



Nevada Property Management

Designed to complement the
24-hour Property Management Permit Course

LAW MANUAL



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Property Management Law Manual

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Disclaimer: The information presented within this text is deemed current at the time of publication. Students are encouraged to visit the state legislative site for the most current information and any updates to regulation as statute and code can change:

www.LEG.STATE.NV.US

PROPERTY MANAGEMENT

What is Property Management?

Property Management means the physical, administrative or financial maintenance and management of real property, or the supervision of such activities for a fee, commission or other compensation or valuable consideration, pursuant to a property management agreement. NRS 645.019.

What is a Property Management Agreement?

Property Management Agreement means a written contract between a client and a broker in which the broker agrees to accept valuable consideration from the client or another person for providing property management for the client. NRS 645.0192

What is a Property Manager?

Property Manager means a person engaged in property management who, as an employee or independent contractor, is associated with a licensed real estate broker, whether or not for compensation and has obtained a Property Manager Permit. NRS 645.0195

What activities may a licensed real estate agent perform?

A real estate licensee may rent, lease or lease option real estate and perform all activities necessary to represent their client, either the owner or the renter, leading to the conclusion of an agreement to rent, lease, or option the property involved. These activities include, but are not limited to, advertising a property, preparing the lease, rental or option agreement, having a credit check run on the prospective tenant, checking the tenant's references, doing a walk-through inspection with the tenant and negotiating the price and other terms and conditions of the agreement.

A real estate licensee may also accept an initial check for rent and deposits required by the rental, lease or option agreement. The check must be made out to the owner, property manager or escrow company. The real estate licensee's fee or commission must be made out to the broker with whom they are associated at the time of the transaction.

A real estate licensee may, during the listing and sale period, arrange for a listed property to have pool or yard maintenance, be cleaned and repaired. An agent may

also arrange for and coordinate repairs agreed to during and as a part of the sale negotiations.

What activities must be performed by one who holds a Property Manager Permit?

Once an agreement to rent, lease or option has been concluded, an unpermitted real estate licensee may not be involved in any aspect of the physical, financial, or administrative management of the real estate which has been rented, leased or optioned. Issues which arise during the term of a rental, lease or option agreement must be handled by the owner of the property or a permitted Property Manager who has agreed to manage the property. An unpermitted real estate licensee is also prohibited from engaging in the management of real estate during periods between rentals, leases or other transactions.

A permitted property manager must enter a written property management agreement with the client pursuant to NRS 645.6056 before commencing the management of any real estate. This agreement must be approved and signed by the permitted broker or designated broker salesman.

What actions may be taken if unlicensed property management activities are conducted which require a license?

It is unlawful for any person, limited-liability company, partnership, association or corporation to engage in the business of, act in the capacity of, advertise or assume to act as, a (a) Real estate broker, real estate broker-salesman or real estate salesman within the State of Nevada without first obtaining the appropriate license from the Real Estate Division as provided for in this chapter; and (b) Property manager within the State of Nevada without first obtaining from the Real Estate Division a license as a real estate broker, real estate broker-salesman or real estate salesman and a permit to engage in property management. NRS 645.230.

The Real Estate Commission may impose an administrative fine against any person who knowingly: (a) Engages or offers to engage in any activity for which a license, permit, certificate or registration or any type of authorization or any regulation if the person does not hold the required license, permit, certificate or registration or has not been given the required authorization; or (b) Assists or offers to assist another person to commit the above described violation.

The Real Estate Commission may impose an administrative fine for conducting unlicensed property management activity in an amount not to exceed the amount of any

gain or economic benefit that the person derived from the violation or \$5,000, whichever amount is greater. NRS 645.235.

To view the applicable statutes and regulations in their entirety, visit our website at <http://red.nv.gov/>

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CHAPTER 116 - COMMON-INTEREST OWNERSHIP (UNIFORM ACT)

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ARTICLE 1

GENERAL PROVISIONS

Part I

Definitions and Other General Provisions

NRS 116.001 Short title. This chapter may be cited as the Uniform Common-Interest Ownership Act.
(Added to NRS by 1991, 535)—(Substituted in revision for NRS 116.1101)

NRS 116.003 Definitions. As used in this chapter and in the declaration and bylaws of an association, the words and terms defined in NRS 116.005 to 116.095, inclusive, have the meanings ascribed to them in those sections.
(Added to NRS by 1991, 535; A 2003, 1302, 2221; 2005, 2586; 2009, 1608; 2011, 2415)

NRS 116.005 “Administrator” defined. “Administrator” means the Real Estate Administrator.
(Added to NRS by 1999, 2993; A 2003, 1302, 2221)—(Substituted in revision for NRS 116.110305)

NRS 116.007 “Affiliate of a declarant” defined. “Affiliate of a declarant” means any person who controls, is controlled by or is under common control with a declarant. For purposes of this section:

1. A person controls a declarant if the person:
 - (a) Is a general partner, officer, director or employer of the declarant;
 - (b) Directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote or holds proxies representing, more than 20 percent of the voting interest in the declarant;
 - (c) Controls in any manner the election of a majority of the directors of the declarant; or
 - (d) Has contributed more than 20 percent of the capital of the declarant.
2. A person is controlled by a declarant if the declarant:
 - (a) Is a general partner, officer, director or employer of the person;
 - (b) Directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote or holds proxies representing, more than 20 percent of the voting interest in the person;
 - (c) Controls in any manner the election of a majority of the directors of the person; or
 - (d) Has contributed more than 20 percent of the capital of the person.
3. Control does not exist if the powers described in this section are held solely as security for an obligation and are not exercised.
(Added to NRS by 1991, 535; A 2011, 2415)—(Substituted in revision for NRS 116.11031)

NRS 116.009 “Allocated interests” defined. “Allocated interests” means the following interests allocated to each unit:

1. In a condominium, the undivided interest in the common elements, the liability for common expenses, and votes in the association;
2. In a cooperative, the liability for common expenses, the ownership interest and votes in the association; and
3. In a planned community, the liability for common expenses and votes in the association.
(Added to NRS by 1991, 536; A 2011, 2416)—(Substituted in revision for NRS 116.110313)

NRS 116.011 “Association” and “unit-owners’ association” defined. “Association” or “unit-owners’ association” means the unit-owners’ association organized under NRS 116.3101.

(Added to NRS by 1991, 536)—(Substituted in revision for NRS 116.110315)

NRS 116.013 “Certificate” defined. “Certificate” means a certificate for the management of a common-interest community or the management of an association of a condominium hotel issued by the Division pursuant to chapter 116A of NRS.

(Added to NRS by 2003, 2208; A 2005, 2587; 2007, 2268)

NRS 116.015 “Commission” defined. “Commission” means the Commission for Common-Interest Communities and Condominium Hotels created by NRS 116.600.

(Added to NRS by 2003, 2208; A 2007, 2268)

NRS 116.017 “Common elements” defined. “Common elements” means:

1. In the case of:

(a) A condominium or cooperative, all portions of the common-interest community other than the units, including easements in favor of units or the common elements over other units.

(b) A planned community, any real estate within a planned community which is owned or leased by the association, other than a unit.

2. In all common-interest communities, any other interests in real estate for the benefit of units’ owners which are subject to the declaration.

(Added to NRS by 1991, 536; A 1993, 2356; 2011, 2416)—(Substituted in revision for NRS 116.110318)

NRS 116.019 “Common expenses” defined. “Common expenses” means expenditures made by, or financial liabilities of, the association, together with any allocations to reserves.

(Added to NRS by 1991, 536)—(Substituted in revision for NRS 116.11032)

NRS 116.021 “Common-interest community” defined.

1. “Common-interest community” means real estate described in a declaration with respect to which a person, by virtue of 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 real estate described in that declaration.

2. The term does not include an agreement described in NRS 116.1209.

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.

(Added to NRS by 1991, 536; A 2009, 1608)—(Substituted in revision for NRS 116.110323)

NRS 116.023 “Community manager” defined. “Community manager” means a person who provides for or otherwise engages in the management of a common-interest community or the management of an association of a condominium hotel.

(Added to NRS by 2003, 2208; A 2007, 2268)

NRS 116.025 “Complaint” defined. “Complaint” means a complaint filed by the Administrator pursuant to NRS 116.765.

(Added to NRS by 2003, 2208)

NRS 116.027 “Condominium” defined. “Condominium” means a common-interest community in which portions of the real estate are designated for separate ownership and the remainder of the real estate is designated for common ownership solely by the owners of those portions. A common-interest community is not a condominium unless the undivided interests in the common elements are vested in the units’ owners.

(Added to NRS by 1991, 536)—(Substituted in revision for NRS 116.110325)

NRS 116.029 “Converted building” defined. “Converted building” means a building that at any time before creation of the common-interest community was occupied wholly or partially by persons other than purchasers and persons who occupy with the consent of purchasers.

(Added to NRS by 1991, 536)—(Substituted in revision for NRS 116.110328)

NRS 116.031 “Cooperative” defined. “Cooperative” means a common-interest community in which the real estate is owned by an association, each of whose members is entitled by virtue of the member’s ownership in the association to exclusive possession of a unit.

(Added to NRS by 1991, 536)—(Substituted in revision for NRS 116.11033)

NRS 116.033 “Dealer” defined. “Dealer” means a person in the business of selling units for his or her own account.

(Added to NRS by 1991, 537)—(Substituted in revision for NRS 116.110333)

NRS 116.035 “Declarant” defined. “Declarant” means any person or group of persons acting in concert who:

1. As part of a common promotional plan, offers to dispose of the interest of the person or group of persons in a unit not previously disposed of; or

2. Reserves or succeeds to any special declarant's right.
(Added to NRS by 1991, 537; A 2011, 2416)—(Substituted in revision for NRS 116.110335)

NRS 116.037 “Declaration” defined. “Declaration” means any instruments, however denominated, that create a common-interest community, including any amendments to those instruments.
(Added to NRS by 1991, 537)—(Substituted in revision for NRS 116.110338)

NRS 116.039 “Developmental rights” defined. “Developmental rights” means any right or combination of rights reserved by a declarant in the declaration to:

1. Add real estate to a common-interest community;
2. Create units, common elements or limited common elements within a common-interest community;
3. Subdivide units or convert units into common elements; or
4. Withdraw real estate from a common-interest community.

(Added to NRS by 1991, 537)—(Substituted in revision for NRS 116.11034)

NRS 116.041 “Dispose” and “disposition” defined. “Dispose” or “disposition” means a voluntary transfer to a purchaser of any legal or equitable interest in a unit, but the term does not include the transfer or release of a security interest.
(Added to NRS by 1991, 537)—(Substituted in revision for NRS 116.110343)

NRS 116.043 “Division” defined. “Division” means the Real Estate Division of the Department of Business and Industry.
(Added to NRS by 2003, 1301, 2208)

NRS 116.045 “Executive board” defined. “Executive board” means the body, regardless of name, designated in the declaration or bylaws to act on behalf of the association.
(Added to NRS by 1991, 537; A 2011, 2416)—(Substituted in revision for NRS 116.110345)

NRS 116.047 “Financial statement” defined. “Financial statement” means a financial statement of an association that is prepared and presented in accordance with the requirements established by the Commission pursuant to NRS 116.31142.
(Added to NRS by 1997, 3110; A 2005, 2587)

NRS 116.049 “Governing documents” defined. “Governing documents” means:

1. The declaration for the common-interest community;
2. The articles of incorporation, articles of association, articles of organization, certificate of registration, certificate of limited partnership, certificate of trust or other documents that are used to organize the association for the common-interest community;
3. The bylaws and rules of the association; and
4. Any other documents that govern the operation of the common-interest community or the association.

(Added to NRS by 1997, 3111; A 2005, 2587)

NRS 116.051 “Hearing panel” defined. “Hearing panel” means a hearing panel appointed by the Commission pursuant to NRS 116.675.
(Added to NRS by 2003, 2208)

NRS 116.053 “Identifying number” defined. “Identifying number” means a symbol, address or legally sufficient description of real estate which identifies only one unit in a common-interest community.
(Added to NRS by 1991, 537; A 1993, 2356)—(Substituted in revision for NRS 116.110348)

NRS 116.055 “Leasehold common-interest community” defined. “Leasehold common-interest community” means a common-interest community in which all or a portion of the real estate is subject to a lease the expiration or termination of which will terminate the common-interest community or reduce its size.
(Added to NRS by 1991, 537)—(Substituted in revision for NRS 116.11035)

NRS 116.057 “Liability for common expenses” defined. “Liability for common expenses” means the liability for common expenses allocated to each unit pursuant to NRS 116.2107.
(Added to NRS by 1991, 537)—(Substituted in revision for NRS 116.110353)

NRS 116.059 “Limited common element” defined. “Limited common element” means a portion of the common elements allocated by the declaration or by operation of subsection 2 or 4 of NRS 116.2102 for the exclusive use of one or more but fewer than all of the units.
(Added to NRS by 1991, 537)—(Substituted in revision for NRS 116.110355)

NRS 116.0605 “Major component of the common elements” defined. “Major component of the common elements” means any component of the common elements, including, without limitation, any amenity, improvement, furnishing, fixture, finish, system or equipment, that may, within 30 years after its original installation, require repair, replacement or restoration in excess of routine annual maintenance which is included in the annual operating budget of an association.

(Added to NRS by 2005, 2581)

NRS 116.061 “Management of a common-interest community” defined. “Management of a common-interest community” means the physical, administrative or financial maintenance and management of a common-interest community, or the supervision of those activities, for a fee, commission or other valuable consideration.

(Added to NRS by 2003, 2209)

NRS 116.063 “Master association” defined. “Master association” means an organization described in NRS 116.212, whether or not it is also an association described in NRS 116.3101.

(Added to NRS by 1991, 537)—(Substituted in revision for NRS 116.110358)

NRS 116.064 “Nonresidential condominium” defined. “Nonresidential condominium” means a condominium in which all units are restricted exclusively to nonresidential use.

(Added to NRS by 2009, 1607)

NRS 116.065 “Offering” defined. “Offering” means any advertisement, inducement, solicitation or attempt to encourage any person to acquire any interest in a unit, other than as security for an obligation. An advertisement in a newspaper or other periodical of general circulation, or in any broadcast medium to the general public, of a common-interest community not located in this State, is not an offering if the advertisement states that an offering may be made only in compliance with the law of the jurisdiction in which the common-interest community is located. The verb “offer” has a similar meaning.

(Added to NRS by 1991, 537)—(Substituted in revision for NRS 116.11036)

NRS 116.067 “Ombudsman” defined. “Ombudsman” means the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels.

(Added to NRS by 2003, 2209; A 2007, 2268)

NRS 116.069 “Party to the complaint” defined. “Party to the complaint” means the Division and the respondent.

(Added to NRS by 2003, 2209)

NRS 116.073 “Person” defined. “Person” includes a government and governmental subdivision or agency.

(Added to NRS by 1991, 537)—(Substituted in revision for NRS 116.110363)

NRS 116.075 “Planned community” defined. “Planned community” means a common-interest community that is not a condominium or a cooperative. A condominium or cooperative may be part of a planned community.

(Added to NRS by 1991, 538)—(Substituted in revision for NRS 116.110368)

NRS 116.077 “Proprietary lease” defined. “Proprietary lease” means an agreement with the association pursuant to which a member is entitled to exclusive possession of a unit in a cooperative.

(Added to NRS by 1991, 538)—(Substituted in revision for NRS 116.110373)

NRS 116.079 “Purchaser” defined. “Purchaser” means a person, other than a declarant or a dealer, who by means of a voluntary transfer acquires a legal or equitable interest in a unit other than:

1. A leasehold interest, including options to renew, of less than 20 years; or
2. As security for an obligation.

(Added to NRS by 1991, 538; A 2011, 2416)—(Substituted in revision for NRS 116.110375)

NRS 116.081 “Real estate” defined. “Real estate” means any leasehold or other estate or interest in, over or under land, including structures, fixtures and other improvements and interests that by custom, usage or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. The term includes parcels with or without upper or lower boundaries and spaces that may be filled with air or water.

(Added to NRS by 1991, 538; A 2011, 2416)—(Substituted in revision for NRS 116.110378)

NRS 116.083 “Residential use” defined. “Residential use” means use as a dwelling or for personal, family or household purposes by ordinary customers, whether rented to particular persons or not. Such uses include marina boat slips, piers, stable or agricultural stalls or pens, campground spaces or plots, parking spaces or garage spaces, storage spaces or lockers and garden plots for individual use, but do not include spaces or units primarily used to derive commercial income from, or provide service to, the public.

(Added to NRS by 1991, 538; A 1999, 3355)—(Substituted in revision for NRS 116.11038)

NRS 116.085 “Respondent” defined. “Respondent” means a person against whom:

1. An affidavit has been filed pursuant to NRS 116.760.
2. A complaint has been filed pursuant to NRS 116.765.

(Added to NRS by 2003, 2209)

NRS 116.087 “Security interest” defined. “Security interest” means an interest in real estate or personal property, created by contract or conveyance, which secures payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an association and any other consensual lien or contract for retention of title intended as security for an obligation.

(Added to NRS by 1991, 538)—(Substituted in revision for NRS 116.110383)

NRS 116.089 “Special declarant’s rights” defined. “Special declarant’s rights” means rights reserved for the benefit of a declarant to:

1. Complete improvements indicated on plats or in the declaration or, in a cooperative, to complete improvements described in the public offering statement pursuant to paragraph (b) of subsection 1 of NRS 116.4103;
2. Exercise any developmental right;
3. Maintain sales offices, management offices, signs advertising the common-interest community and models;
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;
5. Make the common-interest community subject to a master association;
6. Merge or consolidate a common-interest community with another common-interest community of the same form of ownership; 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.

(Added to NRS by 1991, 538; A 2009, 1608; 2011, 2416)—(Substituted in revision for NRS 116.110385)

NRS 116.091 “Time share” defined. “Time share” means the right to use and occupy a unit on a recurrent periodic basis according to an arrangement allocating this right among various owners of time shares whether or not there is an additional charge to the owner for occupying the unit.

(Added to NRS by 1991, 539)—(Substituted in revision for NRS 116.110388)

NRS 116.093 “Unit” defined. “Unit” means a physical portion of the common-interest community designated for separate ownership or occupancy, the boundaries of which are described pursuant to paragraph (e) of subsection 1 of NRS 116.2105. If a unit in a cooperative is owned by the unit’s owner or is sold, conveyed, voluntarily or involuntarily encumbered, or otherwise transferred by the unit’s owner, the interest in that unit which is owned, sold, conveyed, encumbered or otherwise transferred is the right to possession of that unit under a proprietary lease, coupled with the allocated interests of that unit, and the association’s interest in that unit is not thereby affected.

(Added to NRS by 1991, 539)—(Substituted in revision for NRS 116.11039)

NRS 116.095 “Unit’s owner” defined. “Unit’s owner” means a declarant or other person who owns a unit, or a lessee of a unit in a leasehold common-interest community whose lease expires simultaneously with any lease the expiration or termination of which will remove the unit from the common-interest community, but does not include a person having an interest in a unit solely as security for an obligation. In a condominium or planned community, the declarant is the owner of any unit created by the declaration until that unit is conveyed to another person. In a cooperative, the declarant is treated as the owner of any unit to which allocated interests have been allocated until that unit has been conveyed to another person.

(Added to NRS by 1991, 539; A 2011, 2417)—(Substituted in revision for NRS 116.110393)

NRS 116.1104 Provisions of chapter may not be varied by agreement, waived or evaded; exceptions. Except as expressly provided in this chapter, its provisions may not be varied by agreement, and rights conferred by it may not be waived. Except as otherwise provided in paragraph (b) of subsection 2 of NRS 116.12075, a declarant may not act under a power of attorney, or use any other device, to evade the limitations or prohibitions of this chapter or the declaration.

(Added to NRS by 1991, 539; A 2011, 2417)

NRS 116.11045 Provisions of chapter do not invalidate or modify tariffs, rules and standards of public utility; consistency of governing documents.

1. The provisions of this chapter do not invalidate or modify the tariffs, rules and standards of a public utility.
2. The governing documents of an association must be consistent and not conflict with the tariffs, rules and standards of a public utility. Any provision of the governing documents which conflicts with the tariffs, rules and standards of a public utility is void and may not be enforced against a purchaser.
3. As used in this section, “public utility” has the meaning ascribed to it in NRS 704.020.

(Added to NRS by 2009, 974)

NRS 116.1105 Categorization of property in certain common-interest communities. In a cooperative, unless the declaration provides that the interest of a unit’s owner in a unit and its allocated interests is real estate for all purposes, that interest is personal property.

(Added to NRS by 1991, 539; A 2005, 1231)

NRS 116.1106 Applicability of local ordinances, regulations and building codes.

1. A building code may not impose any requirement upon any structure in a common-interest community which it would not impose upon a physically identical development under a different form of ownership.
 2. In condominiums and cooperatives, no zoning, subdivision or other law, ordinance or regulation governing the use of real estate may prohibit the condominium or cooperative as a form of ownership or impose any requirement upon a condominium or cooperative which it would not impose upon a physically identical development under a different form of ownership.
 3. Except as otherwise provided in subsections 1 and 2, the provisions of this chapter do not invalidate or modify any provision of any building code or zoning, subdivision or other law, ordinance, rule or regulation governing the use of real estate.
 4. The provisions of this section do not prohibit a local government from imposing different requirements and standards regarding design and construction on different types of structures in common-interest communities. For the purposes of this subsection, a townhouse in a planned community is a different type of structure from other structures in common-interest communities, including, without limitation, other structures that are or will be owned as condominiums or cooperatives.
- (Added to NRS by 1991, 540; A 2005, 2587)

NRS 116.1107 Eminent domain.

1. If a unit is acquired by eminent domain or part of a unit is acquired by eminent domain leaving the unit's owner with a remnant that may not practically or lawfully be used for any purpose permitted by the declaration, the award must include compensation to the unit's owner for that unit and its allocated interests, whether or not any common elements are acquired. Upon acquisition, unless the decree otherwise provides, that unit's allocated interests are automatically reallocated to the remaining units in proportion to the respective allocated interests of those units before the taking, and the association shall promptly prepare, execute and record an amendment to the declaration reflecting the reallocations. Any remnant of a unit remaining after part of a unit is taken under this subsection is thereafter a common element.
 2. Except as otherwise provided in subsection 1, if part of a unit is acquired by eminent domain, the award must compensate the unit's owner for the reduction in value of the unit and its interest in the common elements, whether or not any common elements are acquired. Upon acquisition, unless the decree otherwise provides:
 - (a) That unit's allocated interests are reduced in proportion to the reduction in the size of the unit, or on any other basis specified in the declaration; and
 - (b) The portion of the allocated interests divested from the partially acquired unit are automatically reallocated to that unit and to the remaining units in proportion to the respective allocated interests of those units before the taking, with the partially acquired unit participating in the reallocation on the basis of its reduced allocated interests.
 3. If part of the common elements is acquired by eminent domain, the portion of the award attributable to the common elements taken must be paid to the association. Unless the declaration provides otherwise, any portion of the award attributable to the acquisition of a limited common element must be equally divided among the owners of the units to which that limited common element was allocated at the time of acquisition.
 4. The judicial decree must be recorded in every county in which any portion of the common-interest community is located.
 5. The provisions of this section do not authorize an association to exercise the power of eminent domain pursuant to chapter 37 of NRS, and an association may not exercise the power of eminent domain, as provided in NRS 37.0097.
- (Added to NRS by 1991, 540; A 2009, 2877)

NRS 116.1108 Supplemental general principles of law applicable. The principles of law and equity, including the law of corporations and any other form of organization authorized by law of this State, the law of unincorporated associations, the law of real property, and the law relative to capacity to contract, principal and agent, eminent domain, estoppel, fraud, misrepresentation, duress, coercion, mistake, receivership, substantial performance, or other validating or invalidating cause supplement the provisions of this chapter, except to the extent inconsistent with this chapter.

(Added to NRS by 1991, 541; A 2011, 2417)

NRS 116.11085 Provisions of chapter prevail over conflicting provisions governing certain business entities generally. If a matter governed by this chapter is also governed by chapter 78, 81, 82, 86, 87, 87A, 88 or 88A of NRS and there is a conflict between the provisions of this chapter and the provisions of those other chapters, the provisions of this chapter prevail.

(Added to NRS by 2003, 2221; A 2005, 2587; 2007, 485)

NRS 116.1109 Construction against implicit repeal; uniformity of application and construction.

1. This chapter being a general act intended as a unified coverage of its subject matter, no part of it may be construed to be impliedly repealed by subsequent legislation if that construction can reasonably be avoided.
 2. This chapter must be applied and construed so as to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.
- (Added to NRS by 1991, 541)

NRS 116.1112 Unconscionable agreement or term of contract.

