

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

LCB File No. R165-09

Effective December 16, 2010

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

AUTHORITY: §§1-3, 6-12, 14-19, 27, NRS 116A.200 and 116A.410; §§4, 5, 13, 20-26, 28-30, NRS 116A.200 and 116A.400.

A REGULATION relating to community managers; establishing provisions concerning temporary certificates for community managers; revising various provisions concerning certificates for community managers; imposing a fee for the application for and issuance of temporary certificates; increasing the fee for the renewal of certificates for community managers; revising provisions concerning the supervision of provisional community managers; and providing other matters properly relating thereto.

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

“Temporary certificate” means a certificate which is:

- 1. Valid for only 1 year; and*
- 2. Issued to a person pursuant to the provisions of subparagraph (1) or (2) of paragraph (a) of subsection 1 of NRS 116A.410.*

Sec. 2. NAC 116.010 is hereby amended to read as follows:

116.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 116.013 to 116.080, inclusive, *and section 1 of this regulation* have the meanings ascribed to them in those sections.

Sec. 3. NAC 116.020 is hereby amended to read as follows:

116.020 “Certificate” means a certificate , *other than a temporary certificate*, for the management of a common-interest community issued by the Division.

Sec. 4. NAC 116.035 is hereby amended to read as follows:

116.035 “Community manager” means a person who holds a certificate *or temporary certificate* and who provides for or otherwise engages in the management of a common-interest community.

Sec. 5. NAC 116.500 is hereby amended to read as follows:

116.500 Records kept in the office of the Division under authority of this chapter are open to public inspection in the same manner as records are available for inspection pursuant to chapters 645 of NRS and NAC, except that the Division may refuse to make public, unless ordered to do so by a court:

1. Examinations;
2. Files compiled by the Division while investigating possible violations of this chapter or chapter 116 of NRS;
3. The criminal and financial records of community managers and of applicants for a certificate ~~§~~ *or temporary certificate*;
4. Social security numbers;
5. The home addresses and telephone numbers of community managers, unless such information is used for business purposes by a community manager; and
6. The home addresses and telephone numbers of members of the executive boards.

Sec. 6. Chapter 116A of NAC is hereby amended by adding thereto the provisions set forth as sections 7 to 10, inclusive, of this regulation.

Sec. 7. *“Temporary certificate” means a certificate which is:*

1. Valid for only 1 year; and

2. Issued to a person pursuant to the provisions of subparagraph (1) or (2) of paragraph (a) of subsection 1 of NRS 116A.410.

Sec. 8. *1. A person who wishes to obtain a temporary certificate must submit to the Division:*

(a) An application on a form prescribed by the Division;

(b) The material required by subsections 2 and 3;

(c) Payment of the fee described in NAC 116A.525 for conducting a background investigation or, if the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository for Nevada Records of Criminal History pursuant to subsection 2, evidence of such payment;

(d) The statement described in NRS 116A.440; and

(e) The fee required by NAC 116A.515 for the application for, and issuance of, a temporary certificate.

2. Each applicant must, as part of the application and at his or her own expense:

(a) Arrange to have a complete set of the applicant's fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Division; and

(b) Submit to the Division:

(1) A completed fingerprint card and written permission authorizing the Division to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Division deems necessary; or

(2) Written verification, on a form prescribed by the Division, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Division deems necessary.

3. In addition to the requirements set forth in subsection 2, the applicant must submit to the Division:

(a) Evidence that the applicant:

(1) Holds a professional designation in the field of management of a common-interest community from a nationally recognized organization;

(2) Has been engaged full-time in the management of a common-interest community for at least 5 years; and

(3) Has not been the subject of any disciplinary action in another state in connection with the management of a common-interest community; or

(b) The agenda and approved minutes of the meeting of the executive board of an association at which the executive board offered to employ the applicant as a community manager or any other evidence which demonstrates that:

(1) The applicant has received an offer of employment as a community manager from an association or its agent; and

(2) The executive board of the association, or its agent, making the offer of employment determined that the applicant has management experience sufficient to enable the applicant to act as a community manager.

Sec. 9. *1. Except as otherwise provided in subsection 2, a temporary certificate expires 1 year after the date on which the temporary certificate is issued.*

2. If a person who holds a temporary certificate obtained the temporary certificate by submitting the material described in paragraph (b) of subsection 3 of section 8 of this regulation and the person ceases to be employed by the association which made an offer of employment to the person:

(a) The temporary certificate expires as of the time that the employment of the person ceases; and

(b) Not later than 10 days after the person ceases to be employed by the association or agent of an association, the association or agent shall notify the Division that the employment of the holder of the temporary certificate has ceased.

