenter under this subsection are determined as if the shares as to which he dissents and his other shares were registered in the names of different stockholders.

2. A beneficial stockholder may assert dissenter's rights as to shares held on his behalf only if:

(a) He submits to the subject corporation the written consent of the stockholder of record to the dissent not later than the time the beneficial stockholder asserts dissenter's rights; and

(b) He does so with respect to all shares of which he is the beneficial stockholder or over which he has power to direct the vote.

Sec. 69. NRS 92A.410 is hereby amended to read as follows:

92A.410 1. If a proposed corporate action creating dissenters' rights is submitted to a vote at a stockholders' meeting, the notice of the meeting must state that stockholders are , *are not* or may be entitled to assert dissenters' rights under NRS 92A.300 to 92A.500, inclusive . ~~[, and be accompanied by a copy of those sections.]~~ *If the domestic corporation concludes that*

*dissenter's rights are or may be available, a copy of NRS 92A.300 to 92A.500, inclusive, must accompany the meeting notice sent to those record stockholders entitled to exercise dissenter's rights.*

2. If the corporate action creating dissenters' rights is taken by written consent of the stockholders or without a vote of the stockholders, the domestic corporation shall notify in writing all stockholders entitled to assert dissenters' rights that the action was taken and send them the dissenter's notice described in NRS 92A.430.

Sec. 70. NRS 92A.420 is hereby amended to read as follows:

92A.420 1. If a proposed corporate action creating dissenters' rights is submitted to a vote at a stockholders' meeting, a stockholder who wishes to assert dissenter's rights ~~[-] with respect to any class or series of shares:~~

(a) Must deliver to the subject corporation, before the vote is taken, written notice of his intent to demand payment for his shares if the proposed action is effectuated; and

(b) ~~Must not vote [his shares], or cause or permit to be voted, any of his shares of such class or series~~ in favor of the proposed action.

2. If a proposed corporate action creating dissenters' rights is taken by written consent of the stockholders, a stockholder who wishes to assert dissenters' rights *with respect to any class or series of shares* must not consent to or approve the proposed corporate action ~~[-] with respect to such class or series.~~

3. A stockholder who does not satisfy the requirements of subsection 1 or 2 and NRS 92A.400 is not entitled to payment for his shares under this chapter.

Sec. 71. NRS 92A.430 is hereby amended to read as follows:

92A.430 1. The subject corporation shall deliver a written dissenter's notice to all stockholders entitled to assert dissenters' rights.

2. The dissenter's notice must be sent no later than 10 days after the ~~effectuation] effective date~~ of the corporate action ~~[-] specified in NRS 92A.380,~~ and must:

(a) State where the demand for payment must be sent and where and when certificates, if any, for shares must be deposited;

(b) Inform the holders of shares not represented by certificates to what extent the transfer of the shares will be restricted after the demand for payment is received;

(c) Supply a form for demanding payment that includes the date of the first announcement to the news media or to the stockholders of the terms of the proposed action and requires that the person asserting dissenter's rights certify whether or not he acquired beneficial ownership of the shares before that date;

(d) Set a date by which the subject corporation must receive the demand for payment, which may not be less than 30 nor more than 60 days after the date the notice is delivered ~~[-] and state that the stockholder shall be deemed~~

*to have waived the right to demand payment with respect to the shares unless the form is received by the subject corporation by such specified date; and*

(e) Be accompanied by a copy of NRS 92A.300 to 92A.500, inclusive.

Sec. 72. NRS 92A.440 is hereby amended to read as follows:

92A.440 1. A stockholder ~~[to whom]~~ *who receives a dissenter's notice [is sent]* pursuant to NRS 92A.430 and who wishes to exercise dissenter's rights must:

(a) Demand payment;

(b) Certify whether he or the beneficial owner on whose behalf he is dissenting, as the case may be, acquired beneficial ownership of the shares before the date required to be set forth in the dissenter's notice for this certification; and

(c) Deposit his certificates, if any, in accordance with the terms of the notice.

2. ~~[The stockholder who demands payment and deposits his certificates, if any, before the proposed corporate action is taken retains all other rights of a stockholder until those rights are cancelled or modified by the taking of the proposed corporate action.]~~ *If a stockholder fails to make the certification required by paragraph (b) of subsection 1, the subject corporation may elect to treat the stockholder's shares as after-acquired shares under NRS 92A.470.*

3. *Once a stockholder deposits that stockholder's certificates or, in the case of uncertified shares makes demand for payment, that stockholder loses all rights as a stockholder, unless the stockholder withdraws pursuant to subsection 4.*

4. *A stockholder who has complied with subsection 1 may nevertheless decline to exercise dissenter's rights and withdraw from the appraisal process by so notifying the subject corporation in writing by the date set forth in the dissenter's notice pursuant to NRS 92A.430. A stockholder who fails to so withdraw from the appraisal process may not thereafter withdraw without the subject corporation's written consent.*

5. The stockholder who does not demand payment or deposit his certificates where required, each by the date set forth in the dissenter's notice, is not entitled to payment for his shares under this chapter.

Sec. 73. NRS 92A.450 is hereby amended to read as follows:

92A.450 ~~[1.]~~ The subject corporation may restrict the transfer of shares not represented by a certificate from the date the demand for their payment is received.

~~[2. The person for whom dissenter's rights are asserted as to shares not represented by a certificate retains all other rights of a stockholder until those rights are cancelled or modified by the taking of the proposed corporate action.]~~

Sec. 74. NRS 92A.460 is hereby amended to read as follows:

92A.460 1. Except as otherwise provided in NRS 92A.470, within 30 days after receipt of a demand for payment, the subject corporation shall pay

*in cash* to each dissenter who complied with NRS 92A.440 the amount the subject corporation estimates to be the fair value of his shares, plus accrued interest. The obligation of the subject corporation under this subsection may be enforced by the district court:

(a) Of the county where the *subject* corporation's principal office is located;

(b) If the *subject* corporation's principal office is not located in this State, in ~~Carson City, or~~ *the county in which the corporation's registered office is located; or*

(c) At the election of any dissenter residing or having its principal *or registered* office in this State, of the county where the dissenter resides or has its principal *or registered* office.

↪ The court shall dispose of the complaint promptly.

2. The payment must be accompanied by:

(a) The subject corporation's balance sheet as of the end of a fiscal year ending not more than 16 months before the date of payment, a statement of income for that year, a statement of changes in the stockholders' equity for that year *or, where such financial statements are not reasonably available, then such reasonably equivalent financial information* and the latest available ~~interim~~ *quarterly* financial statements, if any;

(b) A statement of the subject corporation's estimate of the fair value of the shares; *and*

(c) ~~An explanation of how the interest was calculated;~~

~~(d)~~ A statement of the dissenter's rights to demand payment under NRS 92A.480 ~~;~~ *and that if any such stockholder does not do so within the period specified, such stockholder shall be deemed to have accepted such payment in full satisfaction of the corporation's obligations under this chapter.*

~~(e) A copy of NRS 92A.300 to 92A.500, inclusive.]~~

Sec. 75. NRS 92A.470 is hereby amended to read as follows:

92A.470 1. A subject corporation may elect to withhold payment from a dissenter unless he was the beneficial owner of the shares before the date set forth in the dissenter's notice as the *first* date of ~~the first~~ *any* announcement to the news media or to the stockholders of the terms of the proposed action.

2. To the extent the subject corporation elects to withhold payment, *within 30 days* after ~~taking the proposed action, it shall estimate the fair value of the shares, plus accrued interest, and shall offer to pay this amount to each dissenter who agrees to accept it in full satisfaction of his demand. The~~ *receipt of a demand for payment, the subject corporation shall* ~~send with its offer a statement of its estimate of the fair value of the shares, an explanation of how the interest was calculated, and a statement of the dissenters' right to demand payment pursuant to NRS 92A.480.]~~ *notify the dissenters described in subsection 1:*

(a) *Of the information required by paragraph (a) of subsection 2 of NRS 92A.460;*

(b) *Of the subject corporation's estimate of fair value pursuant to paragraph (b) of subsection 2 of NRS 92A.460;*

(c) *That they may accept the subject corporation's estimate of fair value, plus interest, in full satisfaction of their demands or demand appraisal under NRS 92A.480;*

(d) *That those stockholders who wish to accept such an offer must so notify the subject corporation of their acceptance of the offer within 30 days after receipt of such offer; and*

(e) *That those stockholders who do not satisfy the requirements for demanding appraisal under NRS 92A.480 shall be deemed to have accepted the subject corporation's offer.*

3. *Within 10 days after receiving the stockholder's acceptance pursuant to subsection 2, the subject corporation shall pay in cash the amount offered under paragraph (b) of subsection 2 to each stockholder who agreed to accept the subject corporation's offer in full satisfaction of the stockholder's demand.*

4. *Within 40 days after sending the notice described in subsection 2, the subject corporation shall pay in cash the amount offered under paragraph (b) of subsection 2 to each stockholder described in paragraph (e) of subsection 2.*

Sec. 76. NRS 92A.480 is hereby amended to read as follows:

92A.480 1. A dissenter *paid pursuant to NRS 92A.460 who is dissatisfied with the amount of the payment* may notify the subject corporation in writing of his own estimate of the fair value of his shares and the amount of interest due, and demand payment of his estimate, less any payment pursuant to NRS 92A.460 . ~~[, or] A dissenter offered payment pursuant to NRS 92A.470 who is dissatisfied with the offer may reject the offer pursuant to NRS 92A.470 and demand payment of the fair value of his shares and interest due . [, if he believes that the amount paid pursuant to NRS 92A.460 or offered pursuant to NRS 92A.470 is less than the fair value of his shares or that the interest due is incorrectly calculated.]~~

2. A dissenter waives his right to demand payment pursuant to this section unless he notifies the subject corporation of his demand *to be paid the dissenter's stated estimate of fair value plus interest under subsection 1* in writing within 30 days after receiving the subject ~~[corporation]~~ corporation's payment or offer of payment under NRS 92A.460 or 92A.470 and is entitled only to the payment made or offered . ~~[payment for his shares.]~~

Sec. 77. NRS 92A.490 is hereby amended to read as follows:

92A.490 1. If a demand for payment remains unsettled, the subject corporation shall commence a proceeding within 60 days after receiving the demand and petition the court to determine the fair value of the shares and accrued interest. If the subject corporation does not commence the proceeding within the 60-day period, it shall pay each dissenter whose

demand remains unsettled the amount demanded ~~[-]~~ by each dissenter pursuant to NRS 92A.480 plus interest.

2. A subject corporation shall commence the proceeding in the district court of the county where its principal office is located ~~[-]~~ in this State. If the principal office of the subject corporation is not located in the State, it shall commence the proceeding in the county where the principal office of the domestic corporation merged with or whose shares were acquired by the foreign entity was located. If the principal office of the subject corporation and the domestic corporation merged with or whose shares were acquired is not located in this State, the subject corporation shall commence the proceeding in the district court in ~~{Carson City,}~~ the county in which the corporation's registered office is located.

3. The subject corporation shall make all dissenters, whether or not residents of Nevada, whose demands remain unsettled, parties to the proceeding as in an action against their shares. All parties must be served with a copy of the petition. Nonresidents may be served by registered or certified mail or by publication as provided by law.

4. The jurisdiction of the court in which the proceeding is commenced under subsection 2 is plenary and exclusive. The court may appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers have the powers described in the order appointing them, or any amendment thereto. The dissenters are entitled to the same discovery rights as parties in other civil proceedings.