1. The court, upon finding as a matter of law that a contract or clause of a contract was unconscionable at the time the contract was made, may refuse to enforce the contract, enforce the remainder of the contract without the unconscionable clause, or limit the application of any unconscionable clause to avoid an unconscionable result.

2. Whenever it is claimed, or appears to the court, that a contract or any clause of a contract is or may be unconscionable, the parties, to aid the court in making the determination, must be afforded a reasonable opportunity to present evidence as to:

- (a) The commercial setting of the negotiations; and
- (b) The effect and purpose of the contract or clause.

(Added to NRS by 1991, 541)

NRS 116.1113 Obligation of good faith. Every contract or duty governed by this chapter imposes an obligation of good faith in its performance or enforcement.

(Added to NRS by 1991, 541)

NRS 116.1114 Remedies to be liberally administered. The remedies provided by this chapter must be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed. Consequential, special or punitive damages may not be awarded except as specifically provided in this chapter or by other rule of law.

(Added to NRS by 1991, 541; A 2011, 2417)

NRS 116.1118 Relation to Electronic Signatures in Global and National Commerce Act. This chapter modifies, limits and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §§ 7001 et seq., but does not modify, limit or supersede Section 101(c) of that Act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that Act, 15 U.S.C. § 7003(b).

(Added to NRS by 2011, 2414)

Part II

Applicability

NRS 116.1201 Applicability; regulations.

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, except that if the limited-purpose association is created for a rural agricultural residential common-interest community, the limited-purpose association is not required to pay the fee unless the association intends to use the services of the Ombudsman;

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

(3) Shall comply with the provisions of:

(I) NRS 116.31038;

(II) NRS 116.31083 and 116.31152, unless the limited-purpose association is created for a rural agricultural residential common-interest community;

(III) NRS 116.31073, if the limited-purpose association is created for maintaining the landscape of the common elements of the common-interest community;

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

(V) NRS 116.3116 to 116.31168, inclusive.

(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) Common-interest communities or units located outside of this State, but NRS 116.4102 and 116.4103, and, to the extent applicable, NRS 116.41035 to 116.4107, inclusive, apply to a contract for the disposition of a unit in that common-interest community signed in this State by any party unless exempt under subsection 2 of NRS 116.4101.

(c) A common-interest community that was created before January 1, 1992, is located in a county whose population is less than 55,000, 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.

(d) 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 116.2124, inclusive;

(c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992;

(d) Except as otherwise provided in subsection 8 of NRS 116.31105, 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, except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives;

(e) Prohibit a master association which governs a time-share plan created pursuant to chapter 119A of NRS from providing for a representative form of government for the time-share plan; or

(f) Prohibit a master association which governs a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted and which is exempt from the provisions of this chapter pursuant to subsection 2 of NRS 116.12077 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.

(Added to NRS by 1991, 542; A 1999, 2998; 2001, 2488; 2003, 2223; 2005, 2587; 2009, 1609, 2211, 2863, 2908, 2910; 2011, 1143, 2418; 2019, 1378; 2021, 709, 1398)

NRS 116.1203 Exception for small planned communities.

1. Except as otherwise provided in subsections 2 and 3, if a planned community contains no more than 12 units and is not subject to any developmental rights, it is subject only to NRS 116.1106 and 116.1107 unless the declaration provides that this entire chapter is applicable.

2. The provisions of NRS 116.12065 and the definitions set forth in NRS 116.005 to 116.095, inclusive, to the extent that the definitions are necessary to construe any of those provisions, apply to a residential planned community containing more than 6 units.

3. Except for NRS 116.3104, 116.31043, 116.31046 and 116.31138, the provisions of NRS 116.3101 to 116.350, inclusive, and the definitions set forth in NRS 116.005 to 116.095, inclusive, to the extent that such definitions are necessary in construing any of those provisions, apply to a residential planned community containing more than 6 units.

(Added to NRS by 1991, 542; A 1993, 2357; 1999, 2999; 2001, 528; 2003, 2224, 2266; 2005, 1232, 2589; 2009, 1099, 2864; 2011, 2419; 2013, 1368, 2530; 2019, 2627; 2021, 939, 3746)

NRS 116.1206 Provisions of governing documents in violation of chapter deemed to conform with chapter by operation of law; procedure for certain amendments to governing documents.

1. Any provision contained in a declaration, bylaw or other governing document of a common-interest community that violates the provisions of this chapter:

(a) 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.

(b) Is superseded by the provisions of this chapter, regardless of whether the provision contained in the declaration, bylaw or other governing document became effective before the enactment of the provision of this chapter that is being violated.

2. In the case of amendments to the declaration, bylaws or plats 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 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, except as otherwise provided in subsection 8 of NRS 116.2117, with the procedures and requirements specified by those instruments. If an amendment grants to a person a right, power or privilege permitted by this chapter, any correlative obligation, liability or restriction in this chapter also applies to the person.

(Added to NRS by 1991, 543; A 1999, 2999; 2003, 2224; 2009, 1610, 2877; 2011, 2420)

NRS 116.12065 Notice of changes to governing documents. If any change is made to the governing documents of an association, the secretary or other officer specified in the bylaws of the association shall, within 30 days after the change is made, prepare and cause to be delivered a copy of the change that was made.

(Added to NRS by 1999, 2997; A 2017, 1305)

NRS 116.12075 Applicability to nonresidential condominiums.

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 116.2124, inclusive, and 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 3 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.

(Added to NRS by 2009, 1607; A 2011, 2420; 2021, 1399)

NRS 116.12077 Applicability to planned communities with nonresidential units.

1. The provisions of this chapter do not apply to 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 this section.

2. 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.

3. The declaration for the nonresidential planned community may provide that:

(a) This entire chapter applies to the planned community;

(b) Only the provisions of NRS 116.001 to 116.2124, inclusive, and 116.3116 to 116.31168, inclusive, apply to the planned community; or

(c) Only the provisions of NRS 116.3116 to 116.31168, inclusive, apply to the planned community.

4. If this entire chapter applies to a nonresidential planned community pursuant to subsection 3, 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 3 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.

(Added to NRS by 2019, 1377; A 2021, 1400)

NRS 116.1209 Other exempt real estate arrangements; other exempt covenants.

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.

(Added to NRS by 2009, 1608)

ARTICLE 2

CREATION, ALTERATION AND TERMINATION OF COMMON-INTEREST COMMUNITIES

NRS 116.2101 Creation of common-interest communities. A common-interest community may be created pursuant to this chapter only by recording a declaration executed in the same manner as a deed and, in a cooperative, by conveying the real estate subject to that declaration to the association. The declaration must be recorded in every county in which any portion of the common-interest community is located and 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 each person executing the declaration.

(Added to NRS by 1991, 543)

NRS 116.2102 Unit boundaries. Except as otherwise provided by the declaration:

1. If walls, floors or ceilings are designated as boundaries of a unit, all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished surfaces thereof are a part of the unit, and all other portions of the walls, floors or ceilings are a part of the common elements.

2. If any chute, flue, duct, wire, conduit, bearing wall, bearing column or any other fixture lies partially within and partially outside the designated boundaries of a unit, any portion thereof serving only that unit is a limited common element allocated solely to that unit, and any portion thereof serving more than one unit or any portion of the common elements is a part of the common elements.

3. Subject to subsection 2, all spaces, interior partitions and other fixtures and improvements within the boundaries of a unit are a part of the unit.

4. Any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, pads and mounts for heating and air-conditioning systems, patios and all exterior doors and windows or other fixtures designed to serve a single unit, but located outside the unit's boundaries, are limited common elements allocated exclusively to that unit.

(Added to NRS by 1991, 543)

NRS 116.2103 Construction and validity of declaration and bylaws.

1. The inclusion in a governing document of an association of a provision that violates any provision of this chapter does not render any other provisions of the governing document invalid or otherwise unenforceable if the other provisions can be given effect in accordance with their original intent and the provisions of this chapter.

2. The rule against perpetuities and NRS 111.103 to 111.1039, inclusive, do not apply to defeat any provision of the declaration, bylaws, rules or regulations adopted pursuant to NRS 116.3102.

3. If a conflict exists between the declaration and the bylaws, the declaration prevails except to the extent the declaration is inconsistent with this chapter.

4. Title to a unit and common elements is not rendered unmarketable or otherwise affected by reason of an insubstantial failure of the declaration to comply with this chapter. Whether a substantial failure impairs marketability is not affected by this chapter.

(Added to NRS by 1991, 544; A 2003, 2225; 2011, 2421)

NRS 116.2104 Description of units. A description of a unit which sets forth the name of the common-interest community, the file number and book or other information to show where the declaration is recorded, the county in which the common-interest community is located and the identifying number of the unit, is a legally sufficient description of that unit and all rights, obligations and interests appurtenant to that unit which were created by the declaration or bylaws.

(Added to NRS by 1991, 544; A 1993, 2357)

NRS 116.2105 Contents of declaration.

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 legally 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, 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 limit 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 for recorded easements and licenses 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, 116.2116 and 116.31032.

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

(Added to NRS by 1991, 544; A 1993, 2357; 2009, 1611; 2011, 2421)

NRS 116.2106 Leasehold common-interest communities.

1. Any lease the expiration or termination of which may terminate the common-interest community or reduce its size must be recorded. Every lessor of those leases in a condominium or planned community shall sign the declaration. The declaration must state:

(a) The recording data for the lease or a statement of where the recorded lease may be inspected;

(b) The date on which the lease is scheduled to expire;

(c) A legally sufficient description of the real estate subject to the lease;

(d) Any right of the units' owners to redeem the reversion and the manner whereby those rights may be exercised, or a statement that they do not have those rights;

(e) Any right of the units' owners to remove any improvements within a reasonable time after the expiration or termination of the lease, or a statement that they do not have those rights; and

(f) Any rights of the units' owners to renew the lease and the conditions of any renewal, or a statement that they do not have those rights.

2. After the declaration for a leasehold condominium or leasehold planned community is recorded, neither the lessor nor the lessor's successor in interest may terminate the leasehold interest of a unit's owner who makes timely payment of his or her share of the rent and otherwise complies with all covenants which, if violated, would entitle the lessor to terminate the lease. The leasehold interest of a unit's owner in a condominium or planned community is not affected by failure of any other person to pay rent or fulfill any other covenant.

3. Acquisition of the leasehold interest of any unit's owner by the owner of the reversion or remainder does not merge the leasehold and freehold interests unless the leasehold interests of all units' owners subject to that reversion or remainder are acquired.

4. If the expiration or termination of a lease decreases the number of units in a common-interest community, the allocated interests must be reallocated in accordance with subsection 1 of NRS 116.1107 as if those units had been taken by eminent domain. Reallocations must be confirmed by an amendment to the declaration prepared, executed and recorded by the association.

(Added to NRS by 1991, 545; A 2011, 2422)

NRS 116.2107 Allocation of allocated interests.

1. The declaration must allocate to each unit:

(a) In a condominium, a fraction or percentage of undivided interests in the common elements and in the common expenses of the association, and a portion of the votes in the association;

(b) In a cooperative, a proportionate ownership in the association, a fraction or percentage of the common expenses of the association and a portion of the votes in the association; and

(c) In a planned community, a fraction or percentage of the common expenses of the association and a portion of the votes in the association.

2. The declaration must state the formulas used to establish allocations of interests. Those allocations may not discriminate in favor of units owned by the declarant or an affiliate of the declarant.

3. If units may be added to or withdrawn from the common-interest community, the declaration must state the formulas to be used to reallocate the allocated interests among all units included in the common-interest community after the addition or withdrawal.

4. The declaration may provide:

(a) That different allocations of votes are made to the units on particular matters specified in the declaration;

(b) For cumulative voting only for the purpose of electing members of the executive board; and

(c) For class voting on specified issues affecting the class if necessary to protect valid interests of the class.

↳ Except as otherwise provided in NRS 116.31032, a declarant may not utilize cumulative or class voting for the purpose of evading any limitation imposed on declarants by this chapter nor may units constitute a class because they are owned by a declarant.

5. Except for minor variations because of rounding, the sum of the liabilities for common expenses and, in a condominium, the sum of the undivided interests in the common elements allocated at any time to all the units must each equal one if stated as a fraction or 100 percent if stated as a percentage. In the event of discrepancy between an allocated interest and the result derived from application of the pertinent formula, the allocated interest prevails.

6. In a condominium, the common elements are not subject to partition, and any purported conveyance, encumbrance, judicial sale or other voluntary or involuntary transfer of an undivided interest in the common elements made without the unit to which that interest is allocated is void.

7. In a cooperative, any purported conveyance, encumbrance, judicial sale or other voluntary or involuntary transfer of an ownership interest in the association made without the possessory interest in the unit to which that interest is related is void.

(Added to NRS by 1991, 546; A 1993, 2359; 2011, 2423)

NRS 116.2108 Limited common elements.

1. Except for the limited common elements described in subsections 2 and 4 of NRS 116.2102, the declaration must specify to which unit or units each limited common element is allocated. An allocation may not be altered without the consent of the units' owners whose units are affected.

2. Except as the declaration otherwise provides, a limited common element may be reallocated by an amendment to the declaration executed by the units' owners between or among whose units the reallocation is made. The persons executing the amendment shall provide a copy thereof to the association, which shall record it. The amendment must be recorded in the names of the parties and the common-interest community.

3. A common element not previously allocated as a limited common element may be so allocated only pursuant to provisions in the declaration made in accordance with paragraph (g) of subsection 1 of NRS 116.2105. The allocations must be made by amendments to the declaration.

(Added to NRS by 1991, 547)

NRS 116.2109 Plats.

1. Plats are a part of the declaration, and are required for all common-interest communities except cooperatives. Each plat must be clear and legible and contain a certification that the plat 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 plats recorded pursuant to subsection 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. The plats 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, the elevations need not be depicted on the plats.

5. Upon exercising any developmental right, the declarant shall record new or amended plats necessary to conform to the requirements of subsection 2.

6. Each plat must be certified by a professional land surveyor.

(Added to NRS by 1991, 547; A 1993, 2360; 2009, 1612)

NRS 116.211 Exercise of developmental rights.

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 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.

(Added to NRS by 1991, 548; A 2009, 1613)

NRS 116.2111 Alterations of units; access to units.

1. Except as otherwise provided in this section and subject to the provisions of the declaration and other provisions of law, a unit's owner:

(a) May make any improvements or alterations to his or her unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the common-interest community;

(b) May not change the appearance of the common elements, or the exterior appearance of a unit or any other portion of the common-interest community, without permission of the association; and

(c) After acquiring an adjoining unit or an adjoining part of an adjoining unit, may remove or alter any intervening partition or create apertures therein, even if the partition in whole or in part is a common element, if those acts do not impair the structural integrity or mechanical systems or lessen the support of any portion of the common-interest community. Removal of partitions or creation of apertures under this paragraph is not an alteration of boundaries.

2. An association may not:

(a) Unreasonably restrict, prohibit or otherwise impede the lawful rights of a unit's owner to have reasonable access to his or her unit.

(b) Charge any fee for a person to enter the common-interest community to provide services to a unit, a unit's owner or a tenant of a unit's owner or for any visitor to the common-interest community or invitee of a unit's owner or a tenant of a unit's owner to enter the common-interest community.

(c) Unreasonably restrict, prohibit or withhold approval for a unit's owner to add to a unit:

(1) Improvements such as ramps, railings or elevators that are necessary to improve access to the unit for any occupant of the unit who has a disability;

(2) Additional locks to improve the security of the unit;

(3) Shutters to improve the security of the unit or to reduce the costs of energy for the unit; or

(4) A system that uses wind energy to reduce the costs of energy for the unit if the boundaries of the unit encompass 2 acres or more within the common-interest community.

(d) With regard to approving or disapproving any improvement or alteration made to a unit, act in violation of any state or federal law.

3. Any improvement or alteration made pursuant to subsection 2 that is visible from any other portion of the common-interest community must be installed, constructed or added in accordance with the procedures set forth in the governing documents of the association and must be selected or designed to the maximum extent practicable to be compatible with the style of the common-interest community.

4. An association may not unreasonably restrict, prohibit or withhold approval for a unit's owner to add shutters to improve the security of the unit or to reduce the costs of energy for the unit, including, without limitation, rolling shutters, that are attached to a portion of an interior or exterior window, interior or exterior door or interior or exterior wall which is not part of the unit and which is a common element or limited common element if:

(a) The portion of the window, door or wall to which the shutters are attached is adjoining the unit; and

(b) The shutters must necessarily be attached to that portion of the window, door or wall during installation to achieve the maximum benefit in improving the security of the unit or reducing the costs of energy for the unit.

5. If a unit's owner adds shutters pursuant to subsection 4, the unit's owner is responsible for the maintenance of the shutters.

6. For the purposes of subsection 4, a covenant, restriction or condition which does not unreasonably restrict the addition of shutters and which is contained in the governing documents of a common-interest community or a policy established by a common-interest community is enforceable so long as the covenant, restriction or condition was:

(a) In existence on July 1, 2009; or

(b) Contained in the governing documents in effect on the close of escrow of the first sale of a unit in the common-interest community.

7. A unit's owner may not add to the unit a system that uses wind energy as described in subparagraph (4) of paragraph (c) of subsection 2 unless the unit's owner first obtains the written consent of each owner of property within 300 feet of any boundary of the unit.

(Added to NRS by 1991, 549; A 2003, 2225; 2005, 1819; 2009, 246, 2878)

NRS 116.2112 Relocation of boundaries between adjoining units.

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 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 necessary to show or describe the altered boundaries between adjoining units, and their dimensions and identifying numbers

(Added to NRS by 1991, 550; A 2009, 1614)

NRS 116.2113 Subdivision of units.

1. If the declaration expressly so permits, a unit may be subdivided into two or more units. Subject to the declaration and law other than this chapter, 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, 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 or on any other basis the declaration requires.

(Added to NRS by 1991, 550; A 2009, 1614; 2011, 2424)

NRS 116.2114 Monuments as boundaries. 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 or her willful misconduct or relieve a declarant or any other person of liability for failure to adhere to any plats or, in a cooperative, to any representation in the public offering statement.

(Added to NRS by 1991, 550; A 2009, 1614)

NRS 116.2115 Use for purposes of sales. A declarant may maintain offices for sales and management, and models in units or on common elements in the common-interest community only if the declaration so provides. Subject to any limitations in the declaration, a declarant may maintain signs on the common elements advertising the common-interest community. This section is subject to the provisions of other state law and to local ordinances.

(Added to NRS by 1991, 550; A 1993, 2361)

NRS 116.2116 Easement rights; validity of existing restrictions.

1. Subject to the declaration, a declarant has an easement through the common elements as may be reasonably necessary to discharge the declarant's obligations or exercise special declarant's rights, whether arising under this chapter or reserved in the declaration.

2. Subject to paragraph (f) of subsection 1 of NRS 116.3102 and NRS 116.3112, the units' owners have an easement in the common elements for purposes of access to their units.

3. Subject to the declaration and any rules adopted by the association, the units' owners have a right to use the common elements that are not limited common elements and all real estate that must become common elements for the purposes for which they were intended.

4. Unless the terms of an easement in favor of an association prohibit a residential use of a servient estate, if the owner of the servient estate has obtained all necessary approvals required by law or any covenant, condition or restriction on the property, the owner may use such property in any manner authorized by law without obtaining any additional approval from the association. Nothing in this subsection authorizes an owner of a servient estate to impede the lawful and contractual use of the easement.

5. The provisions of subsection 4 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.

(Added to NRS by 1991, 551; A 1999, 3355; 2011, 2424)

NRS 116.2117 Amendment of declaration.

1. Except as otherwise provided in NRS 116.21175, and except in cases of amendments that may be executed by a declarant under subsection 5 of NRS 116.2109 or NRS 116.211, or by the association under NRS 116.1107, 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 subsections 4, 6, 7 and 8, the declaration, including any plats, 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, unless the declaration specifies a different percentage for all amendments or for specified subjects of amendment. If the declaration requires the approval of another person as a condition of its effectiveness, the amendment is not valid without that approval.

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 change the allocated interests of a unit in the absence of unanimous consent of only those units' owners whose units are 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.

6. An amendment to the declaration which prohibits or materially restricts the permitted uses of a unit or the number or other qualifications of persons who may occupy units may not be enforced against a unit's owner who was the owner of the unit on the date of the recordation of the amendment as long as the unit's owner remains the owner of that unit.

7. A provision in the declaration creating special declarant's rights that have not expired may not be amended without the consent of the declarant.

8. If any provision of this chapter or of the declaration requires the consent of a holder of a security interest in a unit, or an insurer or guarantor of such interest, as a condition to the effectiveness of an amendment to the declaration, that consent is deemed granted if:

(a) The holder, insurer or guarantor has not requested, in writing, notice of any proposed amendment; or

(b) Notice of any proposed amendment is required or has been requested and a written refusal to consent is not received by the association within 60 days after the association delivers notice of the proposed amendment to the holder, insurer or guarantor, by certified mail, return receipt requested, to the address for notice provided by the holder, insurer or guarantor in a prior written request for notice.

(Added to NRS by 1991, 551; A 1993, 2362; 1999, 395, 396; 2005, 2589; 2009, 1615, 1733; 2011, 2424; 2019, 1379)

NRS 116.21175 Procedure for seeking confirmation from district court of certain amendments to declaration.

1. Except as otherwise limited by subsection 4 of NRS 116.2117, if:

(a) To approve an amendment to the declaration pursuant to NRS 116.2117, the declaration requires:

(1) In a single-class voting structure, more than a majority of the total number of votes allocated to the single class to be cast in favor of the amendment; or

(2) In a multiclass voting structure, more than a majority of the total number of votes allocated to one or more of the multiple classes to be cast in favor of the amendment; and

(b) An amendment fails to receive the number of votes required by the declaration to be approved but:

(1) In a single-class voting structure, receives a majority of the total number of votes allocated to the single class; or

(2) In a multiclass voting structure, receives in each of the multiple classes a majority of the total number of votes allocated to that class,

the association or any unit's owner may file a petition with the district court in any county in which any portion of the common-interest community is located asking for an order waiving the supermajority requirements of the declaration and confirming the amendment as validly approved.

2. If the association or any unit's owner files a petition pursuant to subsection 1, the petition:

(a) Must contain sufficient information specifying:

(1) The actions that have been taken to obtain the number of votes required to approve the amendment under the declaration and whether those actions have conformed with the procedures set forth in the declaration;

(2) The amount of time that has been allowed for the units' owners to vote upon the amendment;

(3) The number and percentage of affirmative votes required in each voting class to approve the amendment under the declaration;

(4) The number and percentage of affirmative and negative votes actually received in each voting class with regard to the amendment; and

(5) Any other matters the petitioner considers relevant to the court's determination; and

(b) Must include, as exhibits to the petition, copies of:

(1) The governing documents;

(2) The complete text of the amendment and a statement explaining the need for the amendment and its purposes and objectives;

(3) All notices and materials used in the effort to persuade the units' owners to approve the amendment; and

(4) Any other documents the petitioner considers relevant to the court's determination.

3. Upon receiving the petition, the court shall:

(a) Set the matter for hearing; and

(b) Issue an ex parte order setting forth the manner in which the petitioner must give written notice of the hearing to all the units' owners in the association.

4. The court may grant the petition if it finds that the petitioner has presented evidence establishing that:

(a) The petitioner has given at least 15 days' written notice of the hearing to:

(1) All the units' owners in the association;

(2) Each city, if any, and each county in which any portion of the common-interest community is located; and

(3) All other persons or entities that are entitled to notice under the declaration;

(b) The voting process regarding the amendment was conducted in accordance with all applicable provisions of the governing documents and state law;

(c) A reasonably diligent effort was made to allow all eligible units' owners and, if required by the governing documents, all lenders to vote on the amendment;

(d) The amendment:

(1) In a single-class voting structure, received a majority of the total number of votes allocated to the single class; or

(2) In a multiclass voting structure, received in each of the multiple classes a majority of the total number of votes allocated to that class; and

(e) The amendment is reasonable.

5. If the court grants the petition, the court shall enter an order waiving the supermajority requirements of the declaration and confirming the amendment as validly approved.

6. An amendment confirmed by a final court order pursuant to this section is not effective until a certified copy of the amendment and the final court order have been recorded in each county in which any portion of the common-interest community is located. The amendment 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, and the final court order must be recorded along with the amendment.

7. After the amendment and the final court order have been recorded pursuant to this section, the declaration, as amended, has the same force and effect as if the amendment had been approved in compliance with every requirement imposed by the governing documents.

8. Not later than 30 days after the date on which the amendment and the final court order are recorded pursuant to this section, the association shall mail to all the units' owners in the association:

(a) A copy of the amendment and the final court order; and

(b) A statement explaining that the amendment and the final court order have been recorded and that the declaration has been amended pursuant to this section.