3. A temporary certificate may not be renewed, and no person may obtain another temporary certificate after the temporary certificate issued to that person has expired.

Sec. 10. *Upon the expiration of a temporary certificate, the Division shall issue a certificate to the person who held the temporary certificate if the person has:*

1. Completed not less than 18 hours of instruction relating to the Uniform Common-Interest Ownership Act as set forth in this chapter, chapter 116 of NAC and chapters 116 and 116A of NRS;

2. Satisfied the requirements of NAC 116A.110, 116A.115 and 116A.125; and

3. *Not been the subject of any disciplinary action pursuant to this chapter, chapter 116 of NAC or chapter 116 or 116A of NRS.*

Sec. 11. NAC 116A.005 is hereby amended to read as follows:

116A.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 116A.010 to 116A.095, inclusive, ***and section 7 of this regulation*** have the meanings ascribed to them in those sections.

Sec. 12. NAC 116A.020 is hereby amended to read as follows:

116A.020 “Certificate” means a certificate ***, other than a temporary certificate,*** for the management of a common-interest community issued by the Division.

Sec. 13. NAC 116A.035 is hereby amended to read as follows:

116A.035 “Community manager” means a person who holds a certificate ***or temporary certificate*** and who provides for or otherwise engages in the management of a common-interest community.

Sec. 14. NAC 116A.110 is hereby amended to read as follows:

116A.110 1. A person who wishes to obtain a certificate must submit an application to the Division on a form prescribed by the Division.

2. Each applicant ***, other than an applicant who holds a temporary certificate,*** must, as part of the application and at his or her own expense:

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Division; and

(b) Submit to the Division:

(1) A completed fingerprint card and written permission authorizing the Division to submit the applicant’s fingerprints to the Central Repository for Nevada Records of Criminal

History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Division deems necessary; or

(2) Written verification, on a form prescribed by the Division, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Division deems necessary.

3. In addition to the requirements set forth in subsection 2, the applicant must submit to the Division:

(a) A photograph of the applicant, measuring approximately 2 inches by 2 inches, taken within the 2 years immediately preceding the date of the application;

(b) ~~Payment~~ *If the applicant does not hold a temporary certificate, payment* of the fees charged by a local law enforcement agency pursuant to NAC 116A.525 or, if the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository pursuant to subsection 2, evidence of such payment;

(c) The social security number of the applicant;

(d) A statement concerning whether the applicant has been convicted of, or entered a plea of guilty or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or possessing for the purpose of sale any controlled substance or any crime involving moral turpitude;

(e) Documentation that the applicant *holds a temporary certificate or* possesses the education and experience required pursuant to NAC 116A.120 and, if applicable, NAC 116A.155;

(f) ~~[Documentation]~~ *If the applicant does not hold a temporary certificate, documentation* of the employment history of the applicant for the 10 years immediately preceding the date of the application, including, without limitation, letters of recommendation and affidavits of employment from common-interest communities or employers in other related areas;

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

(h) The fee required by NAC 116A.515 for *the application for, and issuance of,* a certificate;
and

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

4. The Division shall act upon all applications for a certificate within 60 days after the date of receiving the completed application for a certificate.

5. If the Division determines that additional investigation of the applicant is necessary, the Division may extend the 60-day period and may make such additional investigation as is necessary or desirable before acting upon the application.

6. The burden of proof is on the applicant to establish to the satisfaction of the Division that he or she is qualified to receive a certificate.

Sec. 15. NAC 116A.115 is hereby amended to read as follows:

116A.115 1. An application for a certificate *or temporary certificate* will not be accepted from a person under the age of 17 years.

2. A certificate *or temporary certificate* may only be issued to:

(a) A person 18 years of age or older.

(b) A natural person.