5. Each dissenter who is made a party to the proceeding is entitled to a judgment:

(a) For the amount, if any, by which the court finds the fair value of his shares, plus interest, exceeds the amount paid by the subject corporation; or

(b) For the fair value, plus accrued interest, of his after-acquired shares for which the subject corporation elected to withhold payment pursuant to NRS 92A.470.

Sec. 78. NRS 92A.500 is hereby amended to read as follows:

92A.500 1. The court in a proceeding to determine fair value shall determine all of the costs of the proceeding, including the reasonable compensation and expenses of any appraisers appointed by the court. The court shall assess the costs against the subject corporation, except that the court may assess costs against all or some of the dissenters, in amounts the court finds equitable, to the extent the court finds the dissenters acted arbitrarily, vexatiously or not in good faith in demanding payment.

2. The court may also assess the fees and expenses of the counsel and experts for the respective parties, in amounts the court finds equitable:

(a) Against the subject corporation and in favor of all dissenters if the court finds the subject corporation did not substantially comply with the requirements of NRS 92A.300 to 92A.500, inclusive; or

(b) Against either the subject corporation or a dissenter in favor of any other party, if the court finds that the party against whom the fees and

expenses are assessed acted arbitrarily, vexatiously or not in good faith with respect to the rights provided by NRS 92A.300 to 92A.500, inclusive.

3. If the court finds that the services of counsel for any dissenter were of substantial benefit to other dissenters similarly situated, and that the fees for those services should not be assessed against the subject corporation, the court may award to those counsel reasonable fees to be paid out of the amounts awarded to the dissenters who were benefited.

4. In a proceeding commenced pursuant to NRS 92A.460, the court may assess the costs against the subject corporation, except that the court may assess costs against all or some of the dissenters who are parties to the proceeding, in amounts the court finds equitable, to the extent the court finds that such parties did not act in good faith in instituting the proceeding.

5. *To the extent the subject corporation fails to make a required payment pursuant to NRS 92A.460, 92A.470 or 92A.480, the dissenter may bring a cause of action directly for the amount owed and, to the extent the dissenter prevails, is entitled to recover all expenses of the suit.*

6. This section does not preclude any party in a proceeding commenced pursuant to NRS 92A.460 or 92A.490 from applying the provisions of N.R.C.P. 68 or NRS 17.115.

Sec. 79. NRS 104.9620 is hereby amended to read as follows:

104.9620 1. Except as otherwise provided in subsection 7, a secured party may accept collateral in full or partial satisfaction of the obligation it secures only if:

(a) The debtor consents to the acceptance under subsection 3;

(b) The secured party does not receive, within the time set forth in subsection ~~{5}~~ 4, a notification of objection to the proposal authenticated by:

(1) A person to which the secured party was required to send a proposal under NRS 104.9621; or

(2) Any other person, other than the debtor, holding an interest in the collateral subordinate to the security interest that is the subject of the proposal;

(c) If the collateral is consumer goods, the collateral is not in the possession of the debtor when the debtor consents to the acceptance; and

(d) Subsection 5 does not require the secured party to dispose of the collateral.

2. A purported or apparent acceptance of collateral under this section is ineffective unless:

(a) The secured party consents to the acceptance in an authenticated record or sends a proposal to the debtor; and

(b) The conditions of subsection 1 are met.

3. For purposes of this section:

(a) A debtor consents to an acceptance of collateral in partial satisfaction of the obligation it secures only if he agrees to the terms of the acceptance in a record authenticated after default; and

(b) A debtor consents to an acceptance of collateral in full satisfaction of the obligation it secures only if he agrees to the terms of the acceptance in a record authenticated after default or the secured party:

(1) Sends to the debtor after default a proposal that is unconditional or subject only to a condition that collateral not in the possession of the secured party be preserved or maintained;

(2) In the proposal, proposes to accept collateral in full satisfaction of the obligation it secures; and

(3) Does not receive a notification of objection authenticated by the debtor within 20 days after the proposal is sent.

4. To be effective under paragraph (b) of subsection 1, a notification of objection must be received by the secured party:

(a) In the case of a person to which the proposal was sent pursuant to NRS 104.9621, within 20 days after notification was sent to him; and

(b) In other cases:

(1) Within 20 days after the last notification was sent pursuant to NRS 104.9621; or

(2) If a notification was not sent, before the debtor consents to the acceptance under subsection 3.

5. A secured party that has taken possession of collateral shall dispose of the collateral pursuant to NRS 104.9610 within the time specified in subsection 6 if:

(a) Sixty percent of the cash price has been paid in the case of a purchase-money security interest in consumer goods; or

(b) Sixty percent of the principal amount of the obligation secured has been paid in the case of a non-purchase-money security interest in consumer goods.

6. To comply with subsection 5, the secured party shall dispose of the collateral:

(a) Within 90 days after taking possession; or

(b) Within any longer period to which the debtor and all secondary obligors have agreed in an agreement to that effect entered into and authenticated after default.

7. In a consumer transaction, a secured party may not accept collateral in partial satisfaction of the obligation it secures.

Sec. 80. NRS 602.020 is hereby amended to read as follows:

602.020 1. A certificate filed pursuant to NRS 602.010 or a renewal certificate filed pursuant to NRS 602.035 must state the assumed or fictitious name under which the business is being conducted or is intended to be conducted, and if conducted by:

(a) A natural person:

(1) His full name;

(2) The street address of his residence or business; and

(3) If the mailing address is different from the street address, the mailing address of his residence or business;

(b) An artificial person : ~~[required to make annual filings with the Secretary of State to retain its good standing:]~~

- (1) Its name ; ~~[as it appears in the records of the Secretary of State;]~~ and
- (2) Its mailing address;

(c) A general partnership:

- (1) The full name of each partner who is a natural person;
- (2) The street address of the residence or business of each partner who is a natural person;
- (3) If the mailing address is different from the street address, the mailing address of the residence or business of each partner who is a natural person; and
- (4) If one or more of the partners is an artificial person described in paragraph (b), the information required by paragraph (b) for each such partner; or

(d) A trust:

- (1) The full name of each trustee of the trust;
- (2) The street address of the residence or business of each trustee of the trust; and
- (3) If the mailing address is different from the street address, the mailing address of the residence or business of each trustee of the trust.

2. The certificate must be:

(a) Signed:

- (1) In the case of a natural person, by him;
- (2) In the case of an artificial person ~~[required to make annual filings with the Secretary of State to retain its good standing, by a person required to sign the annual filing;]~~ , *by an officer, director, manager, general partner, trustee or other natural person having the authority to bind the artificial person to a contract;*

(3) In the case of a general partnership, by each of the partners who is a natural person ~~[ ]~~ and , if one or more of the partners is an artificial person described in subparagraph (2), by ~~[an officer of the corporation or a person required to sign the annual filing;]~~ *the person described in subparagraph (2);*  
or

(4) In the case of a trust, by each of the trustees; and

(b) Notarized, unless the board of county commissioners of the county adopts an ordinance providing that the certificate may be filed without being notarized.

3. *No county clerk may refuse to accept for filing a certificate filed by a foreign artificial person or foreign artificial persons because the foreign artificial person or foreign artificial persons have not qualified to do business in this State under title 7 of NRS.*

4. *As used in this section:*

(a) *"Artificial person" means any organization organized under the law of the United States, any foreign country, or a state, province, territory, possession, commonwealth or dependency of the United States or any foreign*

country, and as to which the government, state, province, territory, possession, commonwealth or dependency must maintain a record showing the organization to have been organized.

(b) "Foreign artificial person" means an artificial person that is not organized under the laws of this State.

(c) "Record" means information which is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.

Sec. 81. NRS 604A.710 is hereby amended to read as follows:

604A.710 1. For the purpose of discovering violations of this chapter or securing information lawfully required under this chapter, the Commissioner or his duly authorized representatives may at any time investigate the business and examine the books, accounts, papers and records used therein of:

(a) Any licensee;

(b) Any other person engaged in the business of making loans or participating in such business as principal, agent, broker or otherwise;

(c) Any registered agent who represents a licensee or any other person engaged in the business of making loans; and

(d) Any person who the Commissioner has reasonable cause to believe is violating or is about to violate any provision of this chapter, whether or not the person claims to be within the authority or beyond the scope of this chapter.

2. For the purpose of examination, the Commissioner or his authorized representatives shall have and be given free access to the offices and places of business, and the files, safes and vaults of such persons.

3. The investigation of a registered agent pursuant to subsection 1, including, without limitation, any books, accounts, papers and records used therein, must be kept confidential except to the extent necessary to enforce any provision of this chapter.

4. For the purposes of this section, any person who advertises for, solicits or holds himself out as willing to make any deferred deposit loan, high-interest loan or title loan is presumed to be engaged in the business of making loans.

5. *This section does not entitle the Commissioner or his authorized representatives to investigate the business or examine the books, accounts, papers and records of any attorney who is not a person described in paragraph (a), (b) or (d) of subsection 1, other than examination of those books, accounts, papers and records maintained by such attorney in his capacity as a registered agent, and then only to the extent such books, accounts, papers and records are not subject to any privilege in NRS 49.035 to 49.115, inclusive.*

Sec. 82. NRS 675.380 is hereby amended to read as follows:

675.380 1. For the purpose of discovering violations of this chapter or of securing information lawfully required under this chapter, the

Commissioner or his duly authorized representatives may at any time investigate the business and examine the books, accounts, papers and records used therein of:

- (a) Any licensee;
- (b) Any other person engaged in the business described in NRS 675.060 or participating in such business as principal, agent, broker or otherwise;
- (c) Any registered agent who represents a licensee or any other person engaged in the business described in NRS 675.060; and
- (d) Any person who the Commissioner has reasonable cause to believe is violating or is about to violate any provision of this chapter, whether or not the person claims to be within the authority or beyond the scope of this chapter.

2. For the purpose of examination the Commissioner or his authorized representatives shall have and be given free access to the offices and places of business, files, safes and vaults of such persons.

3. The investigation of a registered agent pursuant to subsection 1, including, without limitation, any book, accounts, papers and records used therein must be kept confidential except to the extent necessary to enforce any provision of this chapter.

4. For the purposes of this section, any person who advertises for, solicits or holds himself out as willing to make loan transactions is presumed to be engaged in the business described in NRS 675.060.

5. *This section does not entitle the Commissioner or his authorized representatives to investigate the business or examine the books, accounts, papers and records of any attorney who is not a person described in paragraph (a), (b) or (d) of subsection 1, other than examination of those books, accounts, papers and records maintained by such attorney in his capacity as a registered agent, and then only to the extent such books, accounts, papers and records are not subject to any privilege in NRS 49.035 to 49.115, inclusive.*

Sec. 83. (Deleted by amendment.)

Senator Care moved that the Senate concur in the Assembly amendment to Senate Bill No. 350.

Remarks by Senator Care.

Senator Care requested that his remarks be entered in the Journal.

Thank you Mr. President. This bill makes changes to the corporate code that is in Chapters 78 through 92. The business law section is agreeable to the amendments made by the Assembly that are minuscule in nature.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 351.

The following Assembly amendment was read:

Amendment No. 750.

"SUMMARY—Makes various changes relating to common-interest communities. (BDR 10-1145)"

"AN ACT relating to common-interest communities; providing that money collected by a unit-owners' association must be deposited or invested in certain institutions or securities; ~~revising the provisions relating to amendment of the governing documents to conform with the laws of this State;~~ providing that an executive board of an association may not fill a vacancy on the executive board if the governing documents require a vote of the membership of the association; ~~providing that an executive board may conduct a workshop without complying with certain requirements;~~ making various other changes relating to common-interest communities; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 3 of this bill provides that a unit-owners' association must deposit all funds of the association into certain financial institutions. Section 3 also provides that an association shall invest all funds of the association in certain investments.