(Added to NRS by 2005, 2581)

NRS 116.2118 Termination of common-interest community.

1. Except in the case of a taking of all the units by eminent domain, in the case of foreclosure against an entire cooperative of a security interest that has priority over the declaration, or in the circumstances described in NRS 116.2124, a common-interest community may be terminated only by agreement of units' owners to whom at least 80 percent of the votes in the association are allocated, or any larger percentage the declaration specifies, and with any other approvals required by the declaration. The declaration may specify a smaller percentage only if all of the units are restricted exclusively to nonresidential uses.

2. An agreement to terminate must be evidenced by the execution of an agreement to terminate, or ratifications thereof, in the same manner as a deed, by the requisite number of units' owners. The agreement must specify a date after which the agreement will be void unless it is recorded before that date. An agreement to terminate and all ratifications thereof must be recorded in every county in which a portion of the common-interest community is situated and is effective only upon recordation.

3. In the case of a condominium or planned community containing only units having horizontal boundaries described in the declaration, an agreement to terminate may provide that all of the common elements and units of the common-interest community must be sold following termination. If, pursuant to the agreement, any real estate in the common-interest community is to be sold following termination, the agreement must set forth the minimum terms of the sale.

4. In the case of a condominium or planned community containing any units not having horizontal boundaries described in the declaration, an agreement to terminate may provide for sale of the common elements, but it may not require that the units be sold following termination, unless the declaration as originally recorded provided otherwise or all the units' owners consent to the sale.

5. The association, on behalf of the units' owners, may contract for the sale of real estate in a common-interest community, but the contract is not binding on the units' owners until approved pursuant to subsections 1 and 2. If any real estate is to be sold following termination, title to that real estate, upon termination, vests in the association as trustee for the holders of all interests in the units. Thereafter, the association has all powers necessary and appropriate to effect the sale. Until the sale has been concluded and the proceeds thereof distributed, the association continues in existence with all powers it had before termination. Proceeds of the sale must be distributed to units' owners and lienholders as their interests may appear, in accordance with NRS 116.21183 and 116.21185. Unless otherwise specified in the agreement to terminate, as long as the association holds title to the real estate, each unit's owner and his or her successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted the unit. During the period of that occupancy, each unit's owner and his or her successors in interest remain liable for all assessments and other obligations imposed on units' owners by this chapter or the declaration.

6. In a condominium or planned community, if the real estate constituting the common-interest community is not to be sold following termination, title to the common elements and, in a common-interest community containing only units having horizontal boundaries described in the declaration, title to all the real estate in the common-interest community, vests in the units' owners upon termination as tenants in common in proportion to their respective interests as provided in NRS 116.21185, and liens on the units shift accordingly. While the tenancy in common exists, each unit's owner and his or her successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted the unit.

7. Following termination of the common-interest community, the proceeds of a sale of real estate, together with the assets of the association, are held by the association as trustee for units' owners and holders of liens on the units as their interests may appear.

(Added to NRS by 1991, 551; A 2011, 2426)

NRS 116.21183 Rights of creditors following termination

1. Following termination of a condominium or planned community, creditors of the association holding liens on the units, which were recorded before termination, may enforce those liens in the same manner as any lienholder. All other creditors of the association are to be treated as if they had perfected liens on the units immediately before termination.

2. In a cooperative, the declaration may provide that all creditors of the association have priority over any interests of units' owners and creditors of units' owners. In that event, following termination, creditors of the association holding liens on the cooperative which were recorded before termination may enforce their liens in the same manner as any lienholder, and any other creditor of the association is to be treated as if the creditor had perfected a lien against the cooperative immediately before termination. Unless the declaration provides that all creditors of the association have that priority:

(a) The lien of each creditor of the association which was perfected against the association before termination becomes, upon termination, a lien against each unit's owner's interest in the unit as of the date the lien was perfected;

(b) Any other creditor of the association is to be treated upon termination as if the creditor had perfected a lien against each unit's owner's interest immediately before termination;

(c) The amount of the lien of an association's creditor described in paragraphs (a) and (b) against each of the units' owners' interest must be proportionate to the ratio which each unit's liability for common expenses bears to the liability for common expenses of all of the units;

(d) The lien of each creditor of each unit's owner which was perfected before termination continues as a lien against that owner's unit as of the date the lien was perfected; and

(e) The assets of the association must be distributed to all units' owners and all lienholders as their interests may appear in the order described in this section.

↪ Creditors of the association are not entitled to payment from any unit's owner in excess of the amount of the creditor's lien against that owner's interest.

(Added to NRS by 1991, 553)

NRS 116.21185 Respective interests of units' owners following termination. The respective interests of units' owners referred to in subsections 5, 6 and 7 of NRS 116.2118 and in NRS 116.21183 are as follows:

1. Except as otherwise provided in subsection 2, the respective interests of units' owners are the fair market values of their units, allocated interests, and any limited common elements immediately before the termination, as determined by one or more independent appraisers selected by the association. The decision of the independent appraisers must be distributed to the units' owners and becomes final unless disapproved within 30 days after distribution by units' owners to whom 25 percent of the votes in the association are allocated. The proportion of interest of any unit's owner to that of all units' owners is determined by dividing the fair market value of that unit and its allocated interests by the total fair market values of all the units and their allocated interests.

2. If any unit or any limited common element is destroyed to the extent that an appraisal of the fair market value thereto before destruction cannot be made, the interests of all units' owners are:

(a) In a condominium, their respective interests in the common elements immediately before the termination;

(b) In a cooperative, their respective ownerships immediately before the termination; and

(c) In a planned community, their respective liabilities for common expenses immediately before the termination.

(Added to NRS by 1991, 553)

NRS 116.21188 Effect of foreclosure or enforcement of lien or encumbrance.

1. In a condominium or planned community, except as otherwise provided in subsection 2, foreclosure or enforcement of a lien or encumbrance against the entire common-interest community does not terminate, of itself, the common-interest community, and foreclosure or enforcement of a lien or encumbrance against a portion of the common-interest community, other than withdrawable real estate, does not withdraw that portion from the common-interest community. Foreclosure or enforcement of a lien or encumbrance against withdrawable real estate does not withdraw, of itself, that real estate from the common-interest community, but the person taking title thereto may require from the association, upon request, an amendment excluding the real estate from the common-interest community.

2. In a condominium or planned community, if a lien or encumbrance against a portion of the real estate comprising the common-interest community has priority over the declaration and the lien or encumbrance has not been partially released, the parties foreclosing the lien or encumbrance, upon foreclosure, may record an instrument excluding the real estate subject to that lien or encumbrance from the common-interest community.

(Added to NRS by 1991, 554)

NRS 116.2119 Rights of secured lenders. The declaration may require that all or a specified number or percentage of the lenders who hold security interests encumbering the units approve specified actions of the units' owners or the association as a condition to the effectiveness of those actions, but no requirement for approval may operate to:

1. Deny or delegate control over the general administrative affairs of the association by the units' owners or the executive board;

2. Prevent the association or the executive board from commencing, intervening in or settling any litigation or proceeding; or

3. Prevent any trustee or the association from receiving and distributing any proceeds of insurance except pursuant to NRS 116.31133 and 116.31135.

(Added to NRS by 1991, 554)

NRS 116.212 Master associations.

1. If the declaration provides that any of the powers described in NRS 116.3102 are to be exercised by or may be delegated to a profit or nonprofit corporation that exercises those or other powers on behalf of one or more common-interest communities or for the benefit of the units' owners of one or more common-interest communities, or on behalf of a common-interest community and a time-share plan created pursuant to chapter 119A of NRS, all provisions of this chapter applicable to unit-owners' associations apply to any such corporation, except as modified by this section.

2. Unless it is acting in the capacity of an association described in NRS 116.3101, a master association may exercise the powers set forth in paragraph (b) of subsection 1 of NRS 116.3102 only to the extent expressly permitted in:

(a) The declarations of common-interest communities which are part of the master association or expressly described in the delegations of power from those common-interest communities to the master association; or

(b) The declaration of the common-interest community which is a part of the master association and the time-share instrument creating the time-share plan governed by the master association.

3. If the declaration of any common-interest community provides that the executive board may delegate certain powers to a master association, the members of the executive board have no liability for the acts or omissions of the master association with respect to those powers following delegation.

4. The rights and responsibilities of units' owners with respect to the unit-owners' association set forth in NRS 116.3103, 116.31032, 116.31034, 116.31036, 116.3108, 116.31085, 116.3109, 116.311, 116.31105 and 116.3112 apply in the conduct of the affairs of a master association only to persons who elect the board of a master association, whether or not those persons are otherwise units' owners within the meaning of this chapter.

5. Even if a master association is also an association described in NRS 116.3101, the certificate of incorporation or other instrument creating the master association and the declaration of each common-interest community, the powers of which are assigned by the declaration or delegated to the master association, may provide that the executive board of the master association must be elected after the period of the declarant's control in any of the following ways:

(a) All units' owners of all common-interest communities subject to the master association may elect all members of the master association's executive board.

(b) All members of the executive boards of all common-interest communities subject to the master association may elect all members of the master association's executive board.

(c) All units' owners of each common-interest community subject to the master association may elect specified members of the master association's executive board.

(d) All members of the executive board of each common-interest community subject to the master association may elect specified members of the master association's executive board.

(Added to NRS by 1991, 554; A 1993, 2362; 2001, 2489; 2003, 2226)

NRS 116.21205 Reallocation of costs of administering common elements of certain master associations. The executive board of a master association of any common-interest community that was created before January 1, 1975, and is located in a county whose population is 700,000 or more may record an amendment to the declaration pursuant to which the master association reallocates the costs of administering the common elements of the master association among the units of the common-interest community uniformly and based upon the actual costs associated with each unit.

(Added to NRS by 2003, 2220; A 2011, 1144)

NRS 116.2121 Merger or consolidation of common-interest communities.

1. Any two or more common-interest communities of the same form of ownership, by agreement of the units' owners as provided in subsection 2, may be merged or consolidated into a single common-interest community. In the event of a merger or consolidation, unless the agreement otherwise provides, the resultant common-interest community is the legal successor, for all purposes, of all of the preexisting common-interest communities, and the operations and activities of all associations of the preexisting common-interest communities are merged or consolidated into a single association that holds all powers, rights, obligations, assets and liabilities of all preexisting associations.

2. An agreement of two or more common-interest communities to merge or consolidate pursuant to subsection 1 must be evidenced by an agreement prepared, executed, recorded and certified by the president of the association of each of the preexisting common-interest communities following approval by owners of units to which are allocated the percentage of votes in each common-interest community required to terminate that common-interest community. The agreement must be recorded in every county in which a portion of the common-interest community is located and is not effective until recorded.

3. Every agreement for merger or consolidation must provide for the reallocation of the allocated interests in the new association among the units of the resultant common-interest community either by stating the reallocations or the formulas upon which they are based or by stating the percentage of overall allocated interests of the new common-interest community which are allocated to all of the units comprising each of the preexisting common-interest communities, and providing that the portion of the percentages allocated to each unit formerly constituting a part of the preexisting common-interest community must be equal to the percentages of allocated interests allocated to that unit by the declaration of the preexisting common-interest community.

(Added to NRS by 1991, 555)

NRS 116.2122 Addition of unspecified real estate. In a planned community, if the right is originally reserved in the declaration, the declarant, in addition to any other developmental right, may amend the declaration at any time during as many years as are specified in the declaration for adding additional real estate to the planned community without describing the location of that real estate in the original declaration; but the amount of real estate added to the planned community pursuant to this section may not

exceed 10 percent of the real estate described in paragraph (c) of subsection 1 of NRS 116.2105 and the declarant may not in any event increase the number of units in the planned community beyond the number stated in the original declaration pursuant to paragraph (d) of that subsection.

(Added to NRS by 1991, 556; A 1993, 2363)

NRS 116.2124 Termination following catastrophe. If substantially all the units in a common-interest community have been destroyed or are uninhabitable and the available methods for giving notice under NRS 116.3108 of a meeting of units' owners to consider termination under NRS 116.2118 will not likely result in receipt of the notice, the executive board or any other person holding an interest in the common-interest community may commence an action in the district court of the county in which the common-interest community is located seeking to terminate the common-interest community. During the pendency of the action, the court may issue whatever orders it considers appropriate, including, without limitation, an order for the appointment of a receiver. After a hearing, the court may terminate the common-interest community or reduce its size and may issue any other order the court considers to be in the best interest of the units' owners and persons holding an interest in the common-interest community.

(Added to NRS by 2011, 2414)

ARTICLE 3

MANAGEMENT OF COMMON-INTEREST COMMUNITIES

General Provisions

NRS 116.3101 Organization of unit-owners' association.

1. A unit-owners' association must be organized no later than the date the first unit in the common-interest community is conveyed.

2. The membership of the association at all times consists exclusively of all units' owners or, following termination of the common-interest community, of all owners of former units entitled to distributions of proceeds under NRS 116.2118, 116.21183 and 116.21185, or their heirs, successors or assigns.

3. Except for a residential planned community containing not more than 12 units, the association must have an executive board.

4. The association must:

(a) Be organized as a profit or nonprofit corporation, association, limited-liability company, trust, partnership or any other form of organization authorized by the law of this State;

(b) Include in its articles of incorporation, articles of association, articles of organization, certificate of registration, certificate of limited partnership, certificate of trust or other documents of organization, or any amendment thereof, that the purpose of the corporation, association, limited-liability company, trust or partnership is to operate as an association pursuant to this chapter;

(c) Contain in its name the words "common-interest community," "community association," "master association," "homeowners' association" or "unit-owners' association"; and

(d) Comply with the applicable provisions of chapters 78, 81, 82, 86, 87, 87A, 88 and 88A of NRS when filing with the Secretary of State its articles of incorporation, articles of association, articles of organization, certificate of registration, certificate of limited partnership, certificate of trust or other documents of organization, or any amendment thereof.

(Added to NRS by 1991, 556; A 2003, 20th Special Session, 130; 2005, 2590; 2007, 485; 2011, 2427)

NRS 116.3102 Powers of unit-owners' association; limitations.

1. Except as otherwise provided in this chapter, and subject to the provisions of the declaration, the association:

(a) Shall adopt and, except as otherwise provided in the bylaws, may amend bylaws and may adopt and amend rules and regulations.

(b) Shall adopt and may amend budgets in accordance with the requirements set forth in NRS 116.31151, may collect assessments for common expenses from the units' owners and may invest funds of the association in accordance with the requirements set forth in NRS 116.311395.

(c) May hire and discharge managing agents and other employees, agents and independent contractors.

(d) May institute, defend or intervene in litigation or in arbitration, mediation or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common-interest community. The association may not institute, defend or intervene in litigation or in arbitration, mediation or administrative proceedings in its own name on behalf of itself or units' owners with respect to an action for a constructional defect pursuant to NRS 40.600 to 40.695, inclusive, unless the action pertains to:

(1) Common elements;

(2) Any portion of the common-interest community that the association owns; or

(3) Any portion of the common-interest community that the association does not own but has an obligation to maintain, repair, insure or replace because the governing documents of the association expressly make such an obligation the responsibility of the association.

(e) May make contracts and incur liabilities. Any contract between the association and a private entity for the furnishing of goods or services must not include a provision granting the private entity the right of first refusal with respect to extension or renewal of the contract.

(f) May regulate the use, maintenance, repair, replacement and modification of common elements.

(g) May cause additional improvements to be made as a part of common elements.

- (h) May 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) May grant easements, leases, licenses and concessions through or over the common elements.
 - (j) May 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, including, without limitation, any services provided pursuant to NRS 116.310312.
 - (k) May impose charges for late payment of assessments pursuant to NRS 116.3115.
 - (l) May impose construction penalties when authorized pursuant to NRS 116.310305.
 - (m) May 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) May 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) May impose a reasonable fee for opening or closing any file for each unit. Such a fee:
 - (1) Must be based on the actual cost the association incurs to open or close any file.
 - (2) Must not exceed \$350. Beginning on January 1, 2022, the monetary amount in this subparagraph must be adjusted for each calendar year by adding to each amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) published by the United States Department of Labor from December 2020 to the December preceding the calendar year for which the adjustment is calculated, but must not increase by more than 3 percent each year.
 - (3) Must not be charged to both the seller and the purchaser of a unit.
 - (4) Except as otherwise provided in this subparagraph and subject to the limitation set forth in subparagraph (2), may increase, on an annual basis, by a percentage equal to the percentage of increase in the Consumer Price Index (All Items) published by the United States Department of Labor for the preceding calendar year. The fee must not increase by more than 3 percent each year.
 - (p) May provide for the indemnification of its officers and executive board and maintain directors and officers liability insurance.
 - (q) May 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.
 - (r) May exercise any other powers conferred by the declaration or bylaws.
 - (s) May exercise all other powers that may be exercised in this State by legal entities of the same type as the association.
 - (t) Except as otherwise provided in this paragraph, may 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. An association may not direct the removal of a vehicle parked on property owned or leased by the association solely because the registration of the vehicle is expired. 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.
 - (u) May exercise any other powers necessary and proper for the governance and operation of the association.
 - 2. The declaration may not limit the power of the association to deal with the declarant if the limit is more restrictive than the limit imposed on the power of the association to deal with other persons.
 - 3. The executive board may determine whether to take enforcement action by exercising the association's power to impose sanctions or commence an action for a violation of the declaration, bylaws or rules, including whether to compromise any claim for unpaid assessments or other claim made by or against it. The executive board does not have a duty to take enforcement action if it determines that, under the facts and circumstances presented:
 - (a) The association's legal position does not justify taking any or further enforcement action;
 - (b) The covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with current law;
 - (c) Although a violation may exist or may have occurred, it is not so material as to be objectionable to a reasonable person or to justify expending the association's resources; or
 - (d) It is not in the association's best interests to pursue an enforcement action.
 - 4. The executive board's decision under subsection 3 not to pursue enforcement under one set of circumstances does not prevent the executive board from taking enforcement action under another set of circumstances, but the executive board may not be arbitrary or capricious in taking enforcement action.
 - 5. Notwithstanding any provision of this chapter or the governing documents to the contrary, an association may not impose any assessment pursuant to this chapter or the governing documents on the owner of any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125. For the purposes of this subsection, "assessment" does not include any charge for any utility services, including, without limitation, telecommunications, broadband communications, cable television, electricity,

natural gas, sewer services, garbage collection, water or for any other service which is delivered to and used or consumed directly by the property in the common-interest community that is exempt from taxation pursuant to NRS 361.125.

6. In providing any service or performing any act set forth in paragraph (n) or (o) of subsection 1, an association, or entity related to or acting on behalf of an association, shall not impose on a unit's owner, the authorized agent of a unit's owner, a purchaser or, pursuant to subsection 7 of NRS 116.4109, the holder of a security interest on a unit, a fee:

(a) Not authorized in paragraph (n) or (o), as applicable, of subsection 1; or

(b) In an amount which exceeds any limitation provided or set forth in paragraph (n) or (o), as applicable, of subsection 1.

(Added to NRS by 1991, 556; A 1999, 3000; 2003, 2227, 2267; 2005, 2590; 2009, 1009, 2796, 2879, 2911; 2011, 2427; 2015, 18; 2019, 851, 2263; 2021, 1400, 1436)

NRS 116.3103 Power of executive board to act on behalf of association; members and officers are fiduciaries; duty of care; application of business-judgment rule and conflict of interest rules; limitations on power.

1. Except as otherwise provided in the declaration, the bylaws, this section or other provisions of this chapter, the executive board acts on behalf of the association. In the performance of their duties, the officers and members of the executive board are fiduciaries and shall act on an informed basis, in good faith and in the honest belief that their actions are in the best interest of the association. Officers and members of the executive board:

(a) Are required to exercise the ordinary and reasonable care of officers and directors of a nonprofit corporation, subject to the business-judgment rule; and

(b) Are subject to conflict of interest rules governing the officers and directors of a nonprofit corporation organized under the law of this State.

2. The executive board may not act to:

(a) Amend the declaration.

(b) Terminate the common-interest community.

(c) Elect members of the executive board, but notwithstanding any provision of the governing documents to the contrary, the executive board may fill vacancies in its membership for the unexpired portion of any term or until the next regularly scheduled election of executive board members, whichever is earlier. Any executive board member elected to a previously vacant position which was temporarily filled by board appointment may only be elected to fulfill the remainder of the unexpired portion of the term.

(d) Determine the qualifications, powers, duties or terms of office of members of the executive board.

3. The executive board shall adopt budgets as provided in NRS 116.31151.

(Added to NRS by 1991, 557; A 1993, 2364; 2001, 3193; 2003, 225; 2005, 2592; 2009, 1734, 2797; 2011, 2430; 2017, 1083)

NRS 116.310305 Power of executive board to impose construction penalties for failure of unit's owner to adhere to certain schedules relating to design, construction, occupancy or use of unit or improvement.

1. A unit's owner shall adhere to a schedule required by the association for:

(a) The completion of the design of a unit or the design of an improvement to a unit;

(b) The commencement of the construction of a unit or the construction of an improvement to a unit;

(c) The completion of the construction of a unit or the construction of an improvement to the unit; or

(d) The issuance of a permit which is necessary for the occupancy of a unit or for the use of an improvement to a unit.

2. The association may impose and enforce a construction penalty against a unit's owner who fails to adhere to a schedule as required pursuant to subsection 1 if:

(a) The right to assess and collect a construction penalty is set forth in:

(1) The declaration;

(2) Another document related to the common-interest community that is recorded before the date on which the unit's owner acquired title to the unit; or

(3) A contract between the unit's owner and the association;

(b) The association has included notice of the maximum amount of the construction penalty and schedule as part of any public offering statement or resale package required by this chapter; and

(c) The unit's owner receives notice of the alleged violation which informs the unit's owner that he or she has a right to a hearing on the alleged violation.

3. For the purposes of this chapter, a construction penalty is not a fine.

(Added to NRS by 2003, 2221, 2266; A 2011, 2430)

NRS 116.31031 Power of executive board to impose fines and other sanctions for violations of governing documents; regulations; limitations; procedural requirements; continuing violations; collection of past due fines; statement of balance owed.

1. Except as otherwise provided in this section, if a unit's owner or a tenant or an invitee of a unit's owner or a tenant violates any provision of the governing documents of an association, the executive board may, if the governing documents so provide:

(a) Prohibit, for a reasonable time, the unit's owner or the tenant or the invitee of the unit's owner or the tenant from:

(1) Voting on matters related to the common-interest community.

(2) Using the common elements. The provisions of this subparagraph do not prohibit the unit's owner or the tenant or the invitee of the unit's owner or the tenant from using any vehicular or pedestrian ingress or egress to go to or from the unit, including any area used for parking.

(b) Impose a fine against the unit's owner or the tenant or the invitee of the unit's owner or the tenant for each violation, except that:

(1) A fine may not be imposed for a violation that is the subject of a construction penalty pursuant to NRS 116.310305; and

(2) A fine may not be imposed against a unit's owner or a tenant or invitee of a unit's owner or a tenant for a violation of the governing documents which involves a vehicle and which is committed by a person who is delivering goods to, or performing services for, the unit's owner or tenant or invitee of the unit's owner or the tenant.

↪ If the violation 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 as provided in the regulations adopted by the Commission, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents. If the violation does not pose an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community as provided in the regulations adopted by the Commission, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents, but the amount of the fine must not exceed \$100 for each violation or a total amount of \$1,000 per hearing against each unit's owner or tenant or invitee of the unit's owner or tenant. The limitations on the amount of the fine do not apply to any charges or costs that may be collected by the association pursuant to this section if the fine becomes past due. The Commission shall adopt regulations establishing the criteria used in determining whether a violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community, the severity of such violations and limitations on the amounts of the fines.

(c) Send a written notice to cure an alleged violation, without the imposition of a fine, to the unit's owner and, if different, the person responsible for curing the alleged violation. Any such written notice must:

(1) Include an explanation of the applicable provisions of the governing documents that form the basis of the alleged violation;

(2) Specify in detail the alleged violation and the proposed action to cure the alleged violation;

(3) Provide a clear and detailed photograph of the alleged violation, if the alleged violation relates to the physical condition of the unit or the grounds of the unit or an act or a failure to act of which it is possible to obtain a photograph; and

(4) Provide the unit's owner or the tenant a reasonable opportunity to cure the alleged violation before the executive board may take additional actions, including, without limitation, other remedies available pursuant to this section.

2. Unless the violation 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 as provided in the regulations adopted by the Commission, the executive board may not impose a fine pursuant to subsection 1 against a unit's owner or tenant for a violation of any provision of the governing documents of an association committed by an invitee of the unit's owner or the tenant unless the unit's owner or tenant:

(a) Participated in or authorized the violation;

(b) Had prior notice of the violation pursuant to paragraph (c) of subsection 1; or

(c) Had an opportunity to stop the violation and failed to do so.

3. 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.