Sec. 16. NAC 116A.120 is hereby amended to read as follows:

116A.120 1. Except as otherwise provided in subsection 2, an applicant *for a certificate who does not hold a temporary certificate* must have successfully completed at least 60 hours of instruction in courses in the management of a common-interest community that have been approved by the Commission, including, without limitation:

(a) At least 20 hours of instruction relating to federal, state and local laws applicable to the management of a common-interest community, including, without limitation:

(1) Not less than 2 hours of instruction relating to federal laws applicable to common-interest communities, including, but not limited to, the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., the Fair Housing Act of 1968, 42 U.S.C. §§ 3601 et seq., the Fair Housing Amendments Act of 1988, 42 U.S.C. §§ 3602 et seq., and the Fair Debt Collection Practices Act of 1996, 15 U.S.C. §§ 1601 et seq.; and

(2) Not less than 18 hours of instruction relating to the Uniform Common-Interest Ownership Act as set forth in this chapter , *chapter 116 of NAC* and ~~chapter~~ *chapters 116 and 116A* of NRS.

(b) At least 40 cumulative hours of instruction in the following subjects:

(1) Understanding the legal basics of common-interest communities and their governing documents;

(2) The management of facilities and the use of experts;

(3) Accounting, including, without limitation, the preparation and monitoring of budgets, expenditures and reserves and the use of financial statements;

(4) Contracts with the common-interest community, including obtaining bids and requests for proposals;

(5) Parliamentary procedures, types and uses as may be required by law or the governing documents or bylaws of a common-interest community;

(6) The management of human resources, including, the ability to communicate and interact effectively with other people;

(7) Inspection and planning for property maintenance;

(8) Risk management;

(9) The types of insurance that must be maintained by a common-interest community pursuant to NRS 116.3113;

(10) Governmental regulations that affect a common-interest community, including, without limitation, zoning and planning;

(11) The Nevada Fair Housing Law as set forth in chapter 118 of NRS;

(12) The Residential Landlord and Tenant Act as set forth in chapter 118A of NRS;

(13) The disclosure of required information in real estate transactions;

(14) Defects in construction;

(15) Alternative dispute resolution for claims relating to residential property within a common-interest community as set forth in NRS 38.300 to 38.360, inclusive;

(16) Corporation law;

(17) Industrial insurance;

(18) Health and safety; and

(19) Business ethics.

(c) Provide evidence that he or she has been engaged in the management of a common-interest community or has held a management position in a related area for:

(1) The 12 months immediately preceding the date of his or her application; or

(2) At least 2 of the 4 years immediately preceding the date of his or her application.

2. An applicant *for a certificate* may provide evidence of any other combination of education and experience that the Division may deem to be equivalent to the requirements set forth in this section.

Sec. 17. NAC 116A.130 is hereby amended to read as follows:

116A.130 1. The Division shall deny an application for a certificate *or temporary certificate* if:

- (a) The application is not in the proper form;
- (b) The application is not accompanied by the fees required by NAC 116A.515;
- (c) The accompanying forms or documentation are incomplete or otherwise unsatisfactory;
- (d) The application contains a false or misleading statement;
- (e) Other deficiencies appear in the application;
- (f) An investigation fails to show affirmatively that the applicant possesses the necessary qualifications;
- (g) The applicant has willfully acted or attempted to act in violation of chapter 116, *116A*, 119, 119A, 645 or 645A of NRS or the regulations adopted pursuant to those chapters or has willfully aided or abetted another person to act or attempt to act in violation of those chapters or regulations;
- (h) The check or draft used to pay the fee for the application for a certificate is not honored by the financial institution upon which it is drawn;
- (i) The applicant has had a license, certificate or permit revoked in another state;
- (j) The applicant has been convicted of, or entered a plea of guilty or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to

defraud or possessing for the purpose of sale any controlled substance or any crime involving moral turpitude; or

(k) Any combination thereof.

2. The Division shall not refund a fee for the application for , *and issuance of*, a certificate ~~or~~ *or temporary certificate*.

Sec. 18. NAC 116A.135 is hereby amended to read as follows:

116A.135 1. If the Division, after an application for a certificate *or temporary certificate* in proper form has been filed, accompanied by the proper fees, denies an application, the Division shall give notice of this fact to the applicant within 15 days after the ruling, order or decision.

2. Within 30 days after receipt of a notice of denial, an applicant may request, in writing, a hearing before the Commission. The Division will set the matter for a hearing to be conducted as soon as practicable after receipt of the request of the applicant if the request contains allegations which, if true, qualify the applicant for a certificate ~~or~~ *or temporary certificate*.

3. The hearing must be held at such time and place as the Commission prescribes. At least 15 days before the date set for the hearing, the Division shall notify the applicant and shall accompany the notification with an exact copy of any protest filed, together with copies of all communications, reports, affidavits or depositions in possession of the Division relevant to the matter in question. Written notice of hearing may be served by delivery personally to the applicant, or by mailing it by certified mail to the last known address of the applicant.