~~{ Section 6 of this bill amends existing law to authorize the executive board of an association to amend the declaration or governing documents of the association to conform with the laws of this State without complying with the procedural requirements or obtaining the approval of the members of the association. (NRS 116.1206) }~~

Section 7 of this bill clarifies existing law to provide that a change in the use of a unit which requires unanimous approval of the units' owners includes only changes to the boundary of a unit or the allocated interests of a unit. (NRS 116.2117)

~~{ Existing law provides that an association may take certain actions, subject to the provisions of the declaration. (NRS 116.3102) Section 8 of this bill provides that an association may take certain actions, unless the governing documents expressly prohibit the association from doing so. }~~

Section 9 of this bill provides that the executive board of an association may not fill a vacancy on the board without a vote of the units' owners if the governing documents provide that the vacancy must be filled by a vote of the membership of the association. (NRS 116.3103)

~~{ Section 10 of this bill clarifies existing law to provide that a special meeting of the units' owners includes a special meeting at which the units' owners will vote to remove a member of the executive board. (NRS 116.3108) }~~

~~{ Section 11 of this bill provides that the executive board of an association may conduct a workshop, which is not considered a meeting of the executive board as long as no action is taken, without complying with the requirements imposed on the executive board for holding a meeting. (NRS 116.3108.3) }~~

Existing law requires an association to: (1) establish reserves for the repair, replacement and restoration of the major components of the common elements; (2) include in the annual budget certain information pertaining to

the repair, replacement and restoration of the major components of the common elements; and (3) conduct a study every 5 years of the reserves required to repair, replace and restore the major components of the common elements. (NRS 116.3115 116.31151, 116.31152) Sections 12, 12.3 and 12.7 of this bill require an association to perform such functions with respect to any other portion of the common-interest community which the association has a duty to maintain, repair, replace or restore in addition to the major components of the common elements.

Section 13 of this bill amends existing law to exempt architectural records submitted by a unit's owner from the records which must be made available by an association. (NRS 116.31175)

Section 14 of this bill amends existing law to add to the information statement provided as part of a purchase of a unit in a common-interest community a statement that the provisions of the Declaration of Covenants, Conditions and Restrictions or other governing documents may be superseded by provisions of chapter 116 of NRS. (NRS 116.41095)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 116 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. (Deleted by amendment.)

Sec. 3. 1. *Except as otherwise provided in subsection 2, an association, a member of the executive board, or a community manager shall deposit or invest all funds of the association at a financial institution which:*

(a) *Is located in this State;*

(b) *Is qualified to conduct business in this State; or*

(c) *Has consented to be subject to the jurisdiction, including the power to subpoena, of the courts of this State and the Division.*

2. *Except as otherwise provided by the governing documents, in addition to the requirements of subsection 1, an association shall deposit, maintain and invest all funds of the association:*

(a) *In a financial institution whose accounts are insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or the Securities Investor Protection Corporation;*

(b) *With a private insurer approved pursuant to NRS 678.755; or*

(c) *In a government security backed by the full faith and credit of the Government of the United States.*

3. *The Commission shall adopt regulations prescribing the contents of the declaration to be executed and signed by a financial institution located outside of this State to submit to consent to the jurisdiction of the courts of this State and the Division.*

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. ~~NRS 116.1206 is hereby amended to read as follows:~~

~~116.1206 1. Any provision contained in a declaration, bylaw or other governing document of a common interest community that violates the provisions of this chapter shall be deemed to conform with those provisions by operation of law. [, and any such declaration, bylaw or other governing document is not required to be amended to conform to those provisions.~~

~~2. In]~~

~~2. A declaration, bylaw or other governing document of a common interest community that violates the provisions of this chapter may be changed to conform to those provisions. A declaration, bylaw or other governing document of a common interest community that is changed for the sole purpose of conforming with the provisions of this chapter may be changed by the executive board without the approval of the members of the association and without complying with the procedural requirements of NRS 116.2117 or any other provision generally applicable to the adoption of an amendment to such declaration, bylaw or other governing document.~~

~~3. Except as otherwise provided in subsection 2, in the case of amendments to the declaration, bylaws or plats and plans of any common interest community created before January 1, 1992:~~

~~(a) If the result accomplished by the amendment was permitted by law before January 1, 1992, the amendment may be made either in accordance with that law, in which case that law applies to that amendment, or it may be made under this chapter; and~~

~~(b) If the result accomplished by the amendment is permitted by this chapter, and was not permitted by law before January 1, 1992, the amendment may be made under this chapter.~~

~~{3. An]~~

~~4. Except as otherwise provided in subsection 2, an amendment to the declaration, bylaws or plats and plans authorized by this section to be made under this chapter must be adopted in conformity with the applicable provisions of chapter 117 or 278A of NRS and with the procedures and requirements specified by those instruments. If an amendment grants to any person any rights, powers or privileges permitted by this chapter, all correlative obligations, liabilities and restrictions in this chapter also apply to that person. (Deleted by amendment.)~~

Sec. 7. NRS 116.2117 is hereby amended to read as follows:

116.2117 1. Except as otherwise provided in NRS 116.21175, and except in cases of amendments that may be executed by a declarant under subsection 6 of NRS 116.2109 or NRS 116.211, or by the association under NRS 116.1107, [subsection 4 of NRS] 116.2106, subsection 3 of NRS 116.2108, subsection 1 of NRS 116.2112 or NRS 116.2113, or by certain units' owners under subsection 2 of NRS 116.2108, subsection 1 of NRS 116.2112, subsection 2 of NRS 116.2113 or subsection 2 of NRS 116.2118, and except as otherwise limited by subsection 4, the declaration, including any plats and plans, may be amended only by vote or agreement of units' owners of units to which at least a majority of the votes

in the association are allocated, or any larger majority the declaration specifies. The declaration may specify a smaller number only if all of the units are restricted exclusively to nonresidential use.

2. No action to challenge the validity of an amendment adopted by the association pursuant to this section may be brought more than 1 year after the amendment is recorded.

3. Every amendment to the declaration must be recorded in every county in which any portion of the common-interest community is located and is effective only upon recordation. An amendment, except an amendment pursuant to NRS 116.2112, must be indexed in the grantee's index in the name of the common-interest community and the association and in the grantor's index in the name of the parties executing the amendment.

4. Except to the extent expressly permitted or required by other provisions of this chapter, no amendment may change the boundaries of any unit ~~{-}~~ or the allocated interests of a unit ~~{for the uses to which any unit is restricted,}~~ in the absence of unanimous consent of the units' owners affected and the consent of a majority of the owners of the remaining units.

5. Amendments to the declaration required by this chapter to be recorded by the association must be prepared, executed, recorded and certified on behalf of the association by any officer of the association designated for that purpose or, in the absence of designation, by the president of the association.

Sec. 8. ~~NRS 116.3102 is hereby amended to read as follows:~~

~~116.3102 1. Except as otherwise provided in subsection 2, and [subject to the provisions of the declaration,] unless the governing documents expressly prohibit the association from doing so, the association may do any or all of the following:~~

- ~~(a) Adopt and amend bylaws, rules and regulations;~~
- ~~(b) Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from the units' owners;~~
- ~~(c) Hire and discharge managing agents and other employees, agents and independent contractors;~~
- ~~(d) Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common interest community;~~
- ~~(e) Make contracts and incur liabilities;~~
- ~~(f) Regulate the use, maintenance, repair, replacement and modification of common elements;~~
- ~~(g) Cause additional improvements to be made as a part of the common elements;~~
- ~~(h) Acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:~~
  - ~~(1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and~~

~~(2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112.~~

~~(i) Grant easements, leases, licenses and concessions through or over the common elements.~~

~~(j) Impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units' owners.~~

~~(k) Impose charges for late payment of assessments.~~

~~(l) Impose construction penalties when authorized pursuant to NRS 116.310305.~~

~~(m) Impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031.~~

~~(n) Impose reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.~~

~~(o) Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance.~~

~~(p) Assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides.~~

~~(q) Exercise any other powers conferred by the declaration or bylaws.~~

~~(r) Exercise all other powers that may be exercised in this State by legal entities of the same type as the association.~~

~~(s) Direct the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:~~

~~(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or~~

~~(2) 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.~~

~~(t) Exercise any other powers necessary and proper for the governance and operation of the association.~~

~~2. The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons. (Deleted by amendment.)~~

Sec. 9. NRS 116.3103 is hereby amended to read as follows:

116.3103 1. Except as otherwise provided in the declaration, the bylaws, this section or other provisions of this chapter, the executive board may act in all instances on behalf of the association. In the performance of their duties, the officers and members of the executive board are fiduciaries. The members of the executive board are required to exercise the ordinary and reasonable care of directors of a corporation, subject to the business-judgment rule.

2. ~~The [Except as otherwise provided in NRS 116.1206, the] executive board may not act on behalf of the association to amend the declaration, to terminate the common-interest community, or to elect members of the executive board or determine their qualifications, powers and duties or terms of office, but the executive board may fill vacancies in its membership for the unexpired portion of any term [.] unless the governing documents provide that a vacancy on the executive board must be filled by a vote of the membership of the association.~~

Sec. 10. ~~[NRS 116.3108 is hereby amended to read as follows:~~

~~116.3108 1. A meeting of the units' owners must be held at least once each year. If the governing documents do not designate an annual meeting date of the units' owners, a meeting of the units' owners must be held 1 year after the date of the last meeting of the units' owners. If the units' owners have not held a meeting for 1 year, a meeting of the units' owners must be held on the following March 1.~~

~~2. Special meetings of the units' owners, including a special meeting at which the units' owners will vote on the removal of a member of the executive board, may be called by the president, by a majority of the executive board or by units' owners constituting at least 10 percent, or any lower percentage specified in the bylaws, of the total number of voting members of the association. The same number of units' owners may also call a removal election pursuant to NRS 116.31036. To call a special meeting or a removal election, the units' owners must submit a written petition which is signed by the required percentage of the total number of voting members of the association pursuant to this section and which is mailed, return receipt requested, or served by a process server to the executive board or the community manager for the association. If the petition calls for a special meeting, the executive board shall set the date for the special meeting so that the special meeting is held not less than 15 days or more than 60 days after the date on which the petition is received. If the petition calls for a removal election and:~~

~~(a) The voting rights of the units' owners will be exercised by delegates or representatives as set forth in NRS 116.31105, the executive board shall set~~

~~the date for the removal election so that the removal election is held not less than 15 days or more than 60 days after the date on which the petition is received; or~~

~~(b) The voting rights of the units' owners will be exercised through the use of secret written ballots pursuant to NRS 116.31036, the secret written ballots for the removal election must be sent in the manner required by NRS 116.31036 not less than 15 days or more than 60 days after the date on which the petition is received, and the executive board shall set the date for the meeting to open and count the secret written ballots so that the meeting is held not more than 15 days after the deadline for returning the secret written ballots.~~

~~3. Not less than 15 days or more than 60 days in advance of any meeting of the units' owners, the secretary or other officer specified in the bylaws shall cause notice of the meeting to be hand delivered, sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner or, if the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner. The notice of the meeting must state the time and place of the meeting and include a copy of the agenda for the meeting. The notice must include notification of the right of a unit's owner to:~~