4. The executive board may not impose a fine pursuant to subsection 1 unless:

(a) Not less than 30 days before the alleged violation, the unit's owner and, if different, the person against whom the fine will be imposed had been provided with written notice of the applicable provisions of the governing documents that form the basis of the alleged violation; and

(b) Within a reasonable time after the discovery of the alleged violation, the unit's owner and, if different, the person against whom the fine will be imposed has been provided with:

(1) Written notice:

(I) Specifying in detail the alleged violation, the proposed action to cure the alleged violation, the amount of the fine, and the date, time and location for a hearing on the alleged violation; and

(II) Providing a clear and detailed photograph of the alleged violation, if the alleged violation relates to the physical condition of the unit or the grounds of the unit or an act or a failure to act of which it is possible to obtain a photograph; and

(2) A reasonable opportunity to cure the alleged violation or to contest the alleged violation at the hearing.

↪ For the purposes of this subsection, a unit's owner shall not be deemed to have received written notice unless written notice is mailed to the address of the unit and, if different, to a mailing address specified by the unit's owner.

5. The executive board must schedule the date, time and location for the hearing on the alleged violation so that the unit's owner and, if different, the person against whom the fine will be imposed is provided with a reasonable opportunity to prepare for the hearing and to be present at the hearing.

6. The executive board must hold a hearing before it may impose the fine, unless the fine is paid before the hearing or unless the unit's owner and, if different, the person against whom the fine will be imposed:

(a) Executes a written waiver of the right to the hearing; or

(b) Fails to appear at the hearing after being provided with proper notice of the hearing.

7. If a fine is imposed pursuant to subsection 1 and the violation is not cured within 14 days, or within any longer period that may be established by the executive board, the violation shall be deemed a continuing violation. Thereafter, the executive board may

impose an additional fine for the violation, in an amount that does not exceed the amount of the original fine, for each 7-day period or portion thereof that the violation is not cured. Any additional fine:

(a) May be imposed without providing the opportunity to cure the violation and without the notice and an opportunity to be heard required by paragraph (b) of subsection 4; and

(b) Is not subject to any limitation on the amount of fines set forth in subsection 1 or the regulations adopted pursuant thereto.

8. If the governing documents so provide, the executive board may appoint a committee, with not less than three members, to conduct hearings on alleged violations and to impose fines pursuant to this section. While acting on behalf of the executive board for those limited purposes, the committee and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the executive board and its members.

9. A member of the executive board shall not participate in any hearing or cast any vote relating to a fine imposed pursuant to subsection 1 if the member has not paid all assessments which are due to the association by the member. If a member of the executive board:

(a) Participates in a hearing in violation of this subsection, any action taken at the hearing is void.

(b) Casts a vote in violation of this subsection, the vote is void.

10. The provisions of this section establish the minimum procedural requirements that the executive board must follow before it may impose a fine. The provisions of this section do not preempt any provisions of the governing documents that provide greater procedural protections.

11. Any past due fine must not bear interest, but may include any costs incurred by the association during a civil action to enforce the payment of the past due fine.

12. If requested by a person upon whom a fine was imposed, not later than 60 days after receiving any payment of a fine, an association shall provide to the person upon whom the fine was imposed a statement of the remaining balance owed.

(Added to NRS by 1997, 3112; A 1999, 3001; 2003, 2228, 2268; 2005, 2592; 2009, 2797, 2880, 2913; 2011, 2431; 2013, 267; 2017, 4036; 2021, 711)

NRS 116.310312 Power of executive board to enter grounds of unit to conduct certain maintenance or remove or abate public nuisance or to enter grounds or interior of unit to abate water or sewage leak or take other action; holder of security interest in unit required to provide certain information to association; imposition of fines and costs; lien against unit; limitation on liability.

1. A person who holds a security interest in a unit must provide the association with the person's contact information as soon as reasonably practicable, but not later than 30 days after the person:

(a) Files an action for recovery of a debt or enforcement of any right secured by the unit pursuant to NRS 40.430; or

(b) Records or has recorded on his or her behalf a notice of a breach of obligation secured by the unit and the election to sell or have the unit sold pursuant to NRS 107.080.

2. If an action or notice described in subsection 1 has been filed or recorded regarding a unit and the association has provided the unit's owner with notice and an opportunity for a hearing in the manner provided in NRS 116.31031, the association, including its employees, agents and community manager, may, but is not required to, enter the grounds of the unit, whether or not the unit is vacant, to take any of the following actions if the unit's owner refuses or fails to take any action or comply with any requirement imposed on the unit's owner within the time specified by the association as a result of the hearing:

(a) Maintain the exterior of the unit in accordance with the standards set forth in the governing documents, including, without limitation, any provisions governing maintenance, standing water or snow removal.

(b) Remove or abate a public nuisance on the exterior of the unit which:

(1) Is visible from any common area of the community or public streets;

(2) Threatens the health or safety of the residents of the common-interest community;

(3) Results in blighting or deterioration of the unit or surrounding area; and

(4) Adversely affects the use and enjoyment of nearby units.

3. If:

(a) A unit is vacant;

(b) The association has provided the unit's owner with notice and an opportunity for a hearing in the manner provided in NRS 116.31031; and

(c) The association or its employee, agent or community manager mails a notice of the intent of the association, including its employees, agents and community manager, to maintain the exterior of the unit or abate a public nuisance, as described in subsection 2, by certified mail to each holder of a recorded security interest encumbering the interest of the unit's owner, at the address of the holder that is provided pursuant to NRS 657.110 on the Internet website maintained by the Division of Financial Institutions of the Department of Business and Industry,

↪ the association, including its employees, agents and community manager, may enter the grounds of the unit to maintain the exterior of the unit or abate a public nuisance, as described in subsection 2, if the unit's owner refuses or fails to do so.

4. If a unit is in a building that contains units divided by horizontal boundaries described in the declaration, or vertical boundaries that comprise common walls between units, and the unit is vacant, the association, including its employees, agents and community manager, may enter the grounds and interior of the unit to:

(a) Abate a water or sewage leak in the unit and remove any water or sewage from the unit that is causing damage or, if not immediately abated, may cause damage to the common elements or another unit if the unit's owner refuses or fails to abate the water or sewage leak.

(b) After providing the unit's owner with notice but before a hearing in accordance with the provisions of NRS 116.31031:

(1) Remove any furniture, fixtures, appliances and components of the unit, including, without limitation, flooring, baseboards and drywall, that were damaged as a result of water or mold damage resulting from a water or sewage leak to the extent such removal is reasonably necessary because water or mold damage threatens the health or safety of the residents of the common-interest community, results in blighting or deterioration of the unit or the surrounding area and adversely affects the use and enjoyment of nearby units, if the unit's owner refuses or fails to remediate or remove the water or mold damage.

(2) Remediate or remove any water or mold damage in the unit resulting from the water or sewage leak to the extent such remediation or removal is reasonably necessary because the water or mold damage threatens the health or safety of the residents of the common-interest community, results in blighting or deterioration of the unit or the surrounding area and adversely affects the use and enjoyment of nearby units, if the unit's owner refuses or fails to remediate or remove the water or mold damage.

5. After the association has provided the unit's owner with notice and an opportunity for a hearing in the manner provided in NRS 116.31031, the association may order that the costs of any maintenance or abatement or the reasonable costs of remediation or removal conducted pursuant to subsection 2, 3 or 4, including, without limitation, reasonable inspection fees, notification and collection costs and interest, be charged against the unit. The association shall keep a record of such costs and interest charged against the unit and has a lien on the unit for any unpaid amount of the charges. The lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

6. A lien described in subsection 5 bears interest from the date that the charges become due at a rate determined pursuant to NRS 17.130 until the charges, including all interest due, are paid.

7. Except as otherwise provided in this subsection, a lien described in subsection 5 is prior and superior to all liens, claims, encumbrances and titles other than the liens described in paragraphs (a) and (c) of subsection 2 of NRS 116.3116. If the federal regulations of the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien, the period during which the lien is prior and superior to other security interests shall be determined in accordance with those federal regulations. Notwithstanding the federal regulations, the period of priority of the lien must not be less than the 6 months immediately preceding the institution of an action to enforce the lien.

8. A person who purchases or acquires a unit at a foreclosure sale pursuant to NRS 40.430 or a trustee's sale pursuant to NRS 107.080 is bound by the governing documents of the association and shall maintain the exterior of the unit in accordance with the governing documents of the association. Such a unit may only be removed from a common-interest community in accordance with the governing documents pursuant to this chapter.

9. Notwithstanding any other provision of law, an association, its directors or members of the executive board, employees, agents or community manager who enter the grounds or interior of a unit pursuant to this section are not liable for trespass.

10. Nothing in this section gives rise to any rights or standing for a claim for a constructional defect made pursuant to NRS 40.600 to 40.695, inclusive.

11. As used in this section:

(a) "Exterior of the unit" includes, without limitation, all landscaping outside of a unit, the exterior of all property exclusively owned by the unit owner and the exterior of all property that the unit owner is obligated to maintain pursuant to the declaration.

(b) "Remediation" does not include restoration.

(c) "Vacant" means a unit:

(1) Which reasonably appears to be unoccupied;

(2) On which the owner has failed to maintain the exterior to the standards set forth in the governing documents of the association; and

(3) On which the owner has failed to pay assessments for more than 60 days.

(Added to NRS by 2009, 1007; A 2017, 1564; 2019, 2265)

NRS 116.310313 Collection of past due obligation; charge of reasonable fee to collect.

1. An association may charge a unit's owner reasonable fees to cover the costs of collecting any past due obligation. The Commission shall adopt regulations establishing the amount of the fees that an association may charge pursuant to this section.

2. The provisions of this section apply to any costs of collecting a past due obligation charged to a unit's owner, regardless of whether the past due obligation is collected by the association itself or by any person acting on behalf of the association, including, without limitation, an officer or employee of the association, a community manager or a collection agency.

3. As used in this section:

(a) "Costs of collecting" includes any fee, charge or cost, by whatever name, including, without limitation, any collection fee, filing fee, recording fee, fee related to the preparation, recording or delivery of a lien or lien rescission, title search lien fee, bankruptcy search fee, referral fee, fee for postage or delivery and any other fee or cost that an association charges a unit's owner for the investigation, enforcement or collection of a past due obligation. The term does not include any costs incurred by an association if a lawsuit is filed to enforce any past due obligation or any costs awarded by a court.

(b) "Obligation" means any assessment, fine, construction penalty, fee, charge or interest levied or imposed against a unit's owner pursuant to any provision of this chapter or the governing documents.

(Added to NRS by 2009, 2795)

NRS 116.310315 Accounting for fines imposed by association. If an association has imposed a fine against a unit's owner or a tenant or an invitee of a unit's owner or a tenant pursuant to NRS 116.31031 for violations of the governing documents of the

association, the association shall establish a compliance account to account for the fine, which must be separate from any account established for assessments.

(Added to NRS by 1997, 3112; A 2005, 1715; 2009, 2882, 2915)—(Substituted in revision for NRS 116.31145)

NRS 116.31032 Period of declarant's control of association; representation of units' owners on executive board.

1. Except as otherwise provided in this section, the declaration may provide for a period of declarant's control of the association, during which a declarant, or persons designated by a declarant, may appoint and remove the officers of the association and members of the executive board. A declarant may voluntarily surrender the right to appoint and remove officers and members of the executive board before termination of that period and, in that event, the declarant may require, for the duration of the period of declarant's control, that specified actions of the association or executive board, as described in a recorded instrument executed by the declarant, be approved by the declarant before they become effective. Regardless of the period provided in the declaration, a period of declarant's control terminates no later than the earliest of:

- (a) For a common-interest community with less than 1,000 units, 60 days after conveyance of 75 percent of the units that may be created to units' owners other than a declarant;
- (b) For a common-interest community with 1,000 units or more, 60 days after conveyance of 90 percent of the units that may be created to units' owners other than a declarant;
- (c) If the association exercises powers over a common-interest community pursuant to this chapter and a time-share plan pursuant to chapter 119A of NRS, 120 days after conveyance of 80 percent of the units that may be created to units' owners other than a declarant;
- (d) Five years after all declarants have ceased to offer units for sale in the ordinary course of business;
- (e) Five years after any right to add new units was last exercised; or
- (f) The day the declarant, after giving notice to units' owners, records an instrument voluntarily surrendering all rights to control activities of the association.

2. For a common-interest community with:

- (a) Less than 1,000 units, not later than 60 days after conveyance of 25 percent of the units that may be created to units' owners other than a declarant, at least one member and not less than 25 percent of the members of the executive board must be elected by units' owners other than the declarant.
- (b) One thousand units or more, not later than 60 days after conveyance of 15 percent of the units that may be created to units' owners other than a declarant, at least one member and not less than 25 percent of the members of the executive board must be elected by units' owners other than the declarant.

3. Not later than 60 days after conveyance of 50 percent of the units that may be created to units' owners other than a declarant, not less than one-third of the members of the executive board must be elected by units' owners other than the declarant.

(Added to NRS by 1993, 2353; A 2001, 2490; 2011, 2433; 2015, 800)

NRS 116.31034 Election of members of executive board and officers of association; term of office of member of executive board; staggered terms; eligibility to be candidate for or member of executive board or officer of association; required disclosures; procedure for conducting elections; certification by member of executive board of understanding of governing documents and provisions of chapter.

1. Except as otherwise provided in subsection 5 of NRS 116.212, not later than the termination of any period of declarant's control, the units' owners shall elect an executive board of at least three members, all of whom must be units' owners. The executive board shall elect the officers of the association. Unless the governing documents provide otherwise, the officers of the association are not required to be units' owners. The members of the executive board and the officers of the association shall take office upon election.

2. The term of office of a member of the executive board may not exceed 3 years, except for members who are appointed by the declarant. Unless the governing documents provide otherwise, there is no limitation on the number of terms that a person may serve as a member of the executive board.

3. The governing documents of the association must provide for terms of office that are staggered in such a manner that, to the extent possible, an equal number of members of the executive board are elected at each election. The provisions of this subsection do not apply to:

- (a) Members of the executive board who are appointed by the declarant; and
- (b) Members of the executive board who serve a term of 1 year or less.

4. Not less than 30 days before the preparation of a ballot for the election of members of the executive board, the secretary or other officer specified in the bylaws of the association shall cause notice to be given to each unit's owner of the unit's owner's eligibility to serve as a member of the executive board. Each unit's owner who is qualified to serve as a member of the executive board may have his or her name placed on the ballot along with the names of the nominees selected by the members of the executive board or a nominating committee established by the association.

5. Before the secretary or other officer specified in the bylaws of the association causes notice to be given to each unit's owner of his or her eligibility to serve as a member of the executive board pursuant to subsection 4, the executive board may determine that if, at the closing of the prescribed period for nominations for membership on the executive board, the number of candidates nominated for membership on the executive board is equal to or less than the number of members to be elected to the executive board at the election, then:

- (a) The association will not prepare or mail any ballots to units' owners pursuant to this section; and

(b) The nominated candidates shall be deemed to be duly elected to the executive board at the meeting of the units' owners at which the ballots would have been counted pursuant to paragraph (e) of subsection 15.

6. If the executive board makes the determination set forth in subsection 5, the secretary or other officer specified in the bylaws of the association shall disclose the determination and the provisions of subsection 5 with the notice given pursuant to subsection 4.

7. If, at the closing of the prescribed period for nominations for membership on the executive board, the number of candidates nominated for membership on the executive board is less than the number of members to be elected to the executive board at the election, the executive board may fill the remaining vacancies on the executive board by appointment of the executive board at a meeting of the executive board held after the candidates are elected pursuant to subsection 5. Any such person appointed to the executive board shall serve as a member of the executive board until the next regularly scheduled election of members of the executive board. An executive board member elected to a previously appointed position which was temporarily filled by board appointment pursuant to this subsection may only be elected to fulfill the remainder of that term.

8. If, at the closing of the prescribed period for nominations for membership on the executive board described in subsection 5, the number of candidates nominated for membership on the executive board is greater than the number of members to be elected to the executive board, then the association shall:

(a) Prepare and mail ballots to the units' owners pursuant to this section; and

(b) Conduct an election for membership on the executive board pursuant to this section.

9. Each person who is nominated as a candidate for membership on the executive board pursuant to subsection 4 must:

(a) Make a good faith effort to disclose any financial, business, professional or personal relationship or interest that would result or would appear to a reasonable person to result in a potential conflict of interest for the candidate if the candidate were to be elected to serve as a member of the executive board; and

(b) Disclose whether the candidate is a member in good standing. For the purposes of this paragraph, a candidate shall not be deemed to be in "good standing" if the candidate has any unpaid and past due assessments or construction penalties that are required to be paid to the association.

↪ The candidate must make all disclosures required pursuant to this subsection in writing to the association with his or her candidacy information. Except as otherwise provided in this subsection, the association shall distribute the disclosures, on behalf of the candidate, to each member of the association with the ballot or, in the event ballots are not prepared and mailed pursuant to subsection 5, in the next regular mailing of the association. The association is not obligated to distribute any disclosure pursuant to this subsection if the disclosure contains information that is believed to be defamatory, libelous or profane.

10. Except as otherwise provided in subsections 11 and 12, unless a person is appointed by the declarant:

(a) A person may not be a candidate for or member of the executive board or an officer of the association if:

(1) The person resides in a unit with, is married to, is domestic partners with, or is related by blood, adoption or marriage within the third degree of consanguinity or affinity to another person who is also a member of the executive board or is an officer of the association;

(2) The person stands to gain any personal profit or compensation of any kind from a matter before the executive board of the association; or

(3) The person, the person's spouse or the person's parent or child, by blood, marriage or adoption, performs the duties of a community manager for that association.

(b) A person may not be a candidate for or member of the executive board of a master association or an officer of that master association if the person, the person's spouse or the person's parent or child, by blood, marriage or adoption, performs the duties of a community manager for:

(1) That master association; or

(2) Any association that is subject to the governing documents of that master association.

11. A person, other than a person appointed by the declarant, who owns 75 percent or more of the units in an association may:

(a) Be a candidate for or member of the executive board or an officer of the association; and

(b) Reside in a unit with, be married to, be domestic partners with, or be related by blood, adoption or marriage within the third degree of consanguinity or affinity to another person who is also a member of the executive board or is an officer of the association,

↪ unless the person owning 75 percent or more of the units in the association and the other person would constitute a majority of the total number of seats on the executive board.

12. A person, other than a person appointed by the declarant, may:

(a) Be a candidate for or member of the executive board; and

(b) Reside in a unit with, be married to, be domestic partners with, or be related by blood, adoption or marriage within the third degree of consanguinity or affinity to another person who is also a member of the executive board or is an officer of the association,

↪ if the number of candidates nominated for membership on the executive board is less than or equal to the number of members to be elected to the executive board.

13. If a person is not eligible to be a candidate for or member of the executive board or an officer of the association pursuant to any provision of this chapter, the association:

(a) Must not place his or her name on the ballot; and

(b) Must prohibit such a person from serving as a member of the executive board or an officer of the association.

14. An officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, a member or manager of a limited-liability company that owns a unit, and a fiduciary of an estate that owns a unit may be an officer of the association or a member of the executive board. In all events where the person

serving or offering to serve as an officer of the association or a member of the executive board is not the record owner, the person shall file proof in the records of the association that:

(a) The person is associated with the corporate owner, trust, partnership, limited-liability company or estate as required by this subsection; and

(b) Identifies the unit or units owned by the corporate owner, trust, partnership, limited-liability company or estate.

15. Except as otherwise provided in subsection 5 or NRS 116.31105, the election of any member of the executive board must be conducted by secret written ballot in the following manner:

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be 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) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) A quorum is not required for the election of any member of the executive board.

(d) Only the secret written ballots that are returned to the association may be counted to determine the outcome of the election.

(e) The secret written ballots must be opened and counted at the meeting of the units' owners held pursuant to subsection 1 of NRS 116.3108. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(f) The incumbent members of the executive board and each person whose name is placed on the ballot as a candidate for membership on the executive board may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

16. An association shall not adopt any rule or regulation that has the effect of prohibiting or unreasonably interfering with a candidate in the candidate's campaign for election as a member of the executive board, except that the candidate's campaign may be limited to 90 days before the date that ballots are required to be returned to the association.

17. A candidate who has submitted a nomination form for election as a member of the executive board may request that the association or its agent either:

(a) Send before the date of the election and at the association's expense, 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 a candidate informational statement. The candidate informational statement:

(1) Must be no longer than a single, typed page;

(2) Must not contain any defamatory, libelous or profane information; and

(3) May be sent with the secret ballot mailed pursuant to subsection 15 or in a separate mailing; or

(b) To allow the candidate to communicate campaign material directly to the units' owners, provide to the candidate, in paper format at a cost not to exceed 25 cents per page for the first 10 pages and 10 cents per page thereafter, in the format of a compact disc at a cost of not more than \$5 or by electronic mail at no cost:

(1) A list of the mailing address of each unit, which must not include the names of the units' owners or the name of any tenant of a unit's owner; or

(2) If the members of the association are owners of time shares within a time share plan created pursuant to chapter 119A of NRS and:

(I) The voting rights of those owners are exercised by delegates or representatives pursuant to NRS 116.31105, the mailing address of the delegates or representatives.

(II) The voting rights of those owners are not exercised by delegates or representatives, the mailing address of the association established pursuant to NRS 119A.520. If the mailing address of the association is provided to the candidate pursuant to this sub-subparagraph, the association must send to each owner of a time share within the time share plan the campaign material provided by the candidate. If the campaign material will be sent by mail, the candidate who provides the campaign material must provide to the association a separate copy of the campaign material for each owner and must pay the actual costs of mailing before the campaign material is mailed. If the campaign material will be sent by electronic transmission, the candidate must provide to the association one copy of the campaign material in an electronic format.

↪ The information provided pursuant to this paragraph must not include the name of any unit's owner or any tenant of a unit's owner. If a candidate who makes a request for the information described in this paragraph fails or refuses to provide a written statement signed by the candidate which states that the candidate is making the request to allow the candidate to communicate campaign material directly to units' owners and that the candidate will not use the information for any other purpose, the association or its agent may refuse the request.

18. An association and its directors, officers, employees and agents are immune from criminal or civil liability for any act or omission which arises out of the publication or disclosure of any information related to any person and which occurs in the course of carrying out any duties required pursuant to subsection 17.

19. Each member of the executive board shall, within 90 days after his or her appointment or election, certify in writing to the association, on a form prescribed by the Administrator, that the member has read and understands the governing documents of the association and the provisions of this chapter to the best of his or her ability. The Administrator may require the association to submit a copy of the certification of each member of the executive board of that association at the time the association registers with the Ombudsman pursuant to NRS 116.31158.

(Added to NRS by 1993, 2353; A 1997, 3117; 1999, 3001; 2003, 2229; 2005, 2594; 2009, 1250, 2883, 2915; 2011, 660; 2015, 1925; 2017, 1083)

NRS 116.31035 Publications containing mention of candidate or ballot question: Requirements; limitations.

1. If an official publication contains any mention of a candidate or ballot question, the official publication must, upon request and under the same terms and conditions, provide equal space to all candidates or to a representative of an organization which supports the passage or defeat of the ballot question.

2. If an official publication contains the views or opinions of the association, the executive board, a community manager or an officer, employee or agent of an association concerning an issue of official interest, the official publication must, upon request and under the same terms and conditions, provide equal space to opposing views and opinions of a unit's owner of the common-interest community.

3. If an association has a closed-circuit television station and that station interviews, or provides time to, a candidate or a representative of an organization which supports the passage or defeat of a ballot question, the closed-circuit television station must, under the same terms and conditions, allow equal time for all candidates or a representative of an opposing view to the ballot question.

4. The association and its officers, employees and agents are immune from criminal or civil liability for any act or omission which arises out of the publication or disclosure of any information related to any person and which occurs in the course of carrying out any duties required pursuant to subsection 1, 2 or 3.

5. As used in this section:

(a) "Issue of official interest" means:

- (1) Any issue on which the executive board or the units' owners will be voting, including, without limitation, elections; and
- (2) The enactment or adoption of rules or regulations that will affect the common-interest community.

(b) "Official publication" means:

- (1) An official website;
- (2) An official newsletter or other similar publication that is circulated to each unit's owner; or
- (3) An official bulletin board that is available to each unit's owner.

(Added to NRS by 2011, 2414)

NRS 116.31036 Removal of member of executive board.

1. Notwithstanding any provision of the declaration or bylaws to the contrary, any member of the executive board, other than a member appointed by the declarant, may be removed from the executive board, with or without cause, if at a removal election held pursuant to this section, the number of votes cast in favor of removal constitutes:

- (a) At least 35 percent of the total number of voting members of the association; and
- (b) At least a majority of all votes cast in that removal election.