4. The hearing may be held by the Commission or a majority thereof, and a hearing must be held if the applicant so wishes. A record of the proceedings, or any part thereof, must be made available to each party upon the payment to the Division of the reasonable cost of transcription.

5. The Commission will render a written decision on any appeal within 60 days after the final hearing and will notify the parties to the proceedings, in writing, of its ruling, order or decision within 15 days after it is made.

Sec. 19. NAC 116A.150 is hereby amended to read as follows:

116A.150 The Division, upon the discovery of any error in the issuance of a certificate *or temporary certificate* which is related to the qualification or fitness of the holder thereof, may invalidate the certificate *or temporary certificate* upon notice in writing to the holder. The holder shall surrender the certificate *or temporary certificate* to the Division within 20 days after the notice is sent by the Division. A person whose certificate *or temporary certificate* has been invalidated and surrendered pursuant to this section may request a hearing on the matter in the same manner as for the denial of an application pursuant to NAC 116A.135.

Sec. 20. NAC 116A.155 is hereby amended to read as follows:

116A.155 1. A provisional community manager must:

(a) Be ~~[associated with]~~ *supervised by* a supervising community manager for a minimum of 2 years; and

(b) Except as otherwise provided in NAC 116A.160, within 2 years after the issuance of the certificate granting provisional status, obtain 3,120 hours of active experience in the following areas:

- (1) Financial management of an association;
- (2) Property and facilities management;
- (3) Specific duties relating to the management of a common-interest community as provided in this chapter, *chapter 116 of NAC* and ~~[chapter]~~ *chapters 116 and 116A* of NRS;
- (4) Governance of an association;

(5) Insurance coverage; and

(6) Building a sense of community within an association.

2. Except as otherwise provided in subsection 3, upon obtaining 2 years of active experience in this State, a provisional community manager is entitled to act as a community manager without being ~~associated with~~ *supervised by* a supervising community manager if the provisional community manager submits to the Division:

(a) A statement, on a form prescribed by the Division, completed and signed by his supervising community manager that verifies:

(1) The extent of the active experience gained in each of the areas set forth in subsection 1; and

(2) That the provisional community manager has met the active experience requirements set forth in subsection 1;

(b) A certificate of completion for the 18 hours of continuing education required pursuant to NAC 116A.140; and

(c) The fee required by NAC 116A.515 for the renewal of a certificate.

3. A provisional community manager may submit to the Division evidence of any other education or experience that the Division may deem to be equivalent to the requirements of this section.

Sec. 21. NAC 116A.165 is hereby amended to read as follows:

116A.165 1. A community manager is qualified to act as a supervising community manager if he or she:

(a) Submits to the Division, on a form prescribed by the Division, an application to act as a supervising community manager;

(b) Has been actively engaged in the full-time management of a common-interest community in this State, another state or the District of Columbia for at least 4 years immediately preceding becoming a supervising community manager, with at least 2 of the 4 years of experience obtained in this State;

(c) Is in good standing with the Division or any state or the District of Columbia where he or she is licensed or certified; and

(d) Is competent to engage in the management of a common-interest community and the supervision of community managers in a manner which will safeguard the interests of the public.

2. A supervising community manager is responsible for:

(a) Supervising one or more provisional community managers or community managers ;
~~[who are associated with him or her;]~~

(b) Determining the competency of the provisional community managers or community managers who are ~~[associated with]~~ *supervised by* him or her to perform delegated tasks of managing a common-interest community;

(c) Teaching the provisional community managers and community managers who are ~~[associated with]~~ *supervised by* him or her the fundamentals of managing a common-interest community and the ethics of the profession;

(d) Supervising the activities and operation of managing a common-interest community;

(e) Establishing the policies, rules, procedures and systems that will allow the supervising community manager to review, oversee and manage any business conducted by the provisional community managers or community managers who are ~~[associated with]~~ *supervised by* him or her, including any other employees;

(f) Establishing reasonable procedures and safeguards for the filing, storage, handling and maintenance of documents that may have a material effect upon the rights or obligations of the parties to the management agreement and the association affected by the management agreement; and

(g) Establishing reasonable procedures and safeguards for the handling of any money received on behalf of a client.