~~(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.~~

~~(b) Speak to the association or executive board, unless the executive board is meeting in executive session.~~

~~4. The agenda for a meeting of the units' owners must consist of:~~

~~(a) A clear and complete statement of the topics scheduled to be considered during the meeting, including, without limitation, any proposed amendment to the declaration or bylaws, any fees or assessments to be imposed or increased by the association, any budgetary changes and any proposal to remove an officer of the association or member of the executive board.~~

~~(b) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items. In an emergency, the units' owners may take action on an item which is not listed on the agenda as an item on which action may be taken.~~

~~(c) A period devoted to comments by units' owners and discussion of those comments. Except in emergencies, no action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to paragraph (b).~~

~~5. If the association adopts a policy imposing fines for any violations of the governing documents of the association, the secretary or other officer~~

~~specified in the bylaws shall prepare and cause to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner, a schedule of the fines that may be imposed for those violations.~~

~~6. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the units' owners. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meeting to be made available to the units' owners. A copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.~~

~~7. Except as otherwise provided in subsection 8, the minutes of each meeting of the units' owners must include:~~

~~(a) The date, time and place of the meeting;~~

~~(b) The substance of all matters proposed, discussed or decided at the meeting; and~~

~~(c) The substance of remarks made by any unit's owner at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.~~

~~8. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of a meeting of the units' owners.~~

~~9. The association shall maintain the minutes of each meeting of the units' owners until the common interest community is terminated.~~

~~10. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the units' owners if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the other units' owners who are in attendance at the meeting.~~

~~11. The units' owners may approve, at the annual meeting of the units' owners, the minutes of the prior annual meeting of the units' owners and the minutes of any prior special meetings of the units' owners. A quorum is not required to be present when the units' owners approve the minutes.~~

~~12. As used in this section, "emergency" means any occurrence or combination of occurrences that:~~

~~(a) Could not have been reasonably foreseen;~~

~~(b) Affects the health, welfare and safety of the units' owners or residents of the common interest community;~~

~~(c) Requires the immediate attention of, and possible action by, the executive board; and~~

~~(d) Makes it impracticable to comply with the provisions of subsection 3 or 4.] (Deleted by amendment.)~~

~~Sec. 11. [NRS 116.31083 is hereby amended to read as follows:~~

~~116.31083 1. A meeting of the executive board must be held at least once every 90 days.~~

~~2. Except in an emergency or unless the bylaws of an association require a longer period of notice, the secretary or other officer specified in the bylaws of the association shall, not less than 10 days before the date of a meeting of the executive board, cause notice of the meeting to be given to the units' owners. Such notice must be:~~

~~(a) Sent prepaid by United States mail to the mailing address of each unit within the common interest community or to any other mailing address designated in writing by the unit's owner;~~

~~(b) If the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner; or~~

~~(c) Published in a newsletter or other similar publication that is circulated to each unit's owner.~~

~~3. In an emergency, the secretary or other officer specified in the bylaws of the association shall, if practicable, cause notice of the meeting to be sent prepaid by United States mail to the mailing address of each unit within the common interest community. If delivery of the notice in this manner is impracticable, the notice must be hand delivered to each unit within the common interest community or posted in a prominent place or places within the common elements of the association.~~

~~4. The notice of a meeting of the executive board must state the time and place of the meeting and include a copy of the agenda for the meeting or the date on which and the locations where copies of the agenda may be conveniently obtained by the units' owners. The notice must include notification of the right of a unit's owner to:~~

~~(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.~~

~~(b) Speak to the association or executive board, unless the executive board is meeting in executive session.~~

~~5. The agenda of the meeting of the executive board must comply with the provisions of subsection 4 of NRS 116.3108. The period required to be devoted to comments by the units' owners and discussion of those comments must be scheduled for the beginning of each meeting. In an emergency, the executive board may take action on an item which is not listed on the agenda as an item on which action may be taken.~~

~~6. At least once every 90 days, unless the declaration or bylaws of the association impose more stringent standards, the executive board shall review, at a minimum, the following financial information at one of its meetings:~~

~~(a) A current year to date financial statement of the association;~~

~~(b) A current year to date schedule of revenues and expenses for the operating account and the reserve account, compared to the budget for those accounts;~~

- ~~(c) A current reconciliation of the operating account of the association;~~
- ~~(d) A current reconciliation of the reserve account of the association;~~
- ~~(e) The latest account statements prepared by the financial institutions in which the accounts of the association are maintained; and~~
- ~~(f) The current status of any civil action or claim submitted to arbitration or mediation in which the association is a party.~~

~~7. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the executive board. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meetings to be made available to the units' owners. A copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.~~

~~8. Except as otherwise provided in subsection 9 and NRS 116.31085, the minutes of each meeting of the executive board must include:~~

- ~~(a) The date, time and place of the meeting;~~
- ~~(b) Those members of the executive board who were present and those members who were absent at the meeting;~~
- ~~(c) The substance of all matters proposed, discussed or decided at the meeting;~~
- ~~(d) A record of each member's vote on any matter decided by vote at the meeting; and~~
- ~~(e) The substance of remarks made by any unit's owner who addresses the executive board at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.~~

~~9. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of its meetings.~~

~~10. The association shall maintain the minutes of each meeting of the executive board until the common interest community is terminated.~~

~~11. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the executive board, unless the executive board is meeting in executive session, if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the members of the executive board and the other units' owners who are in attendance at the meeting.~~

~~12. Notwithstanding any other provision of this chapter, the executive board may conduct a workshop to prepare for a meeting of the executive board. A workshop shall not be deemed to be a meeting of the executive board as long as the executive board does not take any action on any matter discussed during the workshop. If the executive board conducts a workshop, the executive board is not required to:~~

- ~~(a) Provide to the units' owners notice of the workshop pursuant to subsection 2 or 3;~~

~~(b) Permit a unit's owner to attend or speak at a workshop pursuant to subsections 4 and 5;~~

~~(c) Comply with the requirements of this section for creating or distributing an agenda for a workshop; or~~

~~(d) Comply with the requirements of this section for recording or distributing minutes for a workshop.~~

~~13. As used in this section, "emergency" means any occurrence or combination of occurrences that:~~

~~(a) Could not have been reasonably foreseen;~~

~~(b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;~~

~~(c) Requires the immediate attention of, and possible action by, the executive board; and~~

~~(d) Makes it impracticable to comply with the provisions of subsection 2 or 5. (Deleted by amendment.)~~

Sec. 12. NRS 116.3115 is hereby amended to read as follows:

116.3115 1. Until the association makes an assessment for common expenses, the declarant shall pay all common expenses. After an assessment has been made by the association, assessments must be made at least annually, based on a budget adopted at least annually by the association in accordance with the requirements set forth in NRS 116.31151. Unless the declaration imposes more stringent standards, the budget must include a budget for the daily operation of the association and a budget for the reserves required by paragraph (b) of subsection 2.

2. Except for assessments under subsections 4 to 7, inclusive:

(a) All common expenses, including the reserves, must be assessed against all the units in accordance with the allocations set forth in the declaration pursuant to subsections 1 and 2 of NRS 116.2107.

(b) The association shall establish adequate reserves, funded on a reasonable basis, for the repair, replacement and 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~~. The reserves may be used only for those purposes, including, without limitation, repairing, replacing and restoring roofs, roads and sidewalks, and must not be used for daily maintenance. The association may comply with the provisions of this paragraph through a funding plan that is designed to allocate the costs for the repair, replacement and 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~~ over a period of years if the funding plan is designed in an actuarially sound manner which will ensure that sufficient money is available when the repair, replacement and restoration of the major components of the common elements ~~or any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore~~ are necessary.

3. Any past due assessment for common expenses or installment thereof bears interest at the rate established by the association not exceeding 18 percent per year.

4. ~~{To the extent required by the declaration.}~~ *Except as otherwise provided in the governing documents:*

(a) Any common expense associated with the maintenance, repair, restoration or replacement of a limited common element must be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;

(b) Any common expense or portion thereof benefiting fewer than all of the units must be assessed exclusively against the units benefited; and

(c) The costs of insurance must be assessed in proportion to risk and the costs of utilities must be assessed in proportion to usage.

5. Assessments to pay a judgment against the association may be made only against the units in the common-interest community at the time the judgment was entered, in proportion to their liabilities for common expenses.

6. If any common expense is caused by the misconduct of any unit's owner, the association may assess that expense exclusively against his unit.

7. The association of a common-interest community created before January 1, 1992, is not required to make an assessment against a vacant lot located within the community that is owned by the declarant.

8. If liabilities for common expenses are reallocated, assessments for common expenses and any installment thereof not yet due must be recalculated in accordance with the reallocated liabilities.

9. The association shall provide written notice to each unit's owner of a meeting at which an assessment for a capital improvement is to be considered or action is to be taken on such an assessment at least 21 calendar days before the date of the meeting.

Sec. 12.3. NRS 116.31151 is hereby amended to read as follows:

116.31151 1. Except as otherwise provided in subsection 2 and unless the declaration of a common-interest community imposes more stringent standards,

the executive board shall, not less than 30 days or more than 60 days before the beginning of the fiscal year of the association, prepare and distribute to each unit's owner a copy of:

(a) The budget for the daily operation of the association. The budget must include, without limitation, the estimated annual revenue and expenditures of the association and any contributions to be made to the reserve account of the association.

(b) The budget to provide adequate funding for the reserves required by paragraph (b) of subsection 2 of NRS 116.3115. The budget must include, without limitation:

(1) The current estimated replacement cost, estimated remaining life and estimated useful life of each major component of the common elements

~~the~~ and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;

(2) As of the end of the fiscal year for which the budget is prepared, the current estimate of the amount of cash reserves that are necessary, and the current amount of accumulated cash reserves that are set aside, to repair, replace or restore the major components of the common elements ~~the~~ and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;

(3) A statement as to whether the executive board has determined or anticipates that the levy of one or more special assessments will be necessary to repair, replace or restore any major component of the common elements or any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore or to provide adequate funding for the reserves designated for that purpose; and

(4) A general statement describing the procedures used for the estimation and accumulation of cash reserves pursuant to subparagraph (2), including, without limitation, the qualifications of the person responsible for the preparation of the study of the reserves required by NRS 116.31152.

2. In lieu of distributing copies of the budgets of the association required by subsection 1, the executive board may distribute to each unit's owner a summary of those budgets, accompanied by a written notice that:

(a) The budgets are available for review at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties; and

(b) Copies of the budgets will be provided upon request.

3. Within 60 days after adoption of any proposed budget for the common-interest community, the executive board shall provide a summary of the proposed budget to each unit's owner and shall set a date for a meeting of the units' owners to consider ratification of the proposed budget not less than 14 days or more than 30 days after the mailing of the summaries. Unless at that meeting a majority of all units' owners, or any larger vote specified in the declaration, reject the proposed budget, the proposed budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the units' owners must be continued until such time as the units' owners ratify a subsequent budget proposed by the executive board.

Sec. 12.7. NRS 116.31152 is hereby amended to read as follows:

116.31152 1. The executive board shall:

(a) At least once every 5 years, cause to be conducted a study of the reserves required to repair, replace and restore the major components of the common elements ~~the~~ and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;

(b) At least annually, review the results of that study to determine whether those reserves are sufficient; and

(c) At least annually, make any adjustments to the association's funding plan which the executive board deems necessary to provide adequate funding for the required reserves.

2. The study of the reserves required by subsection 1 must be conducted by a person who holds a permit issued pursuant to chapter 116A of NRS.