2. A removal election may be called 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. To call 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 subsection 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 a removal election is called pursuant to this subsection and:

(a) The voting rights of the units' owners will be exercised through the use of secret written ballots pursuant to this section:

(1) The secret written ballots for the removal election must be sent in the manner required by this section not less than 15 days or more than 60 days after the date on which the petition is received; and

(2) 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 and not later than 90 days after the date on which the petition was received.

(b) The voting rights of the owners of time shares 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 90 days after the date on which the petition is received.

↪ The association shall not adopt any rule or regulation which prevents or unreasonably interferes with the collection of the required percentage of signatures for a petition pursuant to this subsection.

3. Except as otherwise provided in NRS 116.31105, the removal of any member of the executive board must be conducted by secret written ballot in the following manner:

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be 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) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) Only the secret written ballots that are returned to the association may be counted to determine the outcome.

(d) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(e) The incumbent members of the executive board, including, without limitation, the member who is subject to the removal, may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

(Added to NRS by 1993, 2354; A 2003, 2231; 2005, 2596; 2009, 2799, 2885, 2917; 2011, 2434)

NRS 116.31037 Indemnification and defense of member of executive board. If a member of an executive board is named as a respondent or sued for liability for actions undertaken in his or her role as a member of the board, the association shall indemnify the member for his or her losses or claims, and undertake all costs of defense, unless it is proven that the member acted with willful or wanton misfeasance or with gross negligence. After such proof, the association is no longer liable for the cost of defense, and may recover costs already expended from the member of the executive board who so acted.

(Added to NRS by 2011, 2414)

NRS 116.31038 Delivery to association of property held or controlled by declarant. In addition to any applicable requirement set forth in NRS 116.310395, within 30 days after units' owners other than the declarant may elect a majority of the members of the executive board, the declarant shall deliver to the association all property of the units' owners and of the association held by or controlled by the declarant, including:

1. The original or a certified copy of the recorded declaration as amended, the articles of incorporation, articles of association, articles of organization, certificate of registration, certificate of limited partnership, certificate of trust or other documents of organization for the association, the bylaws, minute books and other books and records of the association and any rules or regulations which may have been adopted.

2. An accounting for money of the association and audited financial statements for each fiscal year and any ancillary period from the date of the last audit of the association to the date the period of the declarant's control ends. The financial statements must fairly and accurately report the association's financial position. The declarant shall pay the costs of the ancillary audit. The ancillary audit must be delivered within 210 days after the date the period of the declarant's control ends.

3. A complete study of the reserves of the association, conducted by a person who is registered as a reserve study specialist pursuant to chapter 116A of NRS. At the time the control of the declarant ends, the declarant shall:

(a) Except as otherwise provided in this paragraph, deliver to the association a reserve account that contains the declarant's share of the amounts then due, and control of the account. If the declaration was recorded before October 1, 1999, and, at the time the control of the declarant ends, the declarant has failed to pay his or her share of the amounts due, the executive board shall authorize the declarant to pay the deficiency in installments for a period of 3 years, unless the declarant and the executive board agree to a shorter period.

(b) Disclose, in writing, the amount by which the declarant has subsidized the association's dues on a per unit or per lot basis.

4. The association's money or control thereof.

5. All of the declarant's tangible personal property that has been represented by the declarant as property of the association or, unless the declarant has disclosed in the public offering statement that all such personal property used in the common-interest community will remain the declarant's property, all of the declarant's tangible personal property that is necessary for, and has been used exclusively in, the operation and enjoyment of the common elements, and inventories of these properties.

6. A copy of any plans and specifications used in the construction of the improvements in the common-interest community which were completed within 2 years before the declaration was recorded.

7. All insurance policies then in force, in which the units' owners, the association, or its directors and officers are named as insured persons.

8. Copies of any certificates of occupancy that may have been issued with respect to any improvements comprising the common-interest community other than units in a planned community.

9. Any renewable permits and approvals issued by governmental bodies applicable to the common-interest community which are in force and any other permits and approvals so issued and applicable which are required by law to be kept on the premises of the community.

10. Written warranties of the contractor, subcontractors, suppliers and manufacturers that are still effective.

11. A roster of owners and mortgagees of units and their addresses and telephone numbers, if known, as shown on the declarant's records.

12. Contracts of employment in which the association is a contracting party.

13. Any contract for service in which the association is a contracting party or in which the association or the units' owners have any obligation to pay a fee to the persons performing the services.

(Added to NRS by 1993, 2354; A 1999, 3002; 2001, 2490; 2005, 2597; 2009, 2918)

NRS 116.31039 Delivery to association of additional common elements constructed by declarant or successor declarant.

1. If a common-interest community is developed in separate phases and any declarant or successor declarant is constructing any common elements that will be added to the association's common elements after the date on which the units' owners other than the declarant may elect a majority of the members of the executive board, the declarant or successor declarant who is constructing such additional common elements is responsible for:

(a) Paying all expenses related to the additional common elements which are incurred before the conveyance of the additional common elements to the association; and

(b) Except as otherwise provided in NRS 116.31038, delivering to the association that declarant's share of the amount specified in the study of the reserves completed pursuant to subsection 2.

2. Before conveying the additional common elements to the association, the declarant or successor declarant who constructed the additional common elements shall deliver to the association a study of the reserves for the additional common elements which satisfies the requirements of NRS 116.31152.

3. As used in this section, "successor declarant" includes, without limitation, any successor declarant who does not control the association established by the initial declarant.

(Added to NRS by 2003, 2219)

NRS 116.310395 Delivery to association of converted building reserve deficit.

1. At the time of each close of escrow of a unit in a converted building, the declarant shall deliver to the association the amount of the converted building reserve deficit allocated to that unit.

2. The allocation to a unit of the amount of any converted building reserve deficit must be made in the same manner as assessments are allocated to that unit.

3. As used in this section, "converted building reserve deficit" means the amount necessary to replace the major components of the common elements needing replacement within 10 years after the date of the first close of escrow of a unit.

(Added to NRS by 2005, 2581; A 2009, 2920)

NRS 116.3104 Transfer of special declarant's right.

1. A special declarant's right created or reserved under this chapter may be transferred only by an instrument evidencing the transfer recorded in every county in which any portion of the common-interest community is located. Except as otherwise provided in subsection 3, the instrument is not effective unless executed by the transferee.

2. Upon transfer of any special declarant's right, the liability of a transferor declarant is as follows:

(a) A transferor is not relieved of any obligation or liability arising before the transfer and remains liable for warranties imposed upon the transferor by this chapter. Lack of privity does not deprive any unit's owner of standing to maintain an action to enforce any obligation of the transferor.

(b) If a successor to any special declarant's right is an affiliate of a declarant, the transferor is jointly and severally liable with the successor for any obligations or liabilities of the successor relating to the common-interest community.

(c) If a transferor retains any special declarant's rights, but transfers other special declarant's rights to a successor who is not an affiliate of the declarant, the transferor is liable for any obligations or liabilities imposed on a declarant by this chapter or by the declaration relating to the retained special declarant's rights and arising after the transfer.

(d) A transferor has no liability for any act or omission or any breach of a contractual obligation or warranty arising from the exercise of a special declarant's right by a successor declarant who is not an affiliate of the transferor.

3. Unless otherwise provided in a mortgage, deed of trust or other agreement creating a security interest, in case of foreclosure of a security interest, sale by a trustee under an agreement creating a security interest, tax sale, judicial sale or sale under the Bankruptcy Code or a receivership, of any units owned by a declarant or real estate in a common-interest community subject to developmental rights, a person acquiring title to all the property being foreclosed or sold succeeds to all special declarant's rights related to that property held by that declarant and the instrument conveying title need not be executed by the transferee to be effective. If the person acquiring title to the property being foreclosed or sold pursuant to this section desires to succeed to some but not all of the special declarant's rights or none of the special declarant's rights, then the judgment or instrument conveying title may provide for transfer of only the special declarant's rights requested, in which case the transferee shall succeed only to any special declarant's rights requested and such judgment or instrument must be executed by the transferee to be effective.

4. Upon foreclosure of a security interest, sale by a trustee under an agreement creating a security interest, tax sale, judicial sale or sale under the Bankruptcy Code or a receivership of all interests in a common-interest community owned by a declarant:

(a) The declarant ceases to have any special declarant's rights; and

(b) The period of declarant's control (NRS 116.31032) terminates unless the judgment or instrument conveying title provides for transfer of all special declarant's rights held by that declarant to a successor declarant.

(Added to NRS by 1991, 560; A 1993, 2366; 2017, 1088)

NRS 116.31043 Liabilities and obligations of person who succeeds to special declarant's rights. The liabilities and obligations of a person who succeeds to special declarant's rights are as follows:

1. A successor to any special declarant's right who is an affiliate of a declarant is subject to all obligations and liabilities imposed on the transferor by this chapter or by the declaration.

2. A successor to any special declarant's right, other than a successor described in subsection 3 or 4 or a successor who is an affiliate of a declarant, is subject to the obligations and liabilities imposed by this chapter or the declaration:

(a) On a declarant which relate to the successor's exercise or nonexercise of special declarant's rights; or

(b) On his or her transferor, other than:

(1) Misrepresentations by any previous declarant;

(2) Warranties on improvements made by any previous declarant, or made before the common-interest community was created;

(3) Breach of any fiduciary obligation by any previous declarant or previous declarant's appointees to the executive board; or

(4) Any liability or obligation imposed on the transferor as a result of the transferor's acts or omissions after the transfer.

3. A successor to only a right reserved in the declaration to maintain models, offices for sales and signs (NRS 116.2115), may not exercise any other special declarant's right, and is not subject to any liability or obligation as a declarant, except the obligation to provide a public offering statement and any liability arising as a result thereof.

4. A successor to all special declarant's rights held by a transferor who succeeded to those rights pursuant to a deed or other instrument of conveyance in lieu of foreclosure or a judgment or instrument conveying title under subsection 3 of NRS 116.3104, may declare in a recorded instrument the intention to hold those rights 40 y for transfer to another person. Thereafter, until transferring all

special declarant's rights to any person acquiring title to any unit or real estate subject to developmental rights owned by the successor, or until recording an instrument permitting exercise of all those rights, that successor may not exercise any of those rights other than any right held by his or her transferor to control the executive board in accordance with NRS 116.31032 for the duration of any period of declarant's control, and any attempted exercise of those rights is void. So long as a successor declarant may not exercise special declarant's rights under this subsection, the successor declarant is not subject to any liability or obligation as a declarant other than liability for his or her acts and omissions under NRS 116.31032.

(Added to NRS by 1991, 561; A 1993, 2367)

NRS 116.31046 Successor not subject to certain claims against or other obligations of transferor of special declarant's right. NRS 116.3104 and 116.31043 do not subject any successor to a special declarant's right to any claims against or other obligations of a transferor declarant, other than claims and obligations arising under this chapter or the declaration.

(Added to NRS by 1991, 561)

NRS 116.3105 Termination of contracts and leases of declarant.

1. Within 2 years after the executive board elected by the units' owners pursuant to NRS 116.31034 takes office, the association may terminate without penalty, upon not less than 90 days' notice to the other party, any of the following if it was entered into before that executive board was elected:

- (a) Any management, maintenance, operations or employment contract, or lease of recreational or parking areas or facilities; or
- (b) Any other contract or lease between the association and a declarant or an affiliate of a declarant.

2. The association may terminate without penalty, at any time after the executive board elected by the units' owners pursuant to NRS 116.31034 takes office upon not less than 90 days' notice to the other party, any contract or lease that is not in good faith or was unconscionable to the units' owners at the time entered into.

3. This section does not apply to:

(a) Any lease the termination of which would terminate the common-interest community or reduce its size, unless the real estate subject to that lease was included in the common-interest community for the purpose of avoiding the right of the association to terminate a lease under this section; or

(b) A proprietary lease.

(Added to NRS by 1991, 561; A 1993, 2368; 2011, 2435)

NRS 116.3106 Bylaws.

1. The bylaws of the association must:

(a) Provide the number of members of the executive board and the titles of the officers of the association;

(b) Provide for election by the executive board of a president, treasurer, secretary and any other officers of the association the bylaws specify;

(c) Specify the qualifications, powers and duties, terms of office and manner of electing and removing officers of the association and members of the executive board and filling vacancies;

(d) Specify the powers the executive board or the officers of the association may delegate to other persons or to a community manager;

(e) Specify the officers who may prepare, execute, certify and record amendments to the declaration on behalf of the association;

(f) Provide procedural rules for conducting meetings of the association;

(g) Specify a method for the units' owners to amend the bylaws;

(h) Provide procedural rules for conducting elections;

(i) Contain any provision necessary to satisfy requirements in this chapter or the declaration concerning meetings, voting, quorums and other activities of the association; and

(j) Provide for any matter required by law of this State other than this chapter to appear in the bylaws of organizations of the same type as the association.

2. Except as otherwise provided in this chapter or the declaration, the bylaws may provide for any other necessary or appropriate matters, including, without limitation, matters that could be adopted as rules.

3. The bylaws must be written in plain English.

(Added to NRS by 1991, 562; A 1993, 2368; 1997, 3117; 2003, 2232; 2011, 2436)

NRS 116.31065 Rules. The rules adopted by an association:

1. Must be reasonably related to the purpose for which they are adopted.

2. Must be sufficiently explicit in their prohibition, direction or limitation to inform a person of any action or omission required for compliance.

3. Must not be adopted to evade any obligation of the association.

4. Must be consistent with the governing documents of the association and must not arbitrarily restrict conduct or require the construction of any capital improvement by a unit's owner that is not required by the governing documents of the association.

5. Must be uniformly enforced under the same or similar circumstances against all units' owners. Any rule that is not so uniformly enforced may not be enforced against any unit's owner.

6. May be enforced by the association through the imposition of a fine only if the association complies with the requirements set forth in NRS 116.31031.

(Added to NRS by 1997, 3111; A 1999, 3004; 2003, 2269) -41-

NRS 116.31068 Notice to units' owners.

1. Except as otherwise provided in subsection 3 and unless a unit's owner opts out of receiving electronic communications or has not designated an electronic mail address, an association shall deliver any notice required to be given by the association under this chapter and any communication from or other information provided by the association to the mailing or electronic mail addresses a unit's owner designates. Except as otherwise provided in subsection 3, if a unit's owner has opted out of receiving electronic communications or has not designated an electronic mail address to which a notice, communication or other information can be delivered, the association may deliver notices, communications and other information by:

- (a) Hand delivery to each unit's owner;
- (b) Hand delivery, United States mail, postage paid, or commercially reasonable delivery service to the mailing address of each unit; or
- (c) Any other method reasonably calculated to provide notice to the unit's owner.

2. The ineffectiveness of a good faith effort to deliver notice by an authorized means does not invalidate action taken at or without a meeting.

3. The provisions of this section do not apply:

- (a) To a notice required to be given pursuant to NRS 116.3116 to 116.31168, inclusive; or
- (b) If any other provision of this chapter specifies the manner in which a notice, communication or other information must be given by an association.

(Added to NRS by 2011, 2413; A 2021, 3747)

NRS 116.31069 Establishment and maintenance of Internet website or electronic portal. [Effective through December 31, 2022.]

1. Each association of a common-interest community that contains 150 or more units shall establish and maintain a secure Internet website or electronic portal that may be accessed by any unit's owner. The association shall make available on the website or within the electronic portal any documents relating to the common-interest community or the association, including, without limitation:

- (a) The governing documents;
- (b) The most recent copy of the declaration of covenants, conditions and restrictions;
- (c) The annual budget of the association and any proposed budgets;
- (d) The notices and agendas for any upcoming meetings of the association; and
- (e) Any other documents required to be posted by law or regulation.

2. Each association of a common-interest community that contains fewer than 150 units may, and is encouraged to, establish and maintain a secure Internet website or electronic portal pursuant to subsection 1.

(Added to NRS by 2021, 3746)

NRS 116.31069 Establishment and maintenance of Internet website or electronic portal; payment of assessments electronically. [Effective January 1, 2023.]

1. Each association of a common-interest community that contains 150 or more units shall establish and maintain a secure Internet website or electronic portal that may be accessed by any unit's owner. The association shall make available on the website or within the electronic portal any documents relating to the common-interest community or the association, including, without limitation:

- (a) The governing documents;
- (b) The most recent copy of the declaration of covenants, conditions and restrictions;
- (c) The annual budget of the association and any proposed budgets;
- (d) The notices and agendas for any upcoming meetings of the association; and
- (e) Any other documents required to be posted by law or regulation.

2. The Internet website or electronic portal established and maintained pursuant to subsection 1 must provide units' owners with the ability to pay assessments electronically.

3. Each association of a common-interest community that contains fewer than 150 units may, and is encouraged to, establish and maintain a secure Internet website or electronic portal pursuant to subsection 1.

(Added to NRS by 2021, 3746, 3751, effective January 1, 2023)

NRS 116.3107 Upkeep of common-interest community.

1. Except to the extent provided by the declaration, subsection 2 and NRS 116.31135, the association has the duty to provide for the maintenance, repair and replacement of the common elements, and each unit's owner has the duty to provide for the maintenance, repair and replacement of his or her unit. Each unit's owner shall afford to the association and the other units' owners, and to their agents or employees, access through his or her unit reasonably necessary for those purposes. If damage is inflicted on the common elements or on any unit through which access is taken, the unit's owner responsible for the damage, or the association if it is responsible, is liable for the prompt repair thereof.

2. In addition to the liability that a declarant as a unit's owner has under this chapter, the declarant alone is liable for all expenses in connection with real estate subject to developmental rights. No other unit's owner and no other portion of the common-interest community is subject to a claim for payment of those expenses. Unless the declaration provides otherwise, any income or proceeds from real estate subject to developmental rights inures to the declarant.

3. In a planned community, if all developmental rights have expired with respect to any real estate, the declarant remains liable for all expenses of that real estate unless, upon expiration, the declaration provides that the real estate becomes common elements or units.

(Added to NRS by 1991, 562; A 1993, 2368; 2009, 2886)

NRS 116.31073 Maintenance, repair, restoration and replacement of security walls.

1. Except as otherwise provided in subsection 2 and NRS 116.31135, the association is responsible for the maintenance, repair, restoration and replacement of any security wall which is located within the common-interest community.

2. The provisions of this section do not apply if the governing documents provide that a unit's owner or an entity other than the association is responsible for the maintenance, repair, restoration and replacement of the security wall.

3. For the purpose of carrying out the maintenance, repair, restoration and replacement of a security wall pursuant to this section:

(a) The association, the members of its executive board and its officers, employees, agents and community manager may enter the grounds of a unit after providing written notice and, notwithstanding any other provision of law, are not liable for trespass.

(b) Any such maintenance, repair, restoration and replacement of a security wall must be performed:

(1) During normal business hours;

(2) Within a reasonable length of time; and

(3) In a manner that does not adversely affect access to a unit or the legal rights of a unit's owner to enjoy the use of his or her unit.

(c) Notwithstanding any other provision of law, the executive board is prohibited from imposing an assessment without obtaining prior approval of the units' owners unless the total amount of the assessment is less than 5 percent of the annual budget of the association.

4. As used in this section, "security wall" means any wall composed of stone, brick, concrete, concrete blocks, masonry or similar building material, including, without limitation, ornamental iron or other fencing material, together with footings, pilasters, outriggers, grillwork, gates and other appurtenances, constructed around the perimeter of a residential subdivision with respect to which a final map has been recorded pursuant to NRS 278.360 to 278.460, inclusive, to protect the several tracts in the subdivision and their occupants from vandalism.

(Added to NRS by 2009, 2862)

Meetings and Voting

NRS 116.31075 Meetings of rural agricultural residential common-interest communities: Compliance with Open Meeting Law. In conducting any meetings, a rural agricultural residential common-interest community must comply with the provisions set forth in chapter 241 of NRS concerning open meetings which are generally applicable to public bodies.

(Added to NRS by 2003, 2221)

NRS 116.3108 Meetings of units' owners of association; opening and counting of ballots for election of members of executive board required; frequency of meetings; calling special meetings; requirements concerning notice and agendas; requirements concerning minutes of meetings; right of units' owners to make audio recordings of meetings.

1. A meeting of the units' owners must be held at least once each year at a time and place stated in or fixed in accordance with the bylaws. 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. At the annual meeting of the units' owners held pursuant to this subsection, the ballots for the election of members of the executive board must be opened and counted.

2. An association shall hold a special meeting of the units' owners to address any matter affecting the common-interest community or the association if its president, a majority of the executive board or units' owners constituting at least 10 percent, or any lower percentage specified in the bylaws, of the total number of votes in the association request that the secretary call such a meeting. To call a special meeting, 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 subsection 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. The association shall not adopt any rule or regulation which prevents or unreasonably interferes with the collection of the required percentage of signatures for a petition pursuant to this subsection.

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 given to the units' owners in the manner set forth in NRS 116.31068. 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, in electronic format at no charge to the unit's owner or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

(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 regarding any matter affecting the common-interest community or the association 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. 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. Except as otherwise provided in this subsection, a copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request, in electronic format at no charge to the unit's owner or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

6. Except as otherwise provided in subsection 7, 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 the unit's owner requests that the minutes reflect his or her remarks or, if the unit's owner has prepared written remarks, a copy of his or her prepared remarks if the unit's owner submits a copy for inclusion.

7. 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.

8. The association shall maintain the minutes of each meeting of the units' owners until the common-interest community is terminated.

9. 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 or her intent to record the meeting to the other units' owners who are in attendance at the meeting.

10. 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.

11. 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.

(Added to NRS by 1991, 562; A 1995, 2230; 1997, 3118; 1999, 3004; 2001, 470; 2003, 2232, 2270; 2005, 2598; 2009, 2800, 2886, 2920; 2011, 2436; 2017, 1089)

NRS 116.31083 Meetings of executive board; frequency of meetings; notice of meetings; periodic review of certain financial and legal matters at meetings; requirements concerning minutes of meetings; right of units' owners to make audio recordings of certain meetings.

1. A meeting of the executive board must be held at least once every quarter, and not less than once every 100 days and must be held at a time other than during standard business hours at least twice annually.

2. Except as otherwise provided in subsection 3 or 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) Given to the units' owners in the manner set forth in NRS 116.31068; or

(b) Published in a newsletter or other similar publication that is circulated to each unit's owner.

3. Notwithstanding any other provision of law or the governing documents of the association to the contrary, if the executive board holds a meeting limited exclusively to items for which the executive board may meet in executive session:

(a) Pursuant to paragraph (c) or (d) of subsection 3 of NRS 116.31085, the secretary or other officer specified in the bylaws of the association is required to give notice of the meeting only to a person who may be subject to a hearing scheduled for that meeting.

(b) Pursuant to any provision of law other than paragraph (c) or (d) of subsection 3 of NRS 116.31085, the secretary or other officer specified in the bylaws of the association is required to:

(1) Post notice of the executive session in one or more prominent places within the common elements of the association; and

(2) Provide electronic notice of the executive session to all units' owners who have provided the association with an electronic mail address.

4. 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.

5. 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 audio recording, the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request, in electronic format at no charge to the unit's owner or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

(b) Speak to the association or executive board, unless the executive board is meeting in executive session.

6. The agenda of the meeting of the executive board must comply with the provisions of subsection 4 of NRS 116.3108. A period required to be devoted to comments by the units' owners and discussion of those comments must be scheduled for both the beginning and the end of each meeting. During the period devoted to comments by the units' owners and discussion of those comments at the beginning of each meeting, comments by the units' owners and discussion of those comments must be limited to items listed on the agenda. 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.

7. At least once every quarter, and not less than once every 100 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.

8. The secretary or other officer specified in the bylaws shall cause each meeting of the executive board to be audio recorded and the minutes to be recorded or otherwise taken at each meeting of the executive board, but if the executive board is meeting in executive session, the meeting must not be audio recorded. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the audio recording of the meeting, the minutes of the meeting and a summary of the minutes of the meeting to be made available to the units' owners. Except as otherwise provided in this subsection, a copy of the audio recording, the minutes or a summary of the minutes must be provided to any unit's owner upon request, in electronic format at no charge to the unit's owner or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

9. Except as otherwise provided in subsection 10 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 the unit's owner requests that the minutes reflect his or her remarks or, if the unit's owner has prepared written remarks, a copy of his or her prepared remarks if the unit's owner submits a copy for inclusion.

10. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of its meetings.

11. The association shall maintain the minutes of each meeting of the executive board until the common-interest community is terminated.

12. 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 or her intent to record the meeting to the members of the executive board and the other units' owners who are in attendance at the meeting.

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, 3 or 6.

(Added to NRS by 1999, 2995; A 2001, 472; 2003, 2234; 2005, 2600; 2009, 2803, 2889, 2922; 2011, 2439; 2017, 1091)

NRS 116.31084 Voting by member of executive board; disclosures; abstention from voting on certain matters.