3. In establishing the policies, rules, procedures and systems pursuant to subsection 2, a supervising community manager shall consider the number of community managers and other employees associated with the supervising community manager and the number and location of branch offices operated or managed by the supervising community manager.

4. The supervising community manager shall appoint for each branch office a supervising community manager to supervise and oversee the activities and operations of the branch office.

Sec. 22. NAC 116A.335 is hereby amended to read as follows:

116A.335 1. A community manager shall establish an office in Nevada which is reasonably accessible to members of the general public. If the community manager chooses to establish an office in a private home or in conjunction with another business, he or she shall:

(a) Set aside a separate room for conducting his or her duties as a community manager; and

(b) Comply with all local zoning requirements.

2. A community manager shall display his or her certificate *or temporary certificate* conspicuously in his or her office.

Sec. 23. NAC 116A.340 is hereby amended to read as follows:

116A.340 1. A community manager shall give written notice to the Division of any change of name, address or association within 10 business days after the change occurs and pay the appropriate fee required by NAC 116A.515.

2. A provisional community manager shall give written notice to the Division of any change of his or her supervising community manager within 10 business days after the change occurs and pay the appropriate fee required by NAC 116A.515.

3. Failure to give notice as required by this section constitutes cause for the involuntary inactivation of the certificate ~~or~~ *or temporary certificate.*

Sec. 24. NAC 116A.355 is hereby amended to read as follows:

116A.355 1. A community manager is subject to disciplinary action if the community manager:

(a) Commits any of the following:

- (1) Unprofessional conduct;
- (2) Professional incompetence;
- (3) Negligence or gross negligence; or
- (4) A felony or any offense involving moral turpitude; or

(b) Has had a certificate, permit or license that authorizes him or her to act as a community manager in another jurisdiction revoked or suspended.

2. A community manager commits an act of unprofessional conduct if the community manager:

(a) Violates the provisions of:

- (1) An order of the Commission;
- (2) An agreement with the Division; or

- (3) This chapter, ~~for~~ chapter 116 of *NAC or chapter 116 or 116A of NRS*;
- (b) Fails to disclose to a client any material fact or other information that he or she knows or, in the exercise of reasonable care or diligence, should have known, which concerns or relates to the common-interest community and which is of customary or express interest to the client;
- (c) Engages in deceitful, fraudulent or dishonest conduct, including, without limitation, knowingly communicating false, misleading or fraudulent information to a client;
- (d) Before obtaining a certificate, *temporary certificate* or permit, committed an act which was in fact unknown to the Division at the time it issued the certificate, *temporary certificate* or permit and which would have been grounds for denial of a certificate, *temporary certificate* or permit had the Division been aware of the conduct;
- (e) Obtains a certificate, *temporary certificate* or permit by fraud or deceit or by concealing a material fact from the Division, including, without limitation, making a false statement of material fact on the application for the certificate, *temporary certificate* or permit;
- (f) Fails to cooperate with the Division in the investigation of a complaint, including, without limitation, failure to produce any document, book or record in the possession or control of the community manager after the Division requests the production of such document, book or record in the course of an investigation of a complaint;
- (g) Fails to perform impartially and consistently an activity that is lawful and properly authorized on behalf of a client or fails to perform a duty or obligation owed to a client because of the age, race, color, religion, national origin, disability, marital status, familial status, sex or ethnicity of any person, including, without limitation, a member of the executive board, an officer of the association, a unit's owner, a tenant of the common-interest community or a visitor of the common-interest community;

(h) Fails to account for or remit money in his or her possession that belongs to another within a reasonable time of a request for an accounting or remittance of such money by the owner; or

(i) Exceeds the authority granted to him or her by the client.

3. A community manager commits an act of professional incompetence if, without limitation, the community manager:

(a) Demonstrates a significant lack of ability, knowledge or fitness to perform a duty or obligation owed to a client; or

(b) Fails to exercise reasonable skill and care with respect to a duty or obligation owed to a client.