3. The study of the reserves must include, without limitation:

(a) A summary of an inspection 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;

(b) An identification 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 have a remaining useful life of less than 30 years;

(c) An estimate of the remaining useful life of each major component of the common elements *and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore* identified pursuant to paragraph (b);

(d) An estimate of the cost of *maintenance*, repair, replacement or restoration of each major component of the common elements *and any other portion of the common-interest community* identified pursuant to paragraph (b) during and at the end of its useful life; and

(e) An estimate of the total annual assessment that may be necessary to cover the cost of *maintaining*, repairing, replacement or restoration of the major components of the common elements *and any other portion of the common-interest community* identified pursuant to paragraph (b), after subtracting the reserves of the association as of the date of the study, and an estimate of the funding plan that may be necessary to provide adequate funding for the required reserves.

4. A summary of the study of the reserves required by subsection 1 must be submitted to the Division not later than 45 days after the date that the executive board adopts the results of the study.

5. If a common-interest community was developed as part of a planned unit development pursuant to chapter 278A of NRS and is subject to an agreement with a city or county to receive credit against the amount of the residential construction tax that is imposed pursuant to NRS 278.4983 and 278.4985, the association that is organized for the common-interest community may use the money from that credit for the repair, replacement or restoration of park facilities and related improvements if:

(a) The park facilities and related improvements are identified as major components of the common elements of the association; and

(b) The association is obligated to repair, replace or restore the park facilities and related improvements in accordance with the study of the reserves required by subsection 1.

Sec. 13. NRS 116.31175 is hereby amended to read as follows:

116.31175 1. Except as otherwise provided in this subsection, the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review during the regular working hours of the association, including, without limitation, all contracts to which the association is a party and all records filed with a court relating to a civil or criminal action to which the association is a party. The provisions of this subsection do not apply to:

(a) The personnel records of the employees of the association, except for those records relating to the number of hours worked and the salaries and benefits of those employees;

(b) The records of the association relating to another unit's owner, *including, without limitation, any architectural plan or specification submitted by a unit's owner to the association during an approval process required by the governing documents*, except for those records described in subsection 2; and

(c) A contract between the association and an attorney.

2. The executive board of an association shall maintain a general record concerning each violation of the governing documents, other than a violation involving a failure to pay an assessment, for which the executive board has imposed a fine, a construction penalty or any other sanction. The general record:

(a) Must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction imposed was a fine or construction penalty, the general record must specify the amount of the fine or construction penalty.

(b) Must not contain the name or address of the person against whom the sanction was imposed or any other personal information which may be used to identify the person or the location of the unit, if any, that is associated with the violation.

(c) Must be maintained in an organized and convenient filing system or data system that allows a unit's owner to search and review the general records concerning violations of the governing documents.

3. If the executive board refuses to allow a unit's owner to review the books, records or other papers of the association, the Ombudsman may:

(a) On behalf of the unit's owner and upon written request, review the books, records or other papers of the association during the regular working hours of the association; and

(b) If he is denied access to the books, records or other papers, request the Commission, or any member thereof acting on behalf of the Commission, to issue a subpoena for their production.

4. The books, records and other papers of an association must be maintained for at least 10 years. The provisions of this subsection do not apply to:

(a) The minutes of a meeting of the units' owners which must be maintained in accordance with NRS 116.3108; or

(b) The minutes of a meeting of the executive board which must be maintained in accordance with NRS 116.31083.

5. The executive board shall not require a unit's owner to pay an amount in excess of \$10 per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of this section.

Sec. 14. NRS 116.41095 is hereby amended to read as follows:

116.41095 The information statement required by NRS 116.4103 and 116.4109 must be in substantially the following form:

BEFORE YOU PURCHASE PROPERTY IN A  
COMMON-INTEREST COMMUNITY  
DID YOU KNOW . . .

1. YOU GENERALLY HAVE 5 DAYS TO CANCEL THE PURCHASE AGREEMENT?

When you enter into a purchase agreement to buy a home or unit in a common-interest community, in most cases you should receive either a public offering statement, if you are the original purchaser of the home or unit, or a resale package, if you are not the original purchaser. The law generally provides for a 5-day period in which you have the right to cancel the purchase agreement. The 5-day period begins on different starting dates, depending on whether you receive a public offering statement or a resale package. Upon receiving a public offering statement or a resale package, you should make sure you are informed of the deadline for exercising your right to cancel. In order to exercise your right to cancel, the law generally requires that you hand deliver the notice of cancellation to the seller within the 5-day period, or mail the notice of cancellation to the seller by prepaid United States mail within the 5-day period. For more information regarding your right to cancel, see Nevada Revised Statutes 116.4108, if you received a public offering statement, or Nevada Revised Statutes 116.4109, if you received a resale package.

2. YOU ARE AGREEING TO RESTRICTIONS ON HOW YOU CAN USE YOUR PROPERTY?

These restrictions are contained in a document known as the Declaration of Covenants, Conditions and Restrictions. The CC&Rs become a part of the title to your property. They bind you and every future owner of the property whether or not you have read them or had them explained to you. The CC&Rs, together with other "governing documents" (such as association bylaws and rules and regulations), are intended to preserve the character and value of properties in the community, but may also restrict what you can do to improve or change your property and limit how you use and enjoy your property. By purchasing a property encumbered by CC&Rs, you are agreeing to limitations that could affect your lifestyle and freedom of choice. You should review the CC&Rs, and other governing documents before purchasing to make sure that these limitations and controls are acceptable to you.

*Certain provisions in the CC&Rs and other governing documents may be superseded by contrary provisions of chapter 116 of the Nevada Revised Statutes. The Nevada Revised Statutes are available at the Internet address <http://www.leg.state.nv.us/nrs/>.*

**3. YOU WILL HAVE TO PAY OWNERS' ASSESSMENTS FOR AS LONG AS YOU OWN YOUR PROPERTY?**

As an owner in a common-interest community, you are responsible for paying your share of expenses relating to the common elements, such as landscaping, shared amenities and the operation of any homeowners' association. The obligation to pay these assessments binds you and every future owner of the property. Owners' fees are usually assessed by the homeowners' association and due monthly. You have to pay dues whether or not you agree with the way the association is managing the property or spending the assessments. The executive board of the association may have the power to change and increase the amount of the assessment and to levy special assessments against your property to meet extraordinary expenses. In some communities, major components of the common elements of the community such as roofs and private roads must be maintained and replaced by the association. If the association is not well managed or fails to provide adequate funding for reserves to repair, replace and restore common elements, you may be required to pay large, special assessments to accomplish these tasks.

**4. IF YOU FAIL TO PAY OWNERS' ASSESSMENTS, YOU COULD LOSE YOUR HOME?**

If you do not pay these assessments when due, the association usually has the power to collect them by selling your property in a nonjudicial foreclosure sale. If fees become delinquent, you may also be required to pay penalties and the association's costs and attorney's fees to become current. If you dispute the obligation or its amount, your only remedy to avoid the loss of your home may be to file a lawsuit and ask a court to intervene in the dispute.

**5. YOU MAY BECOME A MEMBER OF A HOMEOWNERS' ASSOCIATION THAT HAS THE POWER TO AFFECT HOW YOU USE AND ENJOY YOUR PROPERTY?**

Many common-interest communities have a homeowners' association. In a new development, the association will usually be controlled by the developer until a certain number of units have been sold. After the period of developer control, the association may be controlled by property owners like yourself who are elected by homeowners to sit on an executive board and other boards and committees formed by the association. The association, and its executive board, are responsible for assessing homeowners for the cost of operating the association and the common or shared elements of the community and for the day to day operation and management of the community. Because homeowners sitting on the executive board and other boards and committees of the association may not have the experience or professional background required to understand and carry out the responsibilities of the association

properly, the association may hire professional community managers to carry out these responsibilities.

Homeowners' associations operate on democratic principles. Some decisions require all homeowners to vote, some decisions are made by the executive board or other boards or committees established by the association or governing documents. Although the actions of the association and its executive board are governed by state laws, the CC&Rs and other documents that govern the common-interest community, decisions made by these persons will affect your use and enjoyment of your property, your lifestyle and freedom of choice, and your cost of living in the community. You may not agree with decisions made by the association or its governing bodies even though the decisions are ones which the association is authorized to make. Decisions may be made by a few persons on the executive board or governing bodies that do not necessarily reflect the view of the majority of homeowners in the community. If you do not agree with decisions made by the association, its executive board or other governing bodies, your remedy is typically to attempt to use the democratic processes of the association to seek the election of members of the executive board or other governing bodies that are more responsive to your needs. If you have a dispute with the association, its executive board or other governing bodies, you may be able to resolve the dispute through the complaint, investigation and intervention process administered by the Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels, the Nevada Real Estate Division and the Commission for Common-Interest Communities and Condominium Hotels. However, to resolve some disputes, you may have to mediate or arbitrate the dispute and, if mediation or arbitration is unsuccessful, you may have to file a lawsuit and ask a court to resolve the dispute. In addition to your personal cost in mediation or arbitration, or to prosecute a lawsuit, you may be responsible for paying your share of the association's cost in defending against your claim.

**6. YOU ARE REQUIRED TO PROVIDE PROSPECTIVE PURCHASERS OF YOUR PROPERTY WITH INFORMATION ABOUT LIVING IN YOUR COMMON-INTEREST COMMUNITY?**

The law requires you to provide a prospective purchaser of your property with a copy of the community's governing documents, including the CC&Rs, association bylaws, and rules and regulations, as well as a copy of this document. You are also required to provide a copy of the association's current year-to-date financial statement, including, without limitation, the most recent audited or reviewed financial statement, a copy of the association's operating budget and information regarding the amount of the monthly assessment for common expenses, including the amount set aside as reserves for the repair, replacement and restoration of common elements. You are also required to inform prospective purchasers of any outstanding judgments or lawsuits pending against the association of which you are

aware. For more information regarding these requirements, see Nevada Revised Statutes 116.4109.

**7. YOU HAVE CERTAIN RIGHTS REGARDING OWNERSHIP IN A COMMON-INTEREST COMMUNITY THAT ARE GUARANTEED YOU BY THE STATE?**

Pursuant to provisions of chapter 116 of Nevada Revised Statutes, you have the right:

(a) To be notified of all meetings of the association and its executive board, except in cases of emergency.

(b) To attend and speak at all meetings of the association and its executive board, except in some cases where the executive board is authorized to meet in closed, executive session.

(c) To request a special meeting of the association upon petition of at least 10 percent of the homeowners.

(d) To inspect, examine, photocopy and audit financial and other records of the association.

(e) To be notified of all changes in the community's rules and regulations and other actions by the association or board that affect you.

**8. QUESTIONS?**

Although they may be voluminous, you should take the time to read and understand the documents that will control your ownership of a property in a common-interest community. You may wish to ask your real estate professional, lawyer or other person with experience to explain anything you do not understand. You may also request assistance from the Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels, Nevada Real Estate Division, at (telephone number).

Buyer or prospective buyer's initials: \_\_\_\_\_

Date: \_\_\_\_\_.

Senator Care moved that the Senate concur in the Assembly amendment to Senate Bill No. 351.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 12:01 p.m.

**SENATE IN SESSION**

At 12:47 p.m.

President Krolicki presiding.

Quorum present.

Senate Bill No. 243.

The following Assembly amendments were read:

Amendment No. 799.