1. A member of an executive board who stands to gain any personal profit or compensation of any kind from a matter before the executive board shall:

(a) Disclose the matter to the executive board; and

(b) Abstain from voting on any such matter.

2. A member of an executive board who has a member of his or her household or any person related to the member by blood, adoption or marriage within the third degree of consanguinity or affinity who stands to gain any personal profit or compensation of any kind from a matter before the executive board shall disclose the matter to the executive board before voting on any such matter.

3. For the purposes of this section:

(a) An employee of a declarant or an affiliate of a declarant who is a member of the executive board shall not, solely by reason of such employment or affiliation, be deemed to gain any personal profit or compensation.

(b) A member of an executive board shall not be deemed to gain any personal profit or compensation solely because the member of the executive board is the owner of a unit in the common-interest community.

(Added to NRS by 2009, 1099, 2908)

NRS 116.31085 Right of units' owners to speak at certain meetings; limitations on right; limitations on power of executive board to meet in executive session; procedure governing hearings on alleged violations; requirements concerning minutes of certain meetings.

1. Except as otherwise provided in this section, a unit's owner may attend any meeting of the units' owners or of the executive board and speak at any such meeting. The executive board may establish reasonable limitations on the time a unit's owner may speak at such a meeting.

2. An executive board may not meet in executive session to open or consider bids for an association project as defined in NRS 116.31086, or to enter into, renew, modify, terminate or take any other action regarding a contract.

3. An executive board may meet in executive session only to:

(a) Consult with the attorney for the association if the contents of the discussion would otherwise be governed by the privilege set forth in NRS 49.035 to 49.115, inclusive.

(b) Discuss the character, alleged misconduct, professional competence, or physical or mental health of a community manager or an employee of the association.

(c) Except as otherwise provided in subsection 4, discuss a violation of the governing documents, including, without limitation, the failure to pay an assessment.

(d) Discuss the alleged failure of a unit's owner to adhere to a schedule required pursuant to NRS 116.310305 if the alleged failure may subject the unit's owner to a construction penalty.

4. An executive board shall meet in executive session to hold a hearing on an alleged violation of the governing documents unless the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted by the executive board, in which case the hearing must be held in a meeting of the executive board pursuant to NRS 116.31083. The person who may be sanctioned for the alleged violation:

(a) Is entitled to attend all portions of the hearing related to the alleged violation, including, without limitation, the presentation of evidence and the testimony of witnesses;

(b) Is entitled to due process, as set forth in the standards adopted by regulation by the Commission, which must include, without limitation, the right to counsel, the right to present witnesses and the right to present information relating to any conflict of interest of any member of the hearing panel;

(c) Is not entitled to attend the deliberations of the executive board; and

(d) Is entitled to receive written notice of the decision of the executive board regarding the alleged violation within a reasonable time after the decision is made. The period to cure a violation before it becomes a continuing violation as provided in subsection 7 of NRS 116.31031 shall be deemed not to commence until the date on which the notice of the decision of the executive board is provided to the person sanctioned for the violation.

5. The provisions of subsection 4 establish the minimum protections that the executive board must provide before it may make a decision. The provisions of subsection 4 do not preempt any provisions of the governing documents that provide greater protections.

6. Except as otherwise provided in this subsection, any matter discussed by the executive board when it meets in executive session must be generally noted in the minutes of the meeting of the executive board. If the executive board holds a meeting limited exclusively to an executive session pursuant to paragraph (c) or (d) of subsection 3, at the next regularly scheduled meeting of the executive board, the executive board shall acknowledge that the executive board met in accordance with paragraph (c) or (d) of subsection 3, as applicable, and include such an acknowledgment in the minutes of the meeting at which the acknowledgment was made. The executive board shall maintain minutes of any decision made pursuant to subsection 4 concerning an alleged violation.

7. Except as otherwise provided in subsection 4, a unit's owner is not entitled to attend or speak at a meeting of the executive board held in executive session.

(Added to NRS by 1997, 3111; A 1999, 3005; 2003, 2236, 2271; 2005, 2602; 2009, 1100, 2891; 2017, 1094; 2021, 714)

NRS 116.31086 Solicitation of bids for association project; bids to be opened and read aloud at meeting of executive board.

1. If an association solicits bids for an association project:

(a) The association must, whenever reasonably possible, solicit at least three bids if the association project is expected to cost:

(1) In a common-interest community that consists of less than 1,000 units, 3 percent or more of the annual budget of the association; or

(2) In a common-interest community that consists of 1,000 or more units, 1 percent or more of the annual budget of the association; and

(b) The bids must be opened and read aloud during a meeting of the executive board.

2. As used in this section, "association project" includes, without limitation, a project that involves the maintenance, repair, replacement or restoration of any part of the common elements or which involves the provision of professional services to the association, including, without limitation, accounting, engineering and legal services.

(Added to NRS by 2009, 1099; A 2015, 2182)

NRS 116.31087 Right of units' owners to have certain complaints placed on agenda of meeting of executive board.

1. If an executive board receives a written complaint from a unit's owner alleging that the executive board has violated any provision of this chapter or any provision of the governing documents of the association, the executive board shall, upon the written request of the unit's owner, place the subject of the complaint on the agenda of the next regularly scheduled meeting of the executive board.

2. Not later than 10 business days after the date that the association receives such a complaint, the executive board or an authorized representative of the association shall acknowledge the receipt of the complaint and notify the unit's owner that, if the unit's owner submits a written request that the subject of the complaint be placed on the agenda of the next regularly scheduled meeting of the executive board, the subject of the complaint will be placed on the agenda of the next regularly scheduled meeting of the executive board.

(Added to NRS by 2003, 2218; A 2009, 2892)

NRS 116.31088 Meetings regarding civil actions; requirements for commencing or ratifying certain civil actions; right of units' owners to request dismissal of certain civil actions; disclosure of terms and conditions of settlements.

1. The association shall provide written notice to each unit's owner of a meeting at which the commencement of a civil action is to be considered at least 21 calendar days before the date of the meeting. Except as otherwise provided in this subsection, the association may commence a civil action only upon a vote or written agreement of the owners of units to which at least a majority of the votes of the members of the association are allocated. The provisions of this subsection do not apply to a civil action that is commenced:

- (a) To enforce the payment of an assessment;
- (b) To enforce the declaration, bylaws or rules of the association;
- (c) To enforce a contract with a vendor;
- (d) To proceed with a counterclaim; or

(e) To protect the health, safety and welfare of the members of the association. If a civil action is commenced pursuant to this paragraph without the required vote or agreement, the action must be ratified within 90 days after the commencement of the action by a vote or written agreement of the owners of the units to which at least a majority of votes of the members of the association are allocated. If the association, after making a good faith effort, cannot obtain the required vote or agreement to commence or ratify such a civil action, the association may thereafter seek to dismiss the action without prejudice for that reason only if a vote or written agreement of the owners of the units to which at least a majority of votes of the members of the association are allocated was obtained at the time the approval to commence or ratify the action was sought.

2. At least 10 days before an association commences or seeks to ratify the commencement of a civil action on which the owners of units are entitled to vote pursuant to subsection 1, the association shall provide a written statement to all the units' owners that includes:

- (a) A reasonable estimate of the costs of the civil action, including reasonable attorney's fees;
- (b) An explanation of the potential benefits of the civil action and the potential adverse consequences if the association does not commence the action or if the outcome of the action is not favorable to the association; and
- (c) All disclosures that are required to be made upon the sale of the property.

3. No person other than a unit's owner may request the dismissal of a civil action commenced by the association on the ground that the association failed to comply with any provision of this section.

4. If any civil action in which the association is a party is settled, the executive board shall disclose the terms and conditions of the settlement at the next regularly scheduled meeting of the executive board after the settlement has been reached. The executive board may not approve a settlement which contains any terms and conditions that would prevent the executive board from complying with the provisions of this subsection.

(Added to NRS by 2005, 2585; A 2019, 1381)

NRS 116.3109 Quorum.

1. Except as otherwise provided in this section and NRS 116.31034, and except when the governing documents provide otherwise, a quorum is present throughout any meeting of the units' owners if persons entitled to cast 20 percent of the votes in the association:

- (a) Are present in person;
- (b) Are present by proxy;
- (c) Have cast absentee ballots in accordance with paragraph (d) of subsection 2 of NRS 116.311; or
- (d) Are present by any combination of paragraphs (a), (b) and (c).

2. If the governing documents of an association contain a quorum requirement for a meeting of the association that is greater than the 20 percent required by subsection 1 and, after proper notice has been given for a meeting, the members of the association who are present in person or by proxy at the meeting are unable to hold the meeting because a quorum is not present at the beginning of the meeting, the members who are present in person at the meeting may adjourn the meeting to a time that is not less than 48 hours or more than 30 days from the date of the meeting. At the subsequent meeting:

(a) A quorum shall be deemed to be present if the number of members of the association who are present in person or by proxy at the beginning of the subsequent meeting equals or exceeds 20 percent of the total number of voting members of the association; and

(b) If such a quorum is deemed to be present but the actual number of members who are present in person or by proxy at the beginning of the subsequent meeting is less than the number of members who are required for a quorum under the governing documents, the members who are present in person or by proxy at the subsequent meeting may take action only on those matters that were included as items on the agenda of the original meeting.

→ The provisions of this subsection do not change the actual number of votes that are required under the governing documents for taking action on any particular matter.

3. Unless the governing documents specify a larger number, a quorum of the executive board is present for purposes of determining the validity of any action taken at a meeting of the executive board only if individuals entitled to cast a majority of the votes on that board are present at the time a vote regarding that action is taken. If a quorum is present when a vote is taken, the affirmative vote of a majority of the members present is the act of the executive board unless a greater vote is required by the declaration or bylaws.

4. Meetings of the association must be conducted in accordance with the most recent edition of *Robert's Rules of Order Newly Revised*, unless the bylaws or a resolution of the executive board adopted before the meeting provide otherwise.

(Added to NRS by 1991, 563; A 1999, 3006; 2003, 2237; 2011, 2441)

NRS 116.311 Voting by units' owners; use of absentee ballots and proxies; voting by lessees of leased units; association prohibited from voting as owner of unit; voting without a meeting.

1. Unless prohibited or limited by the declaration or bylaws and except as otherwise provided in this section, units' owners may vote at a meeting in person, by absentee ballot pursuant to paragraph (d) of subsection 2, by a proxy pursuant to subsections 3 to 8, inclusive, or, when a vote is conducted without a meeting, by electronic or paper ballot pursuant to subsection 9.

2. At a meeting of units' owners, the following requirements apply:

(a) Units' owners who are present in person may vote by voice vote, show of hands, standing or any other method for determining the votes of units' owners, as designated by the person presiding at the meeting.

(b) If only one of several owners of a unit is present, that owner is entitled to cast all the votes allocated to that unit. If more than one of the owners are present, the votes allocated to that unit may be cast only in accordance with the agreement of a majority in interest of the owners, unless the declaration expressly provides otherwise. There is majority agreement if any one of the owners cast the votes allocated to the unit without protest being made promptly to the person presiding over the meeting by any of the other owners of the unit.

(c) Unless a greater number or fraction of the votes in the association is required by this chapter or the declaration, a majority of the votes cast determines the outcome of any action of the association.

(d) Subject to subsection 1, a unit's owner may vote by absentee ballot without being present at the meeting. The association promptly shall deliver an absentee ballot to an owner who requests it if the request is made at least 3 days before the scheduled meeting. Votes cast by absentee ballot must be included in the tally of a vote taken at that meeting.

(e) When a unit's owner votes by absentee ballot, the association must be able to verify that the ballot is cast by the unit's owner having the right to do so.

3. Except as otherwise provided in this section, votes allocated to a unit may be cast pursuant to a proxy executed by a unit's owner. A unit's owner may give a proxy only to a member of his or her immediate family, a tenant of the unit's owner who resides in the common-interest community, another unit's owner who resides in the common-interest community, or a delegate or representative when authorized pursuant to NRS 116.31105. If a unit is owned by more than one person, each owner of the unit may vote or register protest to the casting of votes by the other owners of the unit through an executed proxy. A unit's owner may revoke a proxy given pursuant to this section only by actual notice of revocation to the person presiding over a meeting of the association.

4. Before a vote may be cast pursuant to a proxy:

(a) The proxy must be dated.

(b) The proxy must not purport to be revocable without notice.

(c) The proxy must designate the meeting for which it is executed, and such a designation includes any recessed session of that meeting.

(d) The proxy must designate each specific item on the agenda of the meeting for which the unit's owner has executed the proxy, except that the unit's owner may execute the proxy without designating any specific items on the agenda of the meeting if the proxy is to be used solely for determining whether a quorum is present for the meeting. If the proxy designates one or more specific items on the agenda of the meeting for which the unit's owner has executed the proxy, the proxy must indicate, for each specific item designated in the proxy, whether the holder of the proxy must cast a vote in the affirmative or the negative on behalf of the unit's owner. If the proxy does not indicate whether the holder of the proxy must cast a vote in the affirmative or the negative for a particular item on the agenda of the meeting, the proxy must be treated, with regard to that particular item, as if the unit's owner were present but not voting on that particular item.

(e) The holder of the proxy must disclose at the beginning of the meeting for which the proxy is executed and any recessed session of that meeting the number of proxies pursuant to which the holder will be casting votes.

5. A proxy terminates immediately after the conclusion of the meeting, and any recessed sessions of the meeting, for which it is executed.

6. Except as otherwise provided in this subsection, a vote may not be cast pursuant to a proxy for the election or removal of a member of the executive board of an association. A vote may be cast pursuant to a proxy for the election or removal of a member of the executive board of a master association which governs a time-share plan created pursuant to chapter 119A of NRS if the proxy is exercised through a delegate or representative authorized pursuant to NRS 116.31105.

7. The holder of a proxy may not cast a vote on behalf of the unit's owner who executed the proxy in a manner that is contrary to the proxy.

8. A proxy is void if the proxy or the holder of the proxy violates any provision of subsections 3 to 7, inclusive.

9. Unless prohibited or limited by the declaration or bylaws, an association may conduct a vote without a meeting. Except as otherwise provided in NRS 116.31034 and 116.31036, if an association conducts a vote without a meeting, the following requirements apply:

(a) The association shall notify the units' owners that the vote will be taken by ballot.

(b) The association shall deliver a paper or electronic ballot to every unit's owner entitled to vote on the matter.

(c) The ballot must set forth each proposed action and provide an opportunity to vote for or against the action.

(d) When the association delivers the ballots, it shall also:

(1) Indicate the number of responses needed to meet the quorum requirements;

(2) State the percentage of votes necessary to approve each matter other than election of directors;

(3) Specify the time and date by which a ballot must be delivered to the association to be counted, which time and date may not be fewer than 3 days after the date the association delivers the ballot; and

(4) Describe the time, date and manner by which units' owners wishing to deliver information to all units' owners regarding the subject of the vote may do so.

(e) Except as otherwise provided in the declaration or bylaws, a ballot is not revoked after delivery to the association by death or disability of or attempted revocation by the person who cast that vote.

(f) Approval by ballot pursuant to this subsection is valid only if the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action.

10. If the declaration requires that votes on specified matters affecting the common-interest community must be cast by the lessees of leased units rather than the units' owners who have leased the units:

(a) This section applies to the lessees as if they were the units' owners;

(b) The units' owners who have leased their units to the lessees may not cast votes on those specified matters;

(c) The lessees are entitled to notice of meetings, access to records and other rights respecting those matters as if they were the units' owners; and

(d) The units' owners must be given notice, in the manner provided in NRS 116.3108, of all meetings at which the lessees are entitled to vote.

11. If any votes are allocated to a unit that is owned by the association, those votes may not be cast, by proxy or otherwise, for any purpose.

(Added to NRS by 1991, 563; A 1999, 3006; 2003, 2238; 2009, 2924; 2011, 2442)

NRS 116.31105 Voting by delegates or representatives; limitations; procedure for electing delegates or representatives.

1. Except as otherwise provided in subsection 8, if the declaration so provides, in a common-interest community that consists of at least 1,000 units, the voting rights of the units' owners in the association for that common-interest community may be exercised by delegates or representatives except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives.

2. Except as otherwise provided in subsection 8, in addition to a common-interest community identified in subsection 1, if the declaration so provides, in a common-interest community created before October 1, 1999, the voting rights of the units' owners in the association for that common-interest community may be exercised by delegates or representatives except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives.

3. In addition to a common-interest community identified in subsections 1 and 2, if the declaration so provides, the voting rights of the owners of time shares within a time-share plan created pursuant to chapter 119A of NRS which is governed by a master association may be exercised by delegates or representatives.

4. For the purposes of subsection 1, each unit that a declarant has reserved the right to create pursuant to NRS 116.2105 and for which developmental rights exist must be counted in determining the number of units in a common-interest community.

5. For the purposes of subsection 3, each time share that a developer has reserved the right to create pursuant to paragraph (g) of subsection 2 of NRS 119A.380 must be counted in determining the number of time shares in a time-share plan.

6. Notwithstanding any provision in the declaration, the election of any delegate or representative must be conducted by secret written ballot.

7. When an election of a delegate or representative is conducted by secret written ballot:

(a) The secretary or other officer of the association specified in the bylaws of the association shall cause a secret written ballot and a return envelope to be 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) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) Only the secret written ballots that are returned to the association in the manner prescribed on the ballot may be counted to determine the outcome of the election.

(d) The secret written ballots must be opened and counted at a meeting called for the purpose of electing delegates or representatives. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(e) A candidate for delegate or representative may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association in the manner prescribed on the ballot before those secret written ballots have been opened and counted at a meeting called for that purpose.

8. Except as otherwise provided in subsection 9, the voting rights of the units' owners in the association for a common-interest community may be exercised by delegates or representatives only during the period that the declarant is in control of the association and during the 2-year period after the declarant's control of the association is terminated pursuant to NRS 116.31032.

9. The provisions of subsection 8 do not apply to:

(a) A time-share plan created pursuant to chapter 119A of NRS which is governed by a master association; or

(b) A condominium or cooperative containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted.

(Added to NRS by 2003, 2220; A 2009, 2925, 2926)

NRS 116.31107 Voting by units' owners: Prohibited acts; penalty.

1. A person shall not knowingly, willfully and with the intent to fraudulently alter the true outcome of an election of a member of the executive board or any other vote of the units' owners engage in, attempt to engage in, or conspire with another person to engage in, any of the following acts:

(a) Changing or falsifying a voter's ballot so that the ballot does not reflect the voter's true ballot.

(b) Forging or falsely signing a voter's ballot.

(c) Fraudulently casting a vote for himself or herself or for another person that the person is not authorized to cast.

(d) Rejecting, failing to count, destroying, defacing or otherwise invalidating the valid ballot of another voter.

(e) Submitting a counterfeit ballot.

2. A person who violates this section is guilty of a category D felony and shall be punished as provided in NRS 193.130.

(Added to NRS by 2009, 2875)

Liabilities, Insurance and Fiscal Affairs

NRS 116.3111 Tort and contract liability.

1. A unit's owner is not liable, solely by reason of being a unit's owner, for an injury or damage arising out of the condition or use of the common elements. Neither the association nor any unit's owner except the declarant is liable for that declarant's torts in connection with any part of the common-interest community which that declarant has the responsibility to maintain.

2. An action alleging a wrong done by the association, including, without limitation, an action arising out of the condition or use of the common elements, may be maintained only against the association and not against any unit's owner. If the wrong occurred during any period of declarant's control and the association gives the declarant reasonable notice of and an opportunity to defend against the action, the declarant who then controlled the association is liable to the association or to any unit's owner for all tort losses not covered by insurance suffered by the association or that unit's owner, and all costs that the association would not have incurred but for a breach of contract or other wrongful act or omission. Whenever the declarant is liable to the association under this section, the declarant is also liable for all expenses of litigation, including reasonable attorney's fees, incurred by the association.

3. Except as otherwise provided in subsection 4 of NRS 116.4116 with respect to warranty claims, any statute of limitation affecting the association's right of action against a declarant under this section is tolled until the period of declarant's control terminates. A unit's owner is not precluded from maintaining an action contemplated by this section because he or she is a unit's owner or a member or officer of the association. Liens resulting from judgments against the association are governed by NRS 116.3117.

(Added to NRS by 1991, 563; A 2011, 2444)

NRS 116.3112 Conveyance or encumbrance of common elements.

1. In a condominium or planned community, portions of the common elements may be conveyed or subjected to a security interest by the association if persons entitled to cast at least a majority of the votes in the association, including a majority of the votes allocated to units not owned by a declarant, or any larger percentage the declaration specifies, agree to that action; but all owners of units to which any limited common element is allocated must agree in order to convey that limited common element or subject it to a security interest. The declaration may specify a smaller percentage only if all of the units are restricted exclusively to nonresidential uses. Proceeds of the sale are an asset of the association.

2. Part of a cooperative may be conveyed and all or part of a cooperative may be subjected to a security interest by the association if persons entitled to cast at least a majority of the votes in the association, including a majority of the votes allocated to units not owned by a declarant, or any larger percentage the declaration specifies, agree to that action; but, if fewer than all of the units or limited common elements are to be conveyed or subjected to a security interest, then all units' owners of those units, or the units to which those limited common elements are allocated, must agree in order to convey those units or limited common elements or subject them to a security interest. The declaration may specify a smaller percentage only if all of the units are restricted exclusively to nonresidential uses. Proceeds of the sale are an asset of the association. Any purported conveyance or other voluntary transfer of an entire cooperative, unless made pursuant to NRS 116.2118, is void.

3. An agreement to convey common elements in a condominium or planned community, or to subject them to a security interest, or in a cooperative, an agreement to convey any part of a cooperative or subject it to a security interest, must be evidenced by the execution of an agreement, or ratifications thereof, in the same manner as a deed, by the requisite number of units' owners. The agreement must specify a date after which the agreement will 50 id unless recorded before that date. The agreement and all

ratifications thereof must be recorded in every county in which a portion of the common-interest community is situated, and is effective only upon recordation.

4. The association, on behalf of the units' owners, may contract to convey an interest in a common-interest community pursuant to subsection 1, but the contract is not enforceable against the association until approved pursuant to subsections 1, 2 and 3. Thereafter, the association has all powers necessary and appropriate to effect the conveyance or encumbrance, including the power to execute deeds or other instruments.

5. Unless made pursuant to this section, any purported conveyance, encumbrance, judicial sale or other voluntary transfer of common elements or of any other part of a cooperative is void.

6. A conveyance or encumbrance of common elements or of a cooperative pursuant to this section does not deprive any unit of its rights of access and support.

7. Unless the declaration otherwise provides, a conveyance or encumbrance of common elements pursuant to this section does not affect the priority or validity of preexisting encumbrances.

8. In a cooperative, the association may acquire, hold, encumber or convey a proprietary lease without complying with this section.

(Added to NRS by 1991, 564; A 1993, 2369)

NRS 116.3113 Insurance: General requirements.

1. Commencing not later than the time of the first conveyance of a unit to a person other than a declarant, the association shall maintain, to the extent reasonably available and subject to reasonable deductibles, all of the following:

(a) Property insurance on the common elements and, in a planned community, also on property that must become common elements, insuring against risks of direct physical loss commonly insured against, which insurance, after application of any deductibles, must be not less than 80 percent of the actual cash value of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from property policies.

(b) Commercial general liability insurance, including insurance for medical payments, in an amount determined by the executive board but not less than any amount specified in the declaration, covering all occurrences commonly insured against for bodily injury and property damage arising out of or in connection with the use, ownership, or maintenance of the common elements and, in cooperatives, also of all units.

(c) Crime insurance which includes coverage for dishonest acts by members of the executive board and the officers, employees, agents, directors and volunteers of the association and which extends coverage to any business entity that acts as the community manager of the association and the employees of that entity. Such insurance may not contain a conviction requirement, and the minimum amount of the policy must be not less than an amount equal to 3 months of aggregate assessments on all units plus reserve funds or \$5,000,000, whichever is less.

(d) Directors and officers insurance that is a nonprofit organization errors and omissions policy in a minimum aggregate amount of not less than \$1,000,000 naming the association as the owner and the named insured. The coverage must extend to the members of the executive board and the officers, employees, agents, directors and volunteers of the association and to the community manager of the association and any employees thereof while acting as agents as insured persons under the policy terms. Coverage must be subject to the terms listed in the declaration.

2. In the case of a building that contains units divided by horizontal boundaries described in the declaration, or vertical boundaries that comprise common walls between units, the insurance maintained under paragraph (a) of subsection 1, to the extent reasonably available, must include the units, but need not include improvements and betterments installed by units' owners.

3. If the insurance described in subsections 1 and 2 is not reasonably available, the association promptly shall cause notice of that fact to be given to all units' owners. The declaration may require the association to carry any other insurance, and the association may carry any other insurance it considers appropriate to protect the association or the units' owners.