4. In determining whether a community manager has committed unprofessional conduct or professional incompetence, the Commission and the Administrator may consider, without limitation, whether the community manager has:

(a) Done his or her utmost to protect the public against fraud, misrepresentation or unethical practices related to the business affairs of the client;

(b) Acquired the knowledge of all pertinent facts concerning a client;

(c) Provided or attempted to provide to a client services concerning a type of property or service:

(1) That is outside his or her field of experience or competence without the assistance of a qualified authority unless the fact of his or her inexperience or incompetence is disclosed fully to the client and is not otherwise prohibited by law; or

(2) For which he or she is not properly licensed;

(d) Complied with the disclosure requirement of NAC 116A.330;

(e) Complied with the applicable governing documents, policies and procedures of the client;

- (f) Kept informed of current statutes and regulations relating to common-interest communities and relating to other areas in which he or she attempts to provide guidance;
- (g) Acted in the best interest of the client;
- (h) Ensured that each management agreement is in writing and that each member of the executive board has received a copy of the management agreement;
- (i) Obtained all changes of contractual terms in writing and has ensured that such changes are signed or initialed by the parties concerned;
- (j) Acquired knowledge of all material facts that are reasonably ascertainable and are of customary or express concern to a client and has conveyed that knowledge to the client; or
- (k) Failed to supervise a provisional community manager or employee.

5. As used in this section:

(a) "Disability" means:

(1) A physical or mental impairment that substantially limits one or more of the major life activities of the person;

(2) A record of such an impairment; or

(3) Being regarded as having such an impairment.

(b) "Familial status" means the fact that a person:

(1) Lives with a child under the age of 19 years and has:

(I) Lawful custody of the child; or

(II) Written permission to live with the child from the person who has lawful custody of the child;

(2) Is pregnant; or

(3) Has begun a proceeding to adopt or otherwise obtain lawful custody of a child.

Sec. 25. NAC 116A.360 is hereby amended to read as follows:

116A.360 1. If the Administrator refers the matter to the Commission and after conducting a hearing the Commission finds that grounds for disciplinary action against the community manager exist, the Commission may take one or more of the following actions:

- (a) Revoke or suspend the certificate ~~;~~ *or temporary certificate;*
- (b) Refuse to renew or reinstate the certificate;
- (c) Place the community manager on probation;
- (d) Issue a reprimand or censure to the community manager;
- (e) Impose a fine of not more than \$5,000 for each violation of a statute or regulation;
- (f) Require the community manager to pay restitution;
- (g) Require the community manager to pay the costs of the investigation and hearing;
- (h) Require the community manager to obtain additional education relating to the management of common-interest communities; or
- (i) Take such other disciplinary action as the Commission deems appropriate.

2. Unless the Administrator determines otherwise and the person satisfies all the requirements for initial issuance of a certificate, the Commission will not issue another certificate to a person whose certificate has been revoked for at least 1 year after the date of the revocation.

Sec. 26. NAC 116A.510 is hereby amended to read as follows:

116A.510 Records kept in the office of the Division under authority of this chapter are open to public inspection in the same manner as records are available for inspection pursuant to chapters 645 of NRS and NAC, except that the Division may refuse to make public, unless ordered to do so by a court:

- 1. Examinations;

2. Files compiled by the Division while investigating possible violations of this chapter or chapter 116 of NRS;

3. The criminal and financial records of community managers and of applicants for a certificate ~~§~~ *or temporary certificate*;

4. Social security numbers;

5. The home addresses and telephone numbers of community managers, unless such information is used for business purposes by a community manager; and

6. The home addresses and telephone numbers of members of the executive boards.

Sec. 27. NAC 116A.515 is hereby amended to read as follows:

116A.515 The Division shall charge and collect the following fees:

For application for , <i>and issuance of</i> , a certificate	[\$175] \$200
For <i>application for, and</i> issuance of , a <i>temporary</i> certificate	[25] 100
For examination of an applicant for a certificate	100
For biennial renewal of a certificate	[100] 200
For late renewal of a certificate	50
For reinstatement of an inactive certificate	20
For issuance of a duplicate certificate <i>or temporary certificate</i>	20
For change of name or address on a certificate <i>or temporary certificate</i>	20
For change of status as a community manager, provisional community manager or supervising community manager on a certificate	20
For change of association with a supervising community manager	20
For approval of courses to meet the requirements for original certification	100

For approval of a course for continuing education100

For renewal of an approval of a course for continuing education.....50

Sec. 28. NAC 116A.520 is hereby amended to read as follows:

116A.520 1. If a person submits a check or draft to the Division to obtain a certificate, *temporary certificate*, approval, accreditation or other type of authorization to engage in an activity for which authorization is required pursuant to this chapter, *chapter 116 of NAC* or chapter 116 *or 116A* of NRS, and the check or draft is returned to the Division because the person had insufficient money or credit with the drawee to pay the check or draft or because the person stopped payment on the check or draft:

- (a) The certificate, *temporary certificate*, approval, accreditation or other type of authorization obtained by the person from the Division is involuntarily inactivated; or
- (b) If the person has not obtained the certificate, *temporary certificate*, approval, accreditation or other type of authorization from the Division, the Division may refuse to issue or reinstate the authorization.