"SUMMARY—Requires local law enforcement agencies to enforce certain state laws. (BDR 43-719)"

"AN ACT relating to traffic laws; expanding to certain category I peace officers and certain inspectors in this State the authority for the enforcement of certain traffic laws relating to the weight of certain motor vehicles; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that the Nevada Highway Patrol has authority for the enforcement of certain requirements relating to the size and weight of certain vehicles being operated on the highways of this State. (NRS 484.755) This bill expands that authority to include ~~all~~ law enforcement agencies in counties with a population of 100,000 or more (currently Washoe and Clark Counties) in the State and authorizes certain category I peace officers and certain inspectors of the Department of Motor Vehicles and the Department of Public Safety to require the driver of certain vehicles to stop and submit to a weighing of the vehicle.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 484.755 is hereby amended to read as follows:

484.755 1. Authority for the enforcement of the provisions of NRS 484.744 to 484.757, inclusive, is vested in ~~the~~ the Nevada Highway Patrol, ~~certain law enforcement agencies in this State.~~

2. Any category I peace officer, officer of the Nevada Highway Patrol or inspector having reason to believe that the weight of a vehicle and load is unlawful may require the driver to stop and submit to a weighing of the vehicle either by means of portable or stationary scales and may require that the vehicle be driven to the nearest public scales, if they are within 5 miles.

3. Whenever an officer of the Nevada Highway Patrol, a category I peace officer or an inspector upon weighing a vehicle and load as provided in subsection 2 determines that the weight is unlawful, he may require the driver to stop in a suitable place and remove such portion of the load as may be necessary to reduce the gross weight of the vehicle to those limits permitted under NRS 484.744 to 484.757, inclusive. All materials so unloaded must be cared for by the carrier of the material and at his expense. The officer of the Nevada Highway Patrol, category I peace officer or inspector may allow the driver of the inspected vehicle to continue on his journey if any overload does not exceed by more than 5 percent the limitations prescribed by NRS 484.744 to 484.757, inclusive, but the penalties provided in NRS 484.757 must be imposed for the overload violation.

4. Any driver of a vehicle who fails or refuses to stop and submit the vehicle and load to a weighing, or who fails or refuses when directed by an officer of the Nevada Highway Patrol, a category I peace officer or an inspector upon a weighing of the vehicle to stop and otherwise comply with

the provisions of NRS 484.744 to 484.757, inclusive, is guilty of a misdemeanor.

5. *As used in this section:*

(a) "Category I peace officer" means a peace officer as defined in NRS 289.460, in a county whose population is 100,000 or more who has completed a vehicle weight enforcement training program that is specific to this State and conducted by the Nevada Highway Patrol.

(b) "Inspector" means an inspector of the Department of Motor Vehicles or the Department of Public Safety who has completed a vehicle weight enforcement training program that is specific to this State and conducted by the Nevada Highway Patrol.

(c) "Law enforcement agency" has the meaning ascribed to it in NRS 202.873.

Sec. 2. 1. On or before December 31, 2010, the chief administrative officer of any law enforcement or other agency authorized to enforce the provisions of NRS 484.755, as amended by section 1 of this act, shall submit to the Director of the Department of Public Safety a report compiling:

(a) The number of officers or inspectors trained by the Nevada Highway Patrol in vehicle weight enforcement;

(b) The number of hours of training given each officer or inspector trained as described in paragraph (a); and

(c) The number of citations issued by those officers or inspectors pursuant to NRS 484.755, as amended by section 1 of this act, after October 1, 2009.

2. On or before January 15, 2011, the Director of the Department of Public Safety shall submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling all the information received pursuant to subsection 1.

Amendment No. 889.

"SUMMARY—Requires local law enforcement agencies to enforce certain state laws. (BDR 43-719)"

"AN ACT relating to traffic laws; expanding to certain category I peace officers and certain inspectors in this State the authority for the enforcement of certain traffic laws relating to the weight of certain motor vehicles; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that the Nevada Highway Patrol has authority for the enforcement of certain requirements relating to the size and weight of certain vehicles being operated on the highways of this State. (NRS 484.755) This bill expands that authority to include law enforcement agencies in counties with a population of 100,000 or more (currently Washoe and Clark Counties) in the State and authorizes certain category I peace officers and certain inspectors of the Department of Motor Vehicles and the Department of Public Safety to require the driver of certain vehicles to stop and submit to a weighing of the vehicle.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 484.755 is hereby amended to read as follows:

484.755 1. Authority for the enforcement of the provisions of NRS 484.744 to 484.757, inclusive, is vested in ~~[the Nevada Highway Patrol]~~ *certain law enforcement agencies in this State.*

2. Any *category I peace officer*, officer of the Nevada Highway Patrol or *inspector* having reason to believe that the weight of a vehicle and load is unlawful may require the driver to stop and submit to a weighing of the vehicle either by means of portable or stationary scales and may require that the vehicle be driven to the nearest public scales, if they are within 5 miles.

3. Whenever an *officer of the Nevada Highway Patrol, a category I peace officer or an inspector* upon weighing a vehicle and load as provided in subsection 2 determines that the weight is unlawful, he may require the driver to stop in a suitable place and remove such portion of the load as may be necessary to reduce the gross weight of the vehicle to those limits permitted under NRS 484.744 to 484.757, inclusive. All materials so unloaded must be cared for by the carrier of the material and at his expense. The *officer of the Nevada Highway Patrol, category I peace officer or inspector* may allow the driver of the inspected vehicle to continue on his journey if any overload does not exceed by more than 5 percent the limitations prescribed by NRS 484.744 to 484.757, inclusive, but the penalties provided in NRS 484.757 must be imposed for the overload violation.

4. Any driver of a vehicle who fails or refuses to stop and submit the vehicle and load to a weighing, or who fails or refuses when directed by an officer of the Nevada Highway Patrol, *a category I peace officer or an inspector* upon a weighing of the vehicle to stop and otherwise comply with the provisions of NRS 484.744 to 484.757, inclusive, is guilty of a misdemeanor.

5. *As used in this section:*

(a) "*Category I peace officer*" means a peace officer, as defined in NRS 289.460, in a county whose population is 100,000 or more who has completed a vehicle weight enforcement training program that is specific to this State and conducted by the Nevada Highway Patrol.

(b) "*Inspector*" means an inspector of the Department of Motor Vehicles or the Department of Public Safety who has completed a vehicle weight enforcement training program that is specific to this State and conducted by the Nevada Highway Patrol.

(c) "*Law enforcement agency*" has the meaning ascribed to it in NRS 202.873.

Sec. 2. 1. On or before December 31, 2010, the chief administrative officer of any law enforcement or other agency authorized to enforce the provisions of NRS 484.755, as amended by section 1 of this act, shall submit to the Director of the Department of Public Safety a report compiling:

(a) The number of officers or inspectors trained by the Nevada Highway Patrol in vehicle weight enforcement;

(b) The number of hours of training given each officer or inspector trained as described in paragraph (a); ~~and~~

(c) The number of traffic stops to enforce the provisions of NRS 484.744 to 484.757, inclusive, made by officers or inspectors trained as described in paragraph (a), regardless of whether a citation was issued; and

(d) The number of citations issued by those officers or inspectors pursuant to NRS 484.755, as amended by section 1 of this act, after October 1, 2009.

2. On or before January 15, 2011, the Director of the Department of Public Safety shall submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling all the information received pursuant to subsection 1.

Senator Schneider moved that the Senate concur in the Assembly amendments to Senate Bill No. 243.

Remarks by Senator Schneider.

Senator Schneider requested that his remarks be entered in the Journal.

Thank you Mr. President. The Assembly changed the cap where counties under 100,000 do not have to participate.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 360.

The following Assembly amendment was read:

Amendment No. 663.

"SUMMARY—Revises provisions governing the sale and title of salvage vehicles. (BDR 43-1244)"

"AN ACT relating to vehicles; authorizing a person other than an automobile wrecker, dealer of new or used motor vehicles or rebuilder to obtain an identifying card and bid to purchase a vehicle other than a nonrepairable vehicle from the operator of a salvage pool; imposing a fee for the issuance of such a card; prohibiting a person who obtains such a card from purchasing from ~~the operator of a salvage pool~~ operators of salvage pools in this State more than three vehicles in any calendar year; increasing the period within which an insurance company or its authorized agent must submit an application for a salvage title or nonrepairable vehicle certificate for a salvage vehicle; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that only a licensed automobile wrecker, dealer of new or used motor vehicles or rebuilder may bid to purchase a vehicle from the operator of a salvage pool. (NRS 487.470) Section 5 of this bill authorizes a person other than an automobile wrecker, dealer of new or used motor vehicles or rebuilder to bid to purchase a vehicle other than a

nonrepairable vehicle from the operator of a salvage pool, but prohibits the person from: *(1) purchasing more than three such vehicles in any calendar year ~~from operators of salvage pools in this State;~~ (2) purchasing such vehicles for resale; (3) bidding to purchase a nonrepairable vehicle; or (4) assisting, soliciting or conspiring with another person to engage in any of those acts.* Section 2.3 of this bill requires such a person, before he bids to purchase a salvage vehicle, to obtain an identifying card which must contain the person's name and signature, personal address, business name and address, if applicable, and picture. Section 2.3 requires the Department of Motor Vehicles to charge a fee of \$50 for the issuance of each card. A card expires on December 31 of the year in which it is issued but may be renewed upon application and payment of a renewal fee of \$25. The fees collected by the Department from the issuance of the cards must be deposited with the State Treasurer for credit to the Motor Vehicle Fund. *Section 2.5 of this bill prohibits a person who is licensed or who is required to be licensed as an automobile wrecker, dealer of new or used motor vehicles or rebuilder from applying for or obtaining an identifying card described in section 2.3.* Section 10 of this bill provides that any person who violates the provisions of section 2.3 *or 2.5* is guilty of a misdemeanor. (NRS 487.510)

Section 11 of this bill increases from 60 to 180 days the period within which an insurance company or its authorized agent is required to submit an application for a salvage title or nonrepairable vehicle certificate for a salvage vehicle to the Department of Motor Vehicles. (NRS 487.800)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 482.31776 is hereby amended to read as follows:

482.31776 1. A consignee of a vehicle shall, upon entering into a consignment contract or other form of agreement to sell a vehicle owned by another person:

(a) Open and maintain a separate trust account in a federally insured bank or savings and loan association that is located in this State, into which the consignee shall deposit all money received from a prospective buyer as a deposit, or as partial or full payment of the purchase price agreed upon, toward the purchase or transfer of interest in the vehicle. A consignee of a vehicle shall not:

(1) Commingle the money in the trust account with any other money that is not on deposit or otherwise maintained toward the purchase of the vehicle subject to the consignment contract or agreement; or

(2) Use any money in the trust account to pay his operational expenses for any purpose that is not related to the consignment contract or agreement.

(b) Obtain from the consignor, before receiving delivery of the vehicle, a signed and dated disclosure statement that is included in the consignment contract and provides in at least 10-point bold type or font:

**IMPORTANT NOTICE TO VEHICLE OWNERS**

State law (NRS 482.31776) requires that the operator of this business file a Uniform Commercial Code 1 (UCC1) form with the Office of the Secretary of State on your behalf to protect your interest in your vehicle. The form is required to protect your vehicle from forfeiture in the event that the operator of this business fails to meet his financial obligations to a third party holding a security interest in his inventory. The form must be filed by the operator of this business before he may take possession of your vehicle. If the form is not filed as required, YOU MAY LOSE YOUR VEHICLE THROUGH NO FAULT OF YOUR OWN. For a copy of the UCC1 form filed on your behalf or for more information, please contact:

The Office of the Secretary of State of Nevada  
Uniform Commercial Code Division  
(775) 684-5708

I understand and acknowledge the above disclosure.