4. An insurance policy issued to the association does not prevent a unit's owner from obtaining insurance for the unit's owner's own benefit.

(Added to NRS by 1991, 565; A 2011, 2445; 2017, 1095)

NRS 116.31133 Insurance: Policies; use of proceeds; certificates or memoranda of insurance.

1. Insurance policies carried pursuant to NRS 116.3113 must provide that:

(a) Each unit's owner is an insured person under the policy with respect to liability arising out of the unit's owner's interest in the common elements or membership in the association;

(b) The insurer waives its right to subrogation under the policy against any unit's owner or member of his or her household;

(c) No act or omission by any unit's owner, unless acting within the scope of his or her authority on behalf of the association, voids the policy or is a condition to recovery under the policy; and

(d) If, at the time of a loss under the policy, there is other insurance in the name of a unit's owner covering the same risk covered by the policy, the association's policy provides primary insurance.

2. Any loss covered by the property policy under subsections 1 and 2 of NRS 116.3113 must be adjusted with the association, but the proceeds for that loss are payable to any insurance trustee designated for that purpose, or otherwise to the association, and not to any holder of a security interest. The insurance trustee or the association shall hold any insurance proceeds in trust for the association, units' owners and lienholders as their interests may appear. Subject to NRS 116.31135, the proceeds must be disbursed first for the repair or restoration of the damaged property, and the association, units' owners, and lienholders are not entitled to receive

payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, or the common-interest community is terminated.

3. An insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance to the association and, upon written request, to any unit's owner or holder of a security interest. The insurer issuing the policy may not cancel or refuse to renew it until 30 days after notice of the proposed cancellation or nonrenewal has been mailed to the association, each unit's owner and each holder of a security interest to whom a certificate or memorandum of insurance has been issued at their respective last known addresses.

(Added to NRS by 1991, 565; A 2003, 1210; 2011, 2445)

NRS 116.31135 Insurance: Repair or replacement of damaged or destroyed portion of community.

1. Any portion of the common-interest community for which insurance is required under NRS 116.3113 which is damaged or destroyed must be repaired or replaced promptly by the association unless:

- (a) The common-interest community is terminated, in which case NRS 116.2118, 116.21183 and 116.21185 apply;
- (b) Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety; or
- (c) Eighty percent of the units' owners, including every owner of a unit or assigned limited common element that will not be rebuilt, vote not to rebuild.

2. The cost of repair or replacement in excess of insurance proceeds, deductibles and reserves is a common expense. If the entire common-interest community is not repaired or replaced:

(a) The insurance proceeds attributable to the damaged common elements must be used to restore the damaged area to a condition compatible with the remainder of the common-interest community; and

(b) Except to the extent that other persons will be distributees:

(1) The insurance proceeds attributable to units and limited common elements that are not rebuilt must be distributed to the owners of those units and the owners of the units to which those limited common elements were allocated, or to lienholders, as their interests may appear; and

(2) The remainder of the proceeds must be distributed to all the units' owners or lienholders, as their interests may appear, as follows:

(I) In a condominium, in proportion to the interests of all the units in the common elements; and

(II) In a cooperative or planned community, in proportion to the liabilities of all the units for common expenses.

3. If the units' owners vote not to rebuild any unit, that unit's allocated interests are automatically reallocated upon the vote as if the unit had been condemned under subsection 1 of NRS 116.1107, and the association promptly shall prepare, execute and record an amendment to the declaration reflecting the reallocations.

(Added to NRS by 1991, 566; A 1993, 2370; 2011, 2446)

NRS 116.31138 Insurance: Variance or waiver of provisions in community restricted to nonresidential use. The provisions of NRS 116.3113, 116.31133 and 116.31135 may be varied or waived in the case of a common-interest community all of whose units are restricted to nonresidential use.

(Added to NRS by 1991, 567)

NRS 116.311395 Funds of association to be deposited or invested at certain financial institutions.

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 672.755; 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.

(Added to NRS by 2009, 1733)

NRS 116.3114 Surplus funds. Unless otherwise provided in the declaration, any surplus funds of the association remaining after payment of or provision for common expenses and any prepayment of reserves must be paid to the units' owners in proportion to their liabilities for common expenses or credited to them to reduce their future assessments for common expenses.

(Added to NRS by 1991, 567)

NRS 116.31142 Preparation and presentation of financial statements.

1. The Commission shall adopt regulations prescribing the requirements for the preparation and presentation of financial statements of an association pursuant to this chapter.

2. The regulations adopted by the Commission must include 52 out limitation:

- (a) The qualifications necessary for a person to prepare and present financial statements of an association; and
 - (b) The standards and format to be followed in preparing and presenting financial statements of an association.
- (Added to NRS by 2005, 2584)

NRS 116.31144 Audit and review of financial statements.

1. Except as otherwise provided in subsection 2, the executive board shall:

(a) If the annual budget of the association is \$45,000 or more but less than \$75,000, cause the financial statement of the association to be reviewed by an independent certified public accountant during the year immediately preceding the year in which a study of the reserves of the association is to be conducted pursuant to NRS 116.31152.

(b) If the annual budget of the association is \$75,000 or more but less than \$150,000, cause the financial statement of the association to be reviewed by an independent certified public accountant every fiscal year.

(c) If the annual budget of the association is \$150,000 or more, cause the financial statement of the association to be audited by an independent certified public accountant every fiscal year.

2. Except as otherwise provided in this subsection, for any fiscal year, the executive board of an association shall cause the financial statement for that fiscal year to be audited by an independent certified public accountant if, within 180 days before the end of the fiscal year, 15 percent of the total number of voting members of the association submit a written request for such an audit. The provisions of this subsection do not apply to an association described in paragraph (c) of subsection 1.

3. The Commission shall adopt regulations prescribing the requirements for the auditing or reviewing of financial statements of an association pursuant to this section. Such regulations must include, without limitation:

- (a) The qualifications necessary for a person to audit or review financial statements of an association; and
 - (b) The standards and format to be followed in auditing or reviewing financial statements of an association.
- (Added to NRS by 2005, 2584; A 2009, 462; 2011, 988)

NRS 116.3115 Assessments for common expenses; funding of adequate reserves; collection of interest on past due assessments; calculation of assessments for particular types of common expenses; notice of meetings regarding assessments for capital improvements.

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, or as otherwise provided in this chapter:

(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. Notwithstanding any provision of the governing documents to the contrary, to establish adequate reserves pursuant to this paragraph, including, without limitation, to establish or carry out a funding plan, the executive board may, without seeking or obtaining the approval of the units' owners, impose any necessary and reasonable assessments against the units in the common-interest community. Any such assessments imposed by the executive board must be based on the study of the reserves of the association conducted pursuant to NRS 116.31152.

3. Any assessment for common expenses or installment thereof that is 60 days or more past due bears interest at a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions on January 1 or July 1, as the case may be, immediately preceding the date the assessment becomes past due, plus 2 percent. The rate must be adjusted accordingly on each January 1 and July 1 thereafter until the balance is satisfied.

4. 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 benefiting fewer than all of the units or their owners, including, without limitation, common expenses consisting of the payment, on behalf of a unit's owner, of delinquent property taxes or utility charges owed by the unit's owner, may be assessed exclusively against the units or units' owners 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 damage to a unit or other part of the common-interest community, or if any other common expense is caused by the willful misconduct or gross negligence of any unit's owner, tenant or invitee of a unit's owner or tenant, the association may assess that expense exclusively against his or her unit, even if the association maintains insurance with respect to that damage or common expense, unless the damage or other common expense is caused by a vehicle and is committed by a person who is delivering goods to, or performing services for, the unit's owner, tenant or invitee of the unit's owner or tenant.

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.

(Added to NRS by 1991, 567; A 1993, 2371; 1995, 2230; 1997, 3119, 3120; 1999, 3008; 2001, 2491; 2005, 2603; 2009, 1734, 2805, 2892; 2011, 2447; 2017, 1993)

NRS 116.31151 Annual distribution to units' owners of operating and reserve budgets or summaries of such budgets and policy for collection of fees, fines, assessments or costs; ratification of budget.

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 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 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 but not to exceed 60 miles from the physical location of the common-interest community; 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.

4. The executive board shall, at the same time and in the same manner that the executive board makes the budget available to a unit's owner pursuant to this section, make available to each unit's owner the policy established for the association concerning the collection of any fees, fines, assessments or costs imposed against a unit's owner pursuant to this chapter. The policy must include, without limitation:

(a) The responsibility of the unit's owner to pay any such fees, fines, assessments or costs in a timely manner; and

(b) The association's rights concerning the collection of such fees, fines, assessments or costs if the unit's owner fails to pay the fees, fines, assessments or costs in a timely manner.

(Added to NRS by 1999, 2993; A 2003, 2241; 2005, 2605; 2009, 1205, 1735, 2806)

NRS 116.31152 Study of reserves; duties of executive board regarding study; qualifications of person who conducts study; contents of study; submission of summary of study to Division; use of money credited against residential construction tax for upkeep of park facilities and related improvements identified in study.

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 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. Except as otherwise provided in this subsection, 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. If the common-interest community contains 20 or fewer units and is located in a county whose population is less than 55,000, the study of the reserves required by subsection 1 may be conducted by any person whom the executive board deems qualified to conduct the study.

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.

(Added to NRS by 1999, 2994; A 2003, 2241; 2005, 2606; 2009, 1736, 2213; 2011, 1144)

NRS 116.31153 Signatures required for withdrawals of certain association funds; exceptions.

1. Money in the reserve account of an association required by paragraph (b) of subsection 2 of NRS 116.3115 may not be withdrawn without the signatures of at least two members of the executive board or the signatures of at least one member of the executive board and one officer of the association who is not a member of the executive board.

2. Except as otherwise provided in subsection 3, money in the operating account of an association may not be withdrawn without the signatures of at least one member of the executive board or one officer of the association and a member of the executive board, an officer of the association or the community manager.

3. Money in the operating account of an association may be withdrawn without the signatures required pursuant to subsection 2 to:

(a) Transfer money to the reserve account of the association at regular intervals;

(b) Make automatic payments for utilities;

(c) Make an electronic transfer of money to a state agency pursuant to NRS 353.1467; or

(d) Make an electronic transfer of money to the United States Government, or any agency thereof, pursuant to any federal law requiring transfers of money to be made by an electronic means authorized by the United States Government or the agency thereof.

4. An association may use electronic signatures to withdraw money in the operating account of the association if:

(a) The electronic transfer of money is made pursuant to a written agreement entered into between the association and the financial institution where the operating account of the association is maintained;

(b) The executive board has expressly authorized the electronic transfer of money; and

(c) The association has established internal accounting controls which comply with generally accepted accounting principles to safeguard the assets of the association.

5. As used in this section, "electronic transfer of money" has the meaning ascribed to it in NRS 353.1467.

(Added to NRS by 1999, 2995; A 2009, 2927; 2011, 1879)

NRS 116.31155 Fees imposed on associations or master associations to pay for costs of administering Office of Ombudsman and Commission; administrative penalties for failure to pay; interest on unpaid fees; limitations on amount of fees and penalties; procedure to recover fees, penalties or interest imposed in error.

1. Except as otherwise provided in subsection 2, an association shall:

(a) If the association is required to pay the fee imposed by NRS 78.150, 82.193, 86.263, 87.541, 87A.560 or 88.591, pay to the Administrator a fee established by regulation of the Administrator for every unit in the association used for residential use.

(b) If the association is organized as a trust or partnership, or as any other authorized business entity, pay to the Administrator a fee established by regulation of the Administrator for each unit in the association.

2. If an association is subject to the governing documents of a master association, the master association shall pay the fees required pursuant to this section for each unit in the association that is subject to the governing documents of the master association, unless the governing documents of the master association provide otherwise. The provisions of this subsection do not relieve any association that is subject to the governing documents of a master association from its ultimate responsibility to pay the fees required pursuant to this section to the Administrator if they are not paid by the master association.

3. The fees required to be paid pursuant to this section must be:

(a) Paid at such times as are established by the Division.

(b) Deposited with the State Treasurer for credit to the Account for Common-Interest Communities and Condominium Hotels created by NRS 116.630.

(c) Established on the basis of the actual costs of administering the Office of the Ombudsman and the Commission and not on a basis which includes any subsidy beyond those actual costs. In no event may the fees required to be paid pursuant to this section exceed \$5 per unit.

4. The Division shall impose an administrative penalty against an association or master association that violates the provisions of this section by failing to pay the fees owed by the association or master association within the times established by the Division. The administrative penalty that is imposed for each violation must equal 10 percent of the amount of the fees owed by the association or master association or \$500, whichever amount is less. The amount of the unpaid fees owed by the association or master association bears interest at the rate set forth in NRS 99.040 from the date the fees are due until the date the fees are paid in full.

5. A unit's owner may not be required to pay any portion of the fees or any administrative penalties or interest required to be paid pursuant to this section to both an association and a master association.

6. An association that is subject to the governing documents of a master association may not be required to pay any portion of the fees or any administrative penalties or interest required to be paid pursuant to this section to the extent they have already been paid by the master association.

7. A master association may not be required to pay any portion of the fees or any administrative penalties or interest required to be paid pursuant to this section to the extent they have already been paid by an association that is subject to the governing documents of the master association.

8. Upon the payment of the fees and any administrative penalties and interest required by this section, the Administrator shall provide to the association or master association evidence that it paid the fees and the administrative penalties and interest in compliance with this section.

9. Any person, association or master association which has been requested or required to pay any fees, administrative penalties or interest pursuant to this section and which believes that such fees, administrative penalties or interest has been imposed in error may, without exhausting any available administrative remedies, bring an action in a court of competent jurisdiction to recover:

(a) Any amount paid in error for any fees, administrative penalties or interest during the immediately preceding 3 years;

(b) Interest on the amount paid in error at the rate set forth in NRS 99.040; and

(c) Reasonable costs and attorney's fees.

(Added to NRS by 1997, 3112; A 1999, 8, 639, 3010, 3011; 2003, 2242; 2005, 2607; 2007, 485, 2268; 2009, 2893; 2015, 2592)

NRS 116.31158 Registration of associations with Ombudsman; contents of form for registration.

1. Each association shall, at the time it pays the fee required by NRS 116.31155, register with the Ombudsman on a form prescribed by the Ombudsman.

2. The form for registration must include, without limitation, the information required to be maintained pursuant to paragraph (e) of subsection 4 of NRS 116.625.

(Added to NRS by 1999, 2996; A 2003, 2243)

Liens

NRS 116.3116 Liens against units for assessments.

1. The association has a lien on a unit for any construction penalty that is imposed against the unit's owner pursuant to NRS 116.310305, any assessment levied against that unit or any fines imposed against the unit's owner from the time the construction penalty, assessment or fine becomes due. Unless the declaration otherwise provides, any penalties, fees, charges, late charges, fines and interest charged pursuant to paragraphs (j) to (o), inclusive, of subsection 1 of NRS 116.3102 and any costs of collecting a past due obligation charged pursuant to NRS 116.310313 are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

2. A lien under this section is prior to all other liens and encumbrances on a unit except:

(a) Liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes or takes subject to;

(b) A first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent or, in a cooperative, the first security interest encumbering only the unit's owner's interest and perfected before the date on which the assessment sought to be enforced became delinquent, except that a lien under this section is prior to a security interest described in this paragraph to the extent set forth in subsection 3;

(c) Liens for real estate taxes and other governmental assessments or charges against the unit or cooperative; and

(d) Liens for any fee or charge levied pursuant to subsection 1 of NRS 444.520.

3. A lien under this section is prior to all security interests described in paragraph (b) of subsection 2 to the extent of:

(a) Any charges incurred by the association on a unit pursuant to NRS 116.310312;

(b) The unpaid amount of assessments, not to exceed an amount equal to assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 which would have become due in the absence of acceleration during the 9 months immediately preceding the date on which the notice of default and election to sell is recorded pursuant to paragraph (b) of subsection 1 of NRS 116.31162; and

(c) The costs incurred by the association to enforce the lien in an amount not to exceed the amounts set forth in subsection 5,

↪ unless federal regulations adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien. If federal regulations adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien, the period during which the lien is prior to all security interests described in paragraph (b) of subsection 2 must be determined in accordance with those federal regulations, except that notwithstanding the provisions of the federal regulations, the period of priority for the lien must not be less than the 6 months immediately preceding the recording of a notice of default and election to sell pursuant to paragraph (b) of subsection 1 of NRS 116.31162 or the institution of a judicial action to enforce the lien.

4. This section does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association.

5. The amount of the costs of enforcing the association's lien that are prior to the security interest described in paragraph (b) of subsection 2 must not exceed the actual costs incurred by the association, must not include more than one trustee's sale guaranty and must not exceed:

(a) For a demand or intent to lien letter, \$165.

(b) For a notice of delinquent assessment, \$325.

(c) For an intent to record a notice of default letter, \$90.

(d) For a notice of default, \$400.

(e) For a trustee's sale guaranty, \$400.

↪ No costs of enforcing the association's lien, other than the costs described in this subsection, and no amount of attorney's fees may be included in the amount of the association's lien that is prior to the security interest described in paragraph (b) of subsection 2.

6. Notwithstanding any other provision of law, an association, or member of the executive board, officer, employee or unit's owner of the association, acting under the authority of this chapter or the governing documents of the association, or the community manager of the association, or any employee, agent or affiliate of the community manager, while engaged in the management of the common-interest community governed by the association, is not required to be licensed as a collection agency pursuant to chapter 649 of NRS or hire or contract with a collection agency licensed pursuant to chapter 649 of NRS to collect amounts due to the association in accordance with subsection 1 before the recording of a notice of default and election to sell pursuant to paragraph (b) of subsection 1 of NRS 116.31162.

7. The holder of the security interest described in paragraph (b) of subsection 2 or the holder's authorized agent may establish an escrow account, loan trust account or other impound account for advance contributions for the payment of assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 if the unit's owner and the holder of that security interest consent to the establishment of such an account. If such an account is established, payments from the account for assessments for common expenses must be made in accordance with the same due dates as apply to payments of such assessments by a unit's owner.

8. Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority.

9. Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required.

10. A lien for unpaid assessments is extinguished unless a notice of default and election to sell is recorded as required by paragraph (b) of subsection 1 of NRS 116.31162, or judicial proceedings to enforce the lien are instituted, within 3 years after the full amount of the assessments becomes due.

11. This section does not prohibit actions to recover sums for which subsection 1 creates a lien or prohibit an association from taking a deed in lieu of foreclosure.

12. A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.

13. The association, upon written request, shall furnish to a unit's owner a statement setting forth the amount of unpaid assessments against the unit. If the interest of the unit's owner is real estate or if a lien for the unpaid assessments may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the statement must be in recordable form. The statement must be furnished within 10 business days after receipt of the request and is binding on the association, the executive board and every unit's owner.

14. In a cooperative, upon nonpayment of an assessment on a unit, the unit's owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and:

(a) In a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, the association's lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

(b) In a cooperative where the owner's interest in a unit is personal property under NRS 116.1105, the association's lien:

(1) May be foreclosed as a security interest under NRS 104.9101 to 104.9709, inclusive; or

(2) If the declaration so provides, may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

15. In an action by an association to collect assessments or to foreclose a lien created under this section, the court may appoint a receiver to collect all rents or other income from the unit alleged to be due and owing to a unit's owner before commencement or during pendency of the action. The receivership is governed by chapter 32 of NRS. The court may order the receiver to pay any sums held by the receiver to the association during pendency of the action to the extent of the association's common expense assessments based on a periodic budget adopted by the association pursuant to NRS 116.3115.

16. Notwithstanding any other provision of law, any payment of an amount due to an association in accordance with subsection 1 by the holder of any lien or encumbrance on a unit that is subordinate to the association's lien under this section becomes a debt due from the unit's owner to the holder of the lien or encumbrance.

(Added to NRS by 1991, 567; A 1999, 390; 2003, 2243, 2272; 2009, 1010, 1207; 2011, 2448; 2013, 3787; 2015, 1333; 2019, 854; 2021, 1403)

NRS 116.31162 Foreclosure of liens: Mailing or delivery of notice of delinquent assessment; recording of notice of default and election to sell; period during which unit's owner may pay lien to avoid foreclosure; limitations on type of lien that may be foreclosed.

1. Except as otherwise provided in subsection 5, 6 or 7, in a condominium, in a planned community, in a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, or in a cooperative where the owner's interest in a unit is personal property under NRS 116.1105 and the declaration provides that a lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the association may foreclose its lien by sale after all of the following occur:

(a) The association has mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest, at his or her address, if known, and at the address of the unit or, if authorized by the parties, delivered by electronic transmission, a notice of delinquent assessment which states the amount of the assessments and other sums which are due in accordance with subsection 1 of NRS 116.3116, a description of the unit against which the lien is imposed and the name of the record owner of the unit.

(b) Not less than 30 days after mailing or delivering by electronic transmission the notice of delinquent assessment pursuant to paragraph (a), the association or other person conducting the sale has executed and caused to be recorded, with the county recorder of the county in which the common-interest community or any part of it is situated, a notice of default and election to sell the unit to satisfy the lien which must contain the same information as the notice of delinquent assessment and which must also comply with the following:

(1) Describe the deficiency in payment.

(2) State the total amount of the deficiency in payment, with a separate statement of:

(I) The amount of the association's lien that is prior to the first security interest on the unit pursuant to subsection 3 of NRS 116.3116 as of the date of the notice;

(II) The amount of the lien described in sub-subparagraph (I) that is attributable to assessments based on the periodic budget adopted by the association pursuant to NRS 116.3115 as of the date of the notice;

(III) The amount of the lien described in sub-subparagraph (I) that is attributable to amounts described in NRS 116.310312 as of the date of the notice; and

(IV) The amount of the lien described in sub-subparagraph (I) that is attributable to the costs of enforcing the association's lien as of the date of the notice.

(3) State that:

(I) If the holder of the first security interest on the unit does not satisfy the amount of the association's lien that is prior to that first security interest pursuant to subsection 3 of NRS 116.3116, the association may foreclose its lien by sale and that the sale may extinguish the first security interest as to the unit; and

(II) If, not later than 5 days before the date of the sale, the holder of the first security interest on the unit satisfies the amount of the association's lien that is prior to that first security interest pursuant to subsection 3 of NRS 116.3116 and, not later than 2 days before the date of the sale, a record of such satisfaction is recorded in the office of the recorder of the county in which the unit is located, the association may foreclose its lien by sale but the sale may not extinguish the first security interest as to the unit.

(4) State the name and address of the person authorized by the association to enforce the lien by sale.

(5) Contain, in 14-point bold type, the following warning:

WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE!

(c) The unit's owner or his or her successor in interest has failed to pay the amount of the lien, including costs, fees and expenses incident to its enforcement, for 90 days following the recording of the notice of default and election to sell.

(d) The unit's owner or his or her successor in interest, or the holder of a recorded security interest on the unit, has, for a period which commences in the manner and subject to the requirements described in subsection 3 and which expires 5 days before the date of sale, failed to pay the assessments and other sums that are due to the association in accordance with subsection 1 of NRS 116.3116.

(e) The association or other person conducting the sale has executed and caused to be recorded, with the county recorder of the county in which the common-interest community or any part of it is situated, an affidavit which states, based on the direct, personal knowledge of the affiant, the personal knowledge which the affiant acquired by a review of a trustee sale guarantee or a similar product or the personal knowledge which the affiant acquired by a review of the business records of the association or other person conducting the sale, which business records must meet the standards set forth in NRS 51.135, the following:

(1) The name of each holder of a security interest on the unit to which the notice of default and election to sell and the notice of sale was mailed, as required by subsection 2 of NRS 116.31163 and paragraph (d) of subsection 1 of NRS 116.311635; and

(2) The address at which the notices were mailed to each such holder of a security interest.

2. The notice of default and election to sell must be signed by the person designated in the declaration or by the association for that purpose or, if no one is designated, by the president of the association.

3. The period of 90 days described in paragraph (c) of subsection 1 begins on the first day following:

(a) The date on which the notice of default and election to sell is recorded; or

(b) The date on which a copy of the notice of default and election to sell is mailed by certified or registered mail, return receipt requested or delivered by electronic transmission, as applicable, to the unit's owner or his or her successor in interest at his or her address, if known, and at the address of the unit,

↳ whichever date occurs later.