2. In accordance with NRS 353C.115 and NAC 353C.400, the Division shall charge a person, for each check or draft returned to the Division because the person had insufficient money or credit with the drawee to pay the check or draft or because the person stopped payment on the check or draft, a fee of \$25 or such other amount as may subsequently be required by NRS 353C.115 and NAC 353C.400.

Sec. 29. NAC 116A.610 is hereby amended to read as follows:

116A.610 The Commission or a hearing panel may accept the voluntary surrender of a certificate *or temporary certificate* in lieu of imposing any other disciplinary action set forth in this chapter, *chapter 116 of NAC* or chapter 116 *or 116A* of NRS.

Sec. 30. NAC 116A.615 is hereby amended to read as follows:

116A.615 The Division, Commission or a hearing panel may report any disciplinary action it takes against a holder of a certificate *or temporary certificate* or any denial of an application for a certificate *or temporary certificate* to:

1. An association managed by the holder of a certificate ~~+~~ *or temporary certificate*;
2. Any national repository which records disciplinary actions taken against community managers;
3. Any agency of another jurisdiction that regulates the practice of management of a common-interest community; and
4. Any other agency or board of the State of Nevada.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
LCB FILE NO. R165-09**

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

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

Notice of the proposed regulation was posted on the Real Estate Division website and in various other public locations where both the public and other interested persons would have access to that information. The Division conducted a public workshop on November 12, 2009 in Las Vegas, Nevada, with video to Carson City, NV. Public comment was solicited at the public hearing held in Las Vegas, with video to Carson City on November 19, 2010.

- 2. The number of persons who:**

	<u>CC</u>	<u>LV</u>
Attended workshop: 11/12/09:	5	12
Submitted written comments:	0	1
Attended hearing: 11/19/10:	1	6
Submitted written comments:	0	0

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

The public was invited to comment in the public workshop and hearing or in writing per the notices. Additionally, the Commission has had a standing agenda item for their meetings which included a discussion to review Chapter 116, 116A and 116B of the NAC and make recommendations for proposed changes, additions, and deletions since September 2005 through November 19, 2010. At each meeting, the Commission considered possible changes to the Nevada Administrative Code for Chapter 116A, solicited public comment, and formulated their proposals for changes.

Interested persons are informed that they can obtain a copy of comment summaries by contacting Joanne Gierer, Legal Administrative Officer, at 702-486-4036.

Minutes of the Commission's meetings are available on the Division's website (www.red.state.nv.us) or by contacting Joanne Gierer, Legal Administrative Officer, at 702-486-4036.

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

R165-09 was changed during the workshop process but not during the adoption hearing.

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

Business which it is to regulate:

- (1) **Both adverse and beneficial effects:**

Beneficial effects: Enables management companies and/or homeowner associations to quickly hire qualified temporary individuals to oversee the management of homeowner associations.

Adverse effects: There are no anticipated adverse effects to businesses.

Beneficial effects:

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

Immediate effects: Same as above.

Long-term effects: None.

Public:

- (1) **Both adverse and beneficial effects:**

Beneficial effects: Facilitates the ability to have additional community manager oversight of associations.

Adverse effects: None.

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

Immediate effects: Same as above.

Long-term effects: Same as above.

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

The Division will not experience additional expenses by adopting this regulation.

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

None.

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

None.

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

<u>NAC 116A.515:</u>		<u>FY 11</u>	<u>FY12</u>
1. Combined two existing fees totaling:	\$200		
For application for a certificate:	\$175		
For issuance of a certificate	\$ 25		
Changed existing language:			
For <i>application for, and issuance of, a certificate:</i>	\$200	No change	No change
2. Used existing language to add a new fee:			
Old language:			
For issuance of a certificate.			
New language:			
For <i>application for, and</i> issuance of, a <i>temporary</i> certificate:	\$100	1,000	1,000
3. Increased existing fee:			
For biennial renewal of certificate:	\$100	32,500	32,500
Was \$100, increasing to \$200.			

Fees collected revert to the General Fund.