Consignee Signature \_\_\_\_\_ Date \_\_\_\_\_

(c) Assist the consignor in completing, with respect to the consignor's purchase-money security interest in the vehicle, a ~~financial~~ *financing* statement of the type described in subsection 5 of NRS 104.9317 and shall file the ~~financial~~ *financing* statement with the Secretary of State on behalf of the consignor. If a consignee has previously granted to a third party a security interest with an after-acquired property clause in the consignee's inventory, the consignee additionally shall assist the consignor in sending an authenticated notification, as described in paragraph (b) of subsection 1 of NRS 104.9324, to each holder of a conflicting security interest. The consignee must not receive delivery of the vehicle until the consignee has:

(1) Filed the financing statement with the Secretary of State; and

(2) If applicable, assisted the consignor in sending an authenticated notification to each holder of a conflicting security interest.

2. Upon the sale or transfer of interest in the vehicle, the consignee shall forthwith:

(a) Satisfy or cause to be satisfied all outstanding security interests in the vehicle; and

(b) Satisfy the financial obligations due the consignor pursuant to the consignment contract.

3. Upon the receipt of money by delivery of cash, bank check or draft, or any other form of legal monetary exchange, or after any form of transfer of interest in a vehicle, the consignee shall notify the consignor that the money has been received or that a transfer of interest in the vehicle has occurred. Notification by the consignee to the consignor must be given in person or, in the absence of the consignor, by registered or certified mail addressed to the last address or residence of the consignor known to the consignee. The notification must be made within 3 business days after the date on which the money is received or the transfer of interest in the vehicle is made.

4. The provisions of this section do not apply to:

(a) An executor;

- (b) An administrator;
- (c) A sheriff;
- (d) A salvage pool subject to the provisions of NRS 487.400 to 487.510, inclusive ~~{}~~, *and sections 2.3, 2.5 and 2.7 of this act*; or
- (e) Any other person who sells a vehicle pursuant to the powers or duties granted to or imposed on him by specific statute.

5. Notwithstanding any provision of NRS 482.423 to 482.4247, inclusive, to the contrary, a vehicle subject to a consignment contract may not be operated by the consignee, an employee or agent of the consignee, or a prospective buyer in accordance with NRS 482.423 to 482.4247, inclusive, by displaying a temporary placard to operate the vehicle unless the operation of the vehicle is authorized by the express written consent of the consignor.

6. A vehicle subject to a consignment contract may not be operated by the consignee, an employee or agent of the consignee, or a prospective buyer in accordance with NRS 482.320 by displaying a special plate unless the operation of the vehicle is authorized by the express written consent of the consignor.

7. A consignee shall maintain a written log for each vehicle for which he has entered into a consignment contract. The written log must include:

- (a) The name and address, or place of residence, of the consignor;
- (b) A description of the vehicle consigned, including the year, make, model and serial or identification number of the vehicle;
- (c) The date on which the consignment contract is entered into;
- (d) The period that the vehicle is to be consigned;
- (e) The minimum agreed upon sales price for the vehicle;
- (f) The approximate amount of money due any lienholder or other person known to have an interest in the vehicle;
- (g) If the vehicle is sold, the date on which the vehicle is sold;
- (h) The date that the money due the consignor and the lienholder was paid;
- (i) The name and address of the federally insured bank or savings and loan association in which the consignee opened the trust account required pursuant to subsection 1; and
- (j) The signature of the consignor acknowledging that the terms of the consignment contract were fulfilled or terminated, as appropriate.

8. A person who:

(a) Appropriates, diverts or otherwise converts to his own use money in a trust account opened pursuant to paragraph (a) of subsection 1 or otherwise subject to a consignment contract or agreement is guilty of embezzlement and shall be punished in accordance with NRS 205.300. The court shall, in addition to any other penalty, order the person to pay restitution.

(b) Violates paragraphs (b) or (c) of subsection 1 is guilty of a misdemeanor. The court shall, in addition to any other penalty, order the person to pay restitution.

(c) Violates any other provision of this section is guilty of a misdemeanor.

Sec. 2. Chapter 487 of NRS is hereby amended by adding thereto the provisions set forth as sections 2.3, 2.5 and 2.7 of this act.

Sec. 2.3. 1. *An identifying card authorizing a person other than a licensed automobile wrecker, dealer of new or used motor vehicles or rebuilder to bid to purchase a vehicle other than a nonrepairable vehicle from an operator of a salvage pool must contain the person's:*

- (a) *Name and signature;*
- (b) *Personal address;*
- (c) *Business name, if applicable;*
- (d) *Business address, if applicable; and*
- (e) *Picture.*

2. *The Department shall charge a fee of \$50 for each identifying card issued in accordance with this section.*

3. *An identifying card issued in accordance with this section expires on December 31 of the year in which it is issued. The person must submit to the Department an application for renewal accompanied by a renewal fee of \$25. The application must be made on a form provided by the Department and contain such information as the Department requires.*

4. *Fees collected by the Department pursuant to this section must be deposited with the State Treasurer for credit to the Motor Vehicle Fund.*

Sec. 2.5. *A person who is licensed as or who is required to be licensed as an automobile wrecker, dealer of new or used motor vehicles or rebuilder shall not apply for or obtain an identifying card described in section 2.3 of this act.*

Sec. 2.7. *The Department shall adopt regulations to carry out the provisions of this section, NRS 487.400 to 487.510, inclusive, and ~~section~~ sections 2.3 and 2.5 of this act.*

Sec. 3. NRS 487.400 is hereby amended to read as follows:

487.400 As used in NRS 487.400 to 487.510, inclusive ~~it~~, and sections 2.3, 2.5 and 2.7 of this act:

1. "Identifying card" means a card:

- (a) Authorizing the holder to bid for the purchase of vehicles from the operator of a salvage pool; and
- (b) Containing the information required by NRS 487.070 or 487.475 ~~it~~ or section 2.3 of this act.

2. "Salvage pool" means a business which obtains motor vehicles from:

- (a) Insurers and self-insurers for sale on consignment or as an agent for the insurer or self-insurer if the vehicles are acquired by the insurer or self-insurer as the result of a settlement for insurance; or
- (b) Licensed vehicle dealers, rebuilders, lessors or wreckers for sale on consignment.

Sec. 4. NRS 487.420 is hereby amended to read as follows:

487.420 1. No applicant may be granted a license to operate a salvage pool until he has procured and filed with the Department a good and sufficient bond in the amount of \$50,000, with a corporate surety thereon

licensed to do business in the State of Nevada, approved as to form by the Attorney General, and conditioned that the applicant conducts his business as an operator of a salvage pool without fraud or fraudulent representation, and without violation of the provisions of NRS 487.400 to 487.510, inclusive ~~[ ]~~, *and sections 2.3, 2.5 and 2.7 of this act*. The Department may, by agreement with any operator of a salvage pool who has been licensed by the Department for 5 years or more, allow a reduction in the amount of his bond, if his business has been conducted satisfactorily for the preceding 5 years, but no bond may be in an amount less than \$5,000.

2. The bond may be continuous in form and the total aggregate liability on the bond must be limited to the payment of the total amount of the bond.

3. The bond must provide that any person injured by the action of the operator of the salvage pool in violation of any of the provisions of NRS 487.400 to 487.510, inclusive, *and sections 2.3, 2.5 and 2.7 of this act* may apply to the Director for compensation from the bond. The Director, for good cause shown and after notice and opportunity for hearing, may determine the amount of compensation and the person to whom it is to be paid. The surety shall then make the payment.

4. In lieu of a bond an operator of a salvage pool may deposit with the Department, under the terms prescribed by the Department:

(a) A like amount of money or bonds of the United States or of the State of Nevada of an actual market value of not less than the amount fixed by the Department; or

(b) A savings certificate of a bank, credit union or savings and loan association situated in Nevada, which must indicate an account of an amount equal to the amount of the bond which would otherwise be required by this section and that this amount is unavailable for withdrawal except upon order of the Department. Interest earned on the certificate accrues to the account of the applicant.

5. A deposit made pursuant to subsection 4 may be disbursed by the Director, for good cause shown and after notice and opportunity for hearing, in an amount determined by him to compensate a person injured by an action of the licensee, or released upon receipt of:

(a) A court order requiring the Director to release all or a specified portion of the deposit; or

(b) A statement signed by the person under whose name the deposit is made and acknowledged before any person authorized to take acknowledgments in this State, requesting the Director to release the deposit, or a specified portion thereof, and stating the purpose for which the release is requested.

6. When a deposit is made pursuant to subsection 4, liability under the deposit is in the amount prescribed by the Department. If the amount of the deposit is reduced or there is an outstanding judgment of a court for which the licensee is liable under the deposit, the license is automatically suspended. The license must be reinstated if the licensee:

- (a) Files an additional bond pursuant to subsection 1;
- (b) Restores the deposit with the Department to the original amount required under this section; or
- (c) Satisfies the outstanding judgment for which he is liable under the deposit.

7. A deposit made pursuant to subsection 4 may be refunded:

- (a) By order of the Director, 3 years after the date the licensee ceases to be licensed by the Department, if the Director is satisfied that there are no outstanding claims against the deposit; or
- (b) By order of court, at any time within 3 years after the date the licensee ceases to be licensed by the Department, upon evidence satisfactory to the court that there are no outstanding claims against the deposit.

8. Any money received by the Department pursuant to subsection 4 must be deposited with the State Treasurer for credit to the Motor Vehicle Fund.

Sec. 5. NRS 487.470 is hereby amended to read as follows:

487.470 1. ~~Only~~ *Except as otherwise provided in subsection 4, only a licensed automobile wrecker, dealer of new or used motor vehicles or rebuilder or a person who has been issued an identifying card described in section 2.3 of this act may bid to purchase a vehicle from an operator of a salvage pool, and the operator may only sell a vehicle to such a person. An operator shall not accept a bid from:*

(a) An automobile wrecker until:

(1) He presents the card issued by the Department pursuant to NRS 487.070 or other identifying card; or

(2) If he is licensed or otherwise authorized to operate as an automobile wrecker in another state or foreign country, he presents evidence of that licensure or authorization and has registered with the operator pursuant to subsection 2; ~~or~~

(b) A dealer of new or used motor vehicles or a rebuilder until:

(1) He presents the card issued by the Department pursuant to NRS 487.475 or other identifying card; or

(2) If he is licensed or otherwise authorized to operate as a dealer of new or used motor vehicles or as a rebuilder in another state or foreign country, he presents evidence of that licensure or authorization and has registered with the operator pursuant to subsection 2 ~~+~~; *or*

(c) *A person who has been issued an identifying card described in section 2.3 of this act:*

(1) *For a nonrepairable vehicle; or*

(2) *For any other vehicle, until he presents the identifying card.*

2. Any automobile wrecker, dealer of new or used motor vehicles or rebuilder who is licensed or otherwise authorized to operate in another state or foreign country shall register with each operator of a salvage pool with whom he bids to purchase vehicles, by filing with the operator copies of his license or other form of authorization from the other state or country, and his driver's license, business license, certificate evidencing the filing of a bond,

resale certificate and proof of social security or tax identification number, if such documentation is required for licensure in the other state or country. Each operator of a salvage pool shall keep such copies at his place of business and in a manner so that they are easily accessible and open to inspection by employees of the Department ~~[of Motor Vehicles]~~ and to officers of law enforcement agencies in this State.

3. *Each person who has been issued an identifying card described in section 2.3 of this act shall register with each operator of a salvage pool with whom he bids to purchase vehicles by filing with the operator copies of his driver's license, business license, if applicable, and proof of social security or tax identification number. Each operator of a salvage pool shall keep such copies at his place of business and in a manner so that they are easily accessible and open to inspection by employees of the Department and to officers of law enforcement agencies in this State.*

4. *A person who has been issued an identifying card described in section 2.3 of this act shall not:*

- (a) Purchase more than three vehicles in any calendar year from ~~the~~ operator of a salvage pool; or operators of salvage pools in this State;*
- (b) Purchase any such vehicle for resale;*
- (c) Bid on a nonrepairable vehicle ~~for~~; or*
- (d) Assist, solicit or conspire with another person to commit any act prohibited by paragraph (a), (b) or (c).*

Sec. 6. NRS 487.480 is hereby amended to read as follows:

487.480 1. Before an operator of a salvage pool sells any vehicle subject to registration pursuant to the laws of this State, he must have in his possession the certificate of title for a vehicle obtained pursuant to subsection 3 of NRS 487.800 or the salvage title for that vehicle. The Department shall not issue a certificate of registration or certificate of title for a vehicle with the same identification number if the vehicle was manufactured in the 5 years preceding the date on which the salvage title was issued, unless the Department authorizes the restoration of the vehicle pursuant to subsection 2 of NRS 482.553.

2. Upon sale of the vehicle, the operator of the salvage pool shall provide a salvage title to the licensed automobile wrecker, dealer of new or used motor vehicles or rebuilder *or other person* who purchased the vehicle.

Sec. 7. NRS 487.490 is hereby amended to read as follows:

487.490 1. The Department may refuse to issue a license or may suspend, revoke or refuse to renew a license of an operator of a salvage pool upon determining that the operator:

- (a) Is not lawfully entitled to the license;
- (b) Has made, or knowingly or negligently permitted, any illegal use of that license;
- (c) Made a material misstatement in any application;
- (d) Willfully fails to comply with any provision of NRS 487.400 to 487.510, inclusive ~~[;]~~, *and sections 2.3, 2.5 and 2.7 of this act;*

(e) Fails to discharge any final judgment entered against him when the judgment arises out of any misrepresentation regarding a vehicle;

(f) Fails to maintain any license or bond required by a political subdivision of this State;

(g) Has been convicted of a felony;

(h) Has been convicted of a misdemeanor or gross misdemeanor for a violation of a provision of this chapter;

(i) Fails or refuses to provide to the Department an authorization for the disclosure of financial records for the business as required pursuant to subsection 6; or

(j) Displays evidence of unfitness for a license pursuant to NRS 487.165.

2. The applicant or licensee may, within 30 days after receipt of the notice of refusal to grant or renew or the suspension or revocation of a license, petition the Department in writing for a hearing.

3. Hearings under this section and appeals therefrom must be conducted in the manner prescribed in NRS 482.353 and 482.354.

4. If an application for a license as an operator of a salvage pool is denied, the applicant may not submit another application for at least 6 months after the date of the denial.

5. The Department may refuse to review a subsequent application for licensing submitted by any person who violates any provision of NRS 487.400 to 487.510, inclusive ~~{ }~~, *and sections 2.3, 2.5 and 2.7 of this act.*

6. Upon the receipt of any report or complaint that an applicant or a licensee has engaged in financial misconduct or has failed to satisfy financial obligations related to the operation of a salvage pool, the Department may require the applicant or licensee to submit to the Department an authorization for the disclosure of financial records for the business as provided in NRS 239A.090. The Department may use any information obtained pursuant to such an authorization only to determine the suitability of the applicant or licensee for initial or continued licensure. Information obtained pursuant to such an authorization may be disclosed only to those employees of the Department who are authorized to issue a license to an applicant pursuant to NRS 487.400 to 487.510, inclusive, *and sections 2.3, 2.5 and 2.7 of this act* or to determine the suitability of an applicant or a licensee for such licensure.

7. For the purposes of this section, the failure to adhere to the directives of the Department advising the licensee of his noncompliance with any provision of NRS 487.400 to 487.510, inclusive, *and sections 2.3, 2.5 and 2.7 of this act* or regulations of the Department, within 10 days after the receipt of those directives, is prima facie evidence of willful failure to comply.

Sec. 8. NRS 487.497 is hereby amended to read as follows:

487.497 1. A person licensed to issue identifying cards shall maintain a record of all fees collected and identifying cards issued.

2. The record must contain:

(a) The name and signature of the licensed automobile wrecker, vehicle dealer or rebuilder *or other person* from whom fees were collected, the amount of fees collected and the number of identifying cards issued or renewed.

(b) ~~The~~ For each identifying card issued to an automobile wrecker, vehicle dealer or rebuilder, the business name, address and license number under which the automobile wrecker, vehicle dealer or rebuilder is licensed by the Department.

(c) A photograph of the natural person to whom the identifying card was issued.

3. The record must be open to inspection during regular business hours by any peace officer or investigator of the Department.

4. Upon request of the Department, a person licensed to issue identifying cards shall allow the Department, or a person designated by the Department, to conduct an audit of his records.

5. The records of the licensee must be maintained at the licensed location.

Sec. 9. NRS 487.500 is hereby amended to read as follows:

487.500 Every licensed operator of a salvage pool shall maintain a record of all vehicles he sells. The record must contain the name and address of the person from whom the vehicle was purchased or acquired and the date of the acquisition or purchase, the name and address of the automobile wrecker, dealer of new or used motor vehicles, ~~or~~ rebuilder *or other person* to whom the vehicle was sold and the date of the sale, the registration number last assigned to the vehicle and a brief description of the vehicle, including, insofar as the information exists with respect to a given vehicle, the make, type, serial number and motor number, or any other number of the vehicle. The record must be open to inspection during regular business hours by any peace officer or investigator of the Department.

Sec. 10. NRS 487.510 is hereby amended to read as follows:

487.510 Any person who violates any of the provisions of NRS 487.400 to 487.500, inclusive, *and sections 2.3, 2.5 and 2.7 of this act* is guilty of a misdemeanor.

Sec. 11. NRS 487.800 is hereby amended to read as follows:

487.800 1. When an insurance company acquires a motor vehicle as a result of a settlement in which the motor vehicle is determined to be a salvage vehicle, the owner of the motor vehicle who is relinquishing ownership of the motor vehicle shall endorse the certificate of title of the motor vehicle and forward the endorsed certificate of title to the insurance company within 30 days after accepting the settlement from the insurance company. The insurance company or its authorized agent shall forward the endorsed certificate of title, together with an application for a salvage title or nonrepairable vehicle certificate, to the state agency within ~~60~~ 180 days after receipt of the endorsed certificate of title.

2. If the owner of the motor vehicle who is relinquishing ownership does not provide the endorsed certificate of title to the insurance company within 30 days after accepting the settlement pursuant to subsection 1, the insurance company shall, within ~~{60}~~ 180 days after the expiration of that 30-day period, forward an application for a salvage title or nonrepairable vehicle certificate to the state agency. The state agency shall issue a salvage title or nonrepairable vehicle certificate to the insurance company for the vehicle upon receipt of:

(a) The application;

(b) A motor vehicle inspection certificate signed by a representative of the Department or, as one of the authorized agents of the Department, by a peace officer, dealer, rebuilder, automobile wrecker, operator of a salvage pool or garageman;

(c) Documentation that the insurance company has made at least two written attempts by certified mail, return receipt requested, or by use of a delivery service with a tracking system, to obtain the endorsed certificate of title; and

(d) Proof satisfactory to the state agency that the certificate of title was required to be surrendered to the insurance company as part of the settlement.

3. Except as otherwise provided in subsections 1 and 2, before any ownership interest in a salvage vehicle, except a nonrepairable vehicle, may be transferred, the owner or other person to whom the motor vehicle is titled:

(a) If the person has possession of the certificate of title to the vehicle, shall forward the endorsed certificate of title, together with an application for salvage title to the state agency within 30 days after the vehicle becomes a salvage vehicle.

(b) If the person does not have possession of the certificate of title to the vehicle and the certificate of title is held by a lienholder, shall notify the lienholder within 10 days after the vehicle becomes a salvage vehicle that the vehicle has become a salvage vehicle. The lienholder shall, within 30 days after receiving such notice, forward the certificate of title, together with an application for salvage title, to the state agency.

4. An insurance company or its authorized agent may sell a vehicle for which a total loss settlement has been made with the properly endorsed certificate of title if the total loss settlement resulted from the theft of the vehicle and the vehicle, when recovered, was not a salvage vehicle.

5. An owner who has determined that a vehicle is a total loss salvage vehicle may sell the vehicle with the properly endorsed certificate of title obtained pursuant to this section, without making any repairs to the vehicle, to a salvage pool, automobile auction, rebuilder, automobile wrecker or a new or used motor vehicle dealer.

6. Except with respect to a nonrepairable vehicle, if a salvage vehicle is rebuilt and restored to operation, the vehicle may not be licensed for operation, displayed or offered for sale, or the ownership thereof transferred, until there is submitted to the state agency with the prescribed salvage title,

an appropriate application, other documents, including, without limitation, an affidavit from the state agency attesting to the inspection and verification of the vehicle identification number and the identification numbers, if any, for parts used to repair the motor vehicle and fees required, together with a certificate of inspection completed pursuant to NRS 487.860.

7. Except with respect to a nonrepairable vehicle, if a total loss insurance settlement between an insurance company and any person results in the retention of the salvage vehicle by that person, before the execution of the total loss settlement, the insurance company or its authorized agent shall:

(a) Obtain, upon an application for salvage title, the signature of the person who is retaining the salvage vehicle;

(b) Append to the application for salvage title the certificate of title to the motor vehicle or an affidavit stating that the original certificate of title has been lost; and

(c) Apply to the state agency for a salvage title on behalf of the person who is retaining the salvage vehicle.

8. If the state agency determines that a salvage vehicle retained pursuant to subsection 6 is titled in another state or territory of the United States, the state agency shall notify the appropriate authority of that state or territory that the owner has retained the salvage vehicle.

9. A person who retains a salvage vehicle pursuant to subsection 7 may not transfer any ownership interest in the vehicle unless he has received a salvage title.

*Sec. 12. 1. This section and section 11 of this act become effective upon passage and approval.*

*2. Sections 1 to 10, inclusive, of this act become effective:*

*(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and*

*(b) On January 1, 2010, for all other purposes.*

Senator Schneider moved that the Senate concur in the Assembly amendment to Senate Bill No. 360.

Conflict of interest declared by Senator Raggio.

Remarks by Senator Schneider.

Senator Schneider requested that his remarks be entered in the Journal.

Thank you Mr. President. This bill auctions off damaged vehicles. The Assembly made a slight change saying that the public who buys the vehicles has to have a card. Dealers are already authorized to buy them through their dealership card. We agree with the amendment.

Motion carried by a two-thirds majority.

Bill ordered enrolled.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Parks, Care and Townsend as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 218.

Senator Horsford moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 12:51 p.m.

SENATE IN SESSION

At 1:03 p.m.

President Krolicki presiding.

Quorum present.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Breeden, the privilege of the floor of the Senate Chamber for this day was extended to Gage Fiorentino.

Senator Horsford moved that the Senate adjourn until Tuesday, May 26, 2009, at 11 a.m.

Motion carried.

Senate adjourned at 1:03 p.m.

Approved:

BRIAN K. KROLICKI  
*President of the Senate*

Attest: CLAIRE J. CLIFT  
*Secretary of the Senate*

UNION LABEL