4. An association may not mail or deliver by electronic transmission to a unit's owner or his or her successor in interest a letter of its intent to mail or deliver by electronic transmission a notice of delinquent assessment pursuant to paragraph (a) of subsection 1, mail or deliver by electronic transmission the notice of delinquent assessment or take any other action to collect a past due obligation from a unit's owner or his or her successor in interest unless the association has complied with the provisions of subsections 4 and 5 of NRS 116.311625 and subsections 4 and 5 of NRS 116.311627 and:

(a) Not earlier than 60 days after the obligation becomes past due, the association mails to the address on file for the unit's owner or, if authorized by the parties, delivers by electronic transmission:

(1) A schedule of the fees that may be charged if the unit's owner fails to pay the past due obligation;

(2) A proposed repayment plan; and

(3) A notice of the right to contest the past due obligation at a hearing before the executive board and the procedures for requesting such a hearing; and

(b) Within 30 days after the date on which the information described in paragraph (a) is mailed or delivered by electronic transmission, as applicable, the past due obligation has not been paid in full or the unit's owner or his or her successor in interest has not entered into a repayment plan or requested a hearing before the executive board. If the unit's owner or his or her successor in interest requests a hearing or enters into a repayment plan within 30 days after the date on which the information described in paragraph (a) is mailed or delivered by electronic transmission, as applicable, and is unsuccessful at the hearing or fails to make a payment under the repayment plan within 10 days after the due date, the association may take any lawful action pursuant to subsection 1 to enforce its lien.

5. The association may not foreclose a lien by sale if the association has not mailed a copy of the notice of default and election to sell and a copy of the notice of sale to each holder of a security interest on the unit in the manner and subject to the requirements set forth in subsection 2 of NRS 116.31163 and paragraph (d) of subsection 1 of NRS 116.311635.

6. The association may not foreclose a lien by sale based on a fine or penalty for a violation of the governing documents of the association unless:

(a) The violation 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; or

(b) The penalty is imposed for failure to adhere to a schedule required pursuant to NRS 116.310305.

7. The association may not foreclose a lien by sale if the association has received notice pursuant to NRS 107.086 that the unit is subject to foreclosure mediation pursuant to that section, unless:

(a) The trustee of record has recorded the certificate provided to the trustee pursuant to subparagraph (1) or (2) of paragraph (e) of subsection 2 of NRS 107.086; or

(b) The unit's owner has failed to pay to the association any amounts enforceable as assessments pursuant to subsection 1 of NRS 116.3116 that become due during the pendency of foreclosure mediation pursuant to NRS 107.086, other than past due obligations as described in subsection 11 of NRS 107.086.

(Added to NRS by 1991, 569; A 1993, 2371; 1997, 3121; 1999, 3011; 2003, 2244, 2273; 2005, 2608; 2013, 3483, 3789; 2015, 1336, 3330; 2017, 1120, 4102, 4105, 4106; 2019, 3185)

NRS 116.311625 Foreclosure of liens: Limitations, requirements and procedures applicable to servicemembers and their dependents; penalty; liability; tolling.

1. Notwithstanding any other provision of law and except as otherwise provided in subsection 2 or ordered by a court of competent jurisdiction, if a unit's owner or his or her successor in interest is a servicemember or, in accordance with subsection 3, a dependent of a servicemember, an association shall not initiate the foreclosure of a lien by sale during any period that the servicemember is on active duty or deployment or for a period of 1 year immediately following the end of such active duty or deployment.

2. The provisions of subsection 1 do not apply if a court determines that the ability of the servicemember or dependent of the servicemember to comply with the terms of the obligation secured by the lien of a unit-owners' association is not materially affected by the servicemember's active duty or deployment.

3. Upon application to the court, a dependent of a servicemember is entitled to the protections provided to a servicemember pursuant to this section if the ability of the dependent to make payments required by a lien of a unit-owners' association is materially affected by the servicemember's active duty or deployment.

4. An association shall:

(a) Inform each unit's owner or his or her successor in interest that if the person is a servicemember or a dependent of a servicemember, he or she may be entitled to certain protections pursuant to this section; and

(b) Give the person the opportunity to provide any information required to enable the association to verify whether he or she is entitled to the protections set forth in this section, including, without limitation, the social security number and date of birth of the person.

5. Before an association takes any action pursuant to paragraph (a) of subsection 4 of NRS 116.31162, if information required to verify whether a unit's owner or his or her successor in interest is entitled to the protections set forth in this section:

(a) Has been provided to the association pursuant to subsection 4, the association must verify whether the person is entitled to the protections set forth in this section.

(b) Has not been provided to the association pursuant to subsection 4, the association must make a good faith effort to verify whether the person is entitled to the protections set forth in this section.

6. Any person who knowingly initiates the foreclosure of a lien by sale in violation of this section:

(a) Is guilty of a misdemeanor; and

(b) May be liable for actual damages, reasonable attorney's fees and costs incurred by the injured party.

7. In imposing liability pursuant to paragraph (b) of subsection 6, a court shall, when determining whether to reduce such liability, take into consideration any due diligence used by the person before he or she initiated the foreclosure of the lien by sale.

8. Notwithstanding any other provision of law, any applicable statute of limitations or period within which a servicemember is required to submit proof of service that is prescribed by state law is tolled during the period of protection provided to a servicemember or dependent of a servicemember pursuant to this section.

9. As used in this section:

(a) "Active duty" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. §§ 1209 and 1211.

(b) "Dependent" has the meaning ascribed to it in 50 U.S.C. § 3911.

(c) "Deployment" means the movement or mobilization of a servicemember from his or her home station to another location for more than 90 days pursuant to military orders.

(d) "Good faith effort" means that an association acts honestly and fairly when trying to verify whether a unit's owner or his or her successor in interest is entitled to the protections set forth in this section, as evidenced by the following actions:

(1) The association informs the unit's owner or his or her successor in interest of the information required pursuant to paragraph (a) of subsection 4;

(2) The association makes reasonable efforts to give the unit's owner or his or her successor in interest the opportunity to provide any information required to enable the association to verify whether the person is entitled to the protections set forth in this section pursuant to paragraph (b) of subsection 4; and

(3) The association makes reasonable efforts to utilize all resources available to the association to verify whether the unit's owner or his or her successor in interest is a servicemember, including, without limitation, the Internet website maintained by the United States Department of Defense.

(e) "Initiate the foreclosure of a lien by sale" means to take any action in furtherance of foreclosure of a lien by sale after taking the actions set forth in paragraph (a) of subsection 4 of NRS 116.31162.

(f) "Military" means the Armed Forces of the United States, a reserve component thereof or the National Guard.

(g) "Servicemember" means a member of the military.

(Added to NRS by 2017, 1118)

NRS 116.311627 Foreclosure of liens: Limitations, requirements and procedures applicable to federal workers, tribal workers and state workers and household members and landlords of such workers in connection with shutdown; penalty; liability.

1. Notwithstanding any other provision of law and except as otherwise provided in subsection 2 or ordered by a court of competent jurisdiction, if a unit's owner or his or her successor in interest is a federal worker, tribal worker or state worker or, in accordance with subsection 3, a household member or landlord of a federal worker, tribal worker or state worker, an association shall not initiate the foreclosure of a lien by sale during the period commencing on the date on which a shutdown begins and ending on the date that is 90 days after the date on which the shutdown ends.

2. The provisions of subsection 1 do not apply if a court determines that the ability of the federal worker, tribal worker, state worker, household member or landlord to comply with the terms of the obligation secured by the residential mortgage loan is not materially affected by the shutdown.

3. Upon application to the court, a household member or landlord of a federal worker, tribal worker or state worker is entitled to the protections provided to a federal worker, tribal worker or state worker pursuant to this section if the ability of the household member or landlord to make payments required by a lien of a unit-owners' association is materially affected by the shutdown.

4. An association shall:

(a) Inform each unit's owner or his or her successor in interest that if the person is a federal worker, tribal worker, state worker, household member or landlord of such a worker, he or she may be entitled to certain protections pursuant to this section; and

(b) Give the person the opportunity to provide any information required to enable the association to verify whether he or she is entitled to the protections set forth in this section.

5. Before an association takes any action pursuant to paragraph (a) of subsection 4 of NRS 116.31162, if information required to verify whether a unit's owner or his or her successor in interest is entitled to the protections set forth in this section:

(a) Has been provided to the association pursuant to subsection 4, the association must verify whether the person is entitled to the protections set forth in this section.

(b) Has not been provided to the association pursuant to subsection 4, the association must make a good faith effort to verify whether the person is entitled to the protections set forth in this section.

6. Any person who knowingly initiates the foreclosure of a lien by sale in violation of this section:

(a) Is guilty of a misdemeanor; and

(b) May be liable for actual damages, reasonable attorney's fees and costs incurred by the injured party.

7. In imposing liability pursuant to paragraph (b) of subsection 6, a court shall, when determining whether to reduce such liability, take into consideration any due diligence used by the person before he or she initiated the foreclosure of the lien by sale.

8. As used in this section:

(a) "Federal worker" has the meaning ascribed to it in NRS 40.002.

(b) "Good faith effort" means that an association acts honestly and fairly when trying to verify whether a unit's owner or his or her successor in interest is entitled to the protections set forth in this section, as evidenced by the following actions:

(1) The association informs the unit's owner or his or her successor in interest of the information required pursuant to paragraph (a) of subsection 4;

(2) The association makes reasonable efforts to give the unit's owner or his or her successor in interest the opportunity to provide any information required to enable the association to verify whether the person is entitled to the protections set forth in this section pursuant to paragraph (b) of subsection 4; and

(3) The association makes reasonable efforts to utilize all resources available to the association to verify whether the unit's owner or his or her successor in interest is a federal worker, tribal worker, state worker or household member or landlord of such a worker.

(c) "Household member" has the meaning ascribed to it in NRS 40.0025.

(d) "Initiate the foreclosure of a lien by sale" means to take any action in furtherance of foreclosure of a lien by sale after taking the actions set forth in paragraph (a) of subsection 4 of NRS 116.31162.

(e) "Shutdown" has the meaning ascribed to it in NRS 40.0035.

(f) "State worker" has the meaning ascribed to it in NRS 40.004.

(g) "Tribal worker" has the meaning ascribed to it in NRS 40.0045.

(Added to NRS by 2019, 3183)

NRS 116.31163 Foreclosure of liens: Mailing of notice of default and election to sell to certain interested persons. The association or other person conducting the sale shall also mail, within 10 days after the notice of default and election to sell is recorded, a copy of the notice by certified mail to:

1. Each person who has requested notice pursuant to NRS 116.31168; and

2. Each holder of a recorded security interest encumbering the unit's owner's interest which was recorded before the recordation of the notice of default, at the address of the holder that is provided pursuant to NRS 657.110 on the Internet website maintained by the Division of Financial Institutions of the Department of Business and Industry.

(Added to NRS by 1993, 2355; A 2005, 2609; 2015, 1339, 1541)

NRS 116.311635 Foreclosure of liens: Providing notice of time and place of sale; service of notice of sale; contents of notice of sale; proof of service.

1. The association or other person conducting the sale shall also, after the expiration of the 90-day period described in paragraph (c) of subsection 1 of NRS 116.31162 and before selling the unit, give notice of the time and place of the sale by recording the notice of sale and by:

(a) Posting a similar notice particularly describing the unit, for 20 days consecutively, in a public place in the county where the unit is situated;

(b) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the unit is situated;

(c) Notifying the unit's owner or his or her successor in interest as follows:

(1) A copy of the notice of sale must be mailed, on or before the date of first publication or posting, by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest at his or her address, if known, and to the address of the unit; and

(2) A copy of the notice of sale must be served, on or before the date of first publication or posting, in the manner set forth in subsection 2; and

(d) Mailing, on or before the date of first publication or posting, a copy of the notice by certified mail to:

(1) Each person entitled to receive a copy of the notice of default and election to sell notice under subsection 1 of NRS 116.31163;

(2) The holder of a security interest recorded before the mailing of the notice of sale, at the address of the holder that is provided pursuant to NRS 657.110 on the Internet website maintained by the Division of Financial Institutions of the Department of Business and Industry; and

(3) The Ombudsman.

2. In addition to the requirements set forth in subsection 1, a copy of the notice of sale must be served:

(a) By a person who is 18 years of age or older and who is not a party to or interested in the sale by personally delivering a copy of the notice of sale to an occupant of the unit who is of suitable age; or

(b) By posting a copy of the notice of sale in a conspicuous place on the unit.

3. Any copy of the notice of sale required to be served pursuant to this section must include:

(a) The amount necessary to satisfy the lien as of the date of the proposed sale; and

(b) The following warning in 14-point bold type:

WARNING! A SALE OF YOUR PROPERTY IS IMMINENT! UNLESS YOU PAY THE AMOUNT SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE THE SALE DATE. IF YOU HAVE ANY QUESTIONS, PLEASE CALL (name and telephone number of the contact person for the association). IF YOU NEED ASSISTANCE, PLEASE CALL THE FORECLOSURE SECTION OF THE OMBUDSMAN'S OFFICE, NEVADA REAL ESTATE DIVISION, AT (toll-free telephone number designated by the Division) IMMEDIATELY.

4. Proof of service of any copy of the notice of sale required to be served pursuant to this section must consist of:

(a) A certificate of mailing which evidences that the notice was mailed through the United States Postal Service; or

(b) An affidavit of service signed by the person who served the notice stating:

(1) The time of service, manner of service and location of service; and

(2) The name of the person served or, if the notice was not served on a person, a description of the location where the notice was posted on the unit.

(Added to NRS by 1993, 2355; A 2003, 2245; 2005, 2609; 2013, 3790; 2015, 1339)

NRS 116.31164 Foreclosure of liens: Procedure for conducting sale; satisfaction of lien before sale; persons prohibited from purchasing unit; execution and delivery of deed; use of proceeds of sale.

1. The sale must be conducted in accordance with the provisions of this section.

2. If the holder of the security interest described in paragraph (b) of subsection 2 of NRS 116.3116 satisfies the amount of the association's lien that is prior to its security interest not later than 5 days before the date of sale, the sale may not occur unless a record of such satisfaction is recorded in the office of the county recorder of the county in which the unit is located not later than 2 days before the date of sale.

3. The sale must be made between the hours of 9 a.m. and 5 p.m. and:

(a) If the unit is located in a county whose population is less than 100,000, at the courthouse in the county in which the unit is located.

(b) If the unit is located in a county whose population is 100,000 or more, at the public location in the county designated by the governing body of the county to conduct a sale of real property pursuant to NRS 107.080.

4. The sale may be conducted by the association, its agent or attorney, or a title insurance company or escrow agent licensed to do business in this State.

5. The association or other person conducting the sale may from time to time postpone the sale by such advertisement and notice as it considers reasonable or, without further advertisement or notice, by proclamation made to the persons assembled at the time and place previously set and advertised for the sale, except that:

(a) If the sale is postponed by oral proclamation, the sale must be postponed to a later date at the same time and location; and

(b) If such a date has been postponed by oral proclamation three times, any new sale information must be provided by notice as provided in NRS 116.311635.

6. On the day of sale, at the time and place specified in the notice, the person conducting the sale:

(a) Shall state to the persons assembled for the sale whether or not the holder of the security interest described in paragraph (b) of subsection 2 of NRS 116.3116 has satisfied the amount of the association's lien that is prior to that first security interest pursuant to subsection 3 of NRS 116.3116.

(b) Except as otherwise provided in subsection 7, may sell the unit at public auction to the highest cash bidder.

7. The following persons may not purchase the unit:

(a) Any person who was involved in the process of foreclosing the association's lien pursuant to NRS 116.3116 to 116.31168, inclusive, including, without limitation:

(1) Any person who exercised discretion in any decision relating to the foreclosure of the lien and any person employed by such a person;

(2) A collection agency used by the association to collect an obligation relating to the unit;

(3) A community manager of the association and any of his or her assistants;

(4) A member of the executive board of the association; or

(5) An attorney who provided representation to any of the parties with regard to the foreclosure of the lien;

(b) Any person who is related by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity to a person set forth in paragraph (a); or

(c) The person conducting the sale or any entity in which that person holds an interest.

8. After the sale, the person conducting the sale shall:

(a) Comply with the provisions of subsection 2 of NRS 116.31166; and

(b) Apply the proceeds of the sale for the following purposes in the following order:

(1) The reasonable expenses of sale;

(2) The reasonable expenses of securing possession before sale, holding, maintaining, and preparing the unit for sale, including payment of taxes and other governmental charges, premiums on hazard and liability insurance, and, to the extent provided for by the declaration, reasonable attorney's fees and other legal expenses incurred by the association;

(3) Satisfaction of the association's lien;

(4) Satisfaction in the order of priority of any subordinate claim of record; and

(5) Remittance of any excess to the unit's owner.

(Added to NRS by 1991, 569; A 1993, 2372; 2005, 2610; 2015, 1340; 2021, 3747)

NRS 116.31166 Foreclosure of liens: Title vested in purchaser subject to right of redemption; sale does not extinguish first security interest if superior amount of lien is satisfied; certificate of sale; exercise of right of redemption; deed without warranty; effect of recitals in deed; bona fide purchasers and bona fide encumbrancers for value.

1. Every sale of a unit pursuant to NRS 116.31162 to 116.31168, inclusive, vests in the purchaser the title of the unit's owner subject to the right of redemption provided by this section. If the holder of the security interest described in paragraph (b) of subsection 2 of NRS 116.3116 satisfies the amount of the association's lien that is prior to its security interest not later than 5 days before the date of sale, the sale of the unit does not extinguish that security interest to any extent.

2. After the sale conducted pursuant to NRS 116.31164, the person conducting the sale shall:

(a) Give to the purchaser a certificate of the sale containing:

(1) A particular description of the unit sold;

(2) The price bid for the unit;

(3) The whole price paid; and

(4) A statement that the unit is subject to redemption; and

(b) Record a copy of the certificate in the office of the county recorder of the county in which the unit or part of it is located.

3. A unit sold pursuant to NRS 116.31162 to 116.31168, inclusive, may be redeemed by the unit's owner whose interest in the unit was extinguished by the sale, or his or her successor in interest, or any holder of a recorded security interest that is subordinate to the lien on which the unit was sold, or that holder's successor in interest. The unit's owner whose interest in the unit was extinguished, the holder of the recorded security interest on the unit or a successor in interest of those persons may redeem the property at any time within 60 days after the sale by paying:

(a) The purchaser the amount of his or her purchase price, with interest at the rate of 1 percent per month thereon in addition, to the time of redemption, plus:

(1) The amount of any assessment, taxes or payments toward liens which were created before the purchase and which the purchaser may have paid thereon after the purchase, and interest on such amount;

(2) If the purchaser is also a creditor having a prior lien to that of the redemptioner, other than the association's lien under which the purchase was made, the amount of such lien, and interest on such amount; and

(3) Any reasonable amount expended by the purchaser which is reasonably necessary to maintain and repair the unit in accordance with the standards set forth in the governing documents, including, without limitation, any provisions governing maintenance, standing water or snow removal; and

(b) If the redemptioner is the holder of a recorded security interest on the unit or the holder's successor in interest, the amount of any lien before his or her own lien, with interest, but the association's lien under which the unit was sold is not required to be so paid as a lien.

4. Notice of redemption must be served by the person redeeming the unit on the person who conducted the sale and on the person from whom the unit is redeemed, together with:

(a) If the person redeeming the unit is the unit's owner whose interest in the unit was extinguished by the sale or his or her successor in interest, a certified copy of the deed to the unit and, if the person redeeming the unit is the successor of that unit's owner, a copy of any document necessary to establish that the person is the successor of the unit's owner.

(b) If the person redeeming the unit is the holder of a recorded security interest on the unit or the holder's successor in interest:

(1) An original or certified copy of the deed of trust securing the unit or a certified copy of any other recorded security interest of the holder.

(2) A copy of any assignment necessary to establish the claim of the person redeeming the unit, verified by the affidavit of that person, or that person's agent, or of a subscribing witness thereto.

(3) An affidavit by the person redeeming the unit, or that person's agent, showing the amount then actually due on the lien.

5. If the unit's owner whose interest in the unit was extinguished by the sale redeems the property as provided in this section:

(a) The effect of the sale is terminated, and the unit's owner is restored to his or her interest in the unit, subject to any security interest on the unit that existed at the time of sale; and

(b) The person to whom the redemption amount was paid must execute and deliver to the unit's owner a certificate of redemption, acknowledged or approved before a person authorized to take acknowledgments of conveyances of real property, and the certificate must be recorded in the office of the recorder of the county in which the unit or part of the unit is situated.

6. If the holder of a recorded security interest redeems the unit as provided in this section and the period for a redemption set forth in subsection 3 has expired, the person conducting the sale shall:

(a) Make, execute and, if the amount required to redeem the unit is paid to the person from whom the unit is redeemed, deliver to the person who redeemed the unit or his or her successor or assign, a deed without warranty which conveys to the person who redeemed the unit all title of the unit's owner to the unit; and

(b) Deliver a copy of the deed to the Ombudsman within 30 days after the deed is delivered to the person who redeemed the unit, or his or her successor or assign.

7. If no redemption is made within 60 days after the date of sale, the person conducting the sale shall:

(a) Make, execute and, if payment is made, deliver to the purchaser, or his or her successor or assign, a deed without warranty which conveys to the purchaser all title of the unit's owner to the unit; and

(b) Deliver a copy of the deed to the Ombudsman within 30 days after the deed is delivered to the purchaser, or his or her successor or assign.

8. The recitals in a deed made pursuant to subsection 6 or 7 of:

(a) Default, the mailing of the notice of delinquent assessment, and the mailing and recording of the notice of default and election to sell;

(b) The elapsing of the 90-day period set forth in paragraph (c) of subsection 1 of NRS 116.31162;

(c) The recording, mailing, publishing and posting of the notice of sale;

(d) The failure to pay the assessments and other sums which are due in accordance with subsection 1 of NRS 116.3116 before the expiration of the period described in paragraph (d) of subsection 1 of NRS 116.31162; and

(e) The recording of the affidavit required to be recorded pursuant to paragraph (e) of subsection 1 of NRS 116.31162,
↪ are conclusive proof of the matters recited.

9. A deed containing the recitals set forth in subsection 8 is conclusive against the unit's former owner, his or her heirs and assigns, and all other persons. The receipt for the purchase money contained in such a deed is sufficient to discharge the purchaser from obligation to see to the proper application of the purchase money.

10. Upon the expiration of the redemption period set forth in subsection 3, any failure to comply with the provisions of NRS 116.3116 to 116.31168, inclusive, does not affect the rights of a bona fide purchaser or bona fide encumbrancer for value.

(Added to NRS by 1991, 570; A 1993, 2373; 2015, 1342)

NRS 116.31168 Foreclosure of liens: Requests by interested persons for notice of default and election to sell or notice of sale.

1. A person with an interest or any other person who is or may be held liable for any amounts which are the subject of the association's lien pursuant to NRS 116.3116 or the servicer of a loan secured by a deed of trust or mortgage on real property which is subject to such lien desiring a copy of a notice of default and election to sell or notice of sale under the association's lien may record in the office of the county recorder of the county in which any part of the real property is situated an acknowledged request for a copy of the notice of default and election to sell or the notice of sale. The request must state:

(a) The name and address of the person requesting copies of the notices;

(b) A legal description of the unit in which the person has an interest or the assessor's parcel number of that unit; and

(c) The names of the unit's owner and the common-interest community.

2. The association or other person authorized to record the notice of default and election to sell shall, within 10 days after the notice is recorded and mailed pursuant to NRS 116.31162, cause to be deposited in the United States mail an envelope, registered or certified, return receipt requested and with postage prepaid, containing a copy of the notice, addressed to each person who has recorded a request for a copy of the notice.

3. The association or other person authorized to make the sale shall, at least 20 days before the date of sale, cause to be deposited in the United States mail an envelope, registered or certified, return receipt requested and with postage prepaid, containing a copy of the notice of time and place of sale, addressed to each person described in subsection 2.

4. As used in this section, "person with an interest" means any person who has or claims any right, title or interest in, or lien or charge upon, a unit being foreclosed pursuant to NRS 116.31162 to 116.31168, inclusive.

(Added to NRS by 1991, 570; A 1993, 2373; 2015, 1344; 2019, 1381)

NRS 116.3117 Liens against association.

1. In a condominium or planned community:

(a) Except as otherwise provided in paragraph (b), a judgment for money against the association, if a copy of the docket or an abstract or copy of the judgment is recorded, is not a lien on the common elements, but is a lien in favor of the judgment lienholder against all of the other real property of the association and all of the units in the common-interest community at the time the judgment was entered. No other property of a unit's owner is subject to the claims of creditors of the association.

(b) If the association has granted a security interest in the common elements to a creditor of the association pursuant to NRS 116.3112, the holder of that security interest shall exercise its right against the common elements before its judgment lien on any unit may be enforced.

(c) Whether perfected before or after the creation of the common-interest community, if a lien, other than a deed of trust or mortgage, including a judgment lien or lien attributable to work performed or materials supplied before creation of the common-interest community, becomes effective against two or more units, the owner of an affected unit may pay to the lienholder the amount of the lien attributable to his or her unit, and the lienholder, upon receipt of payment, promptly shall deliver a release of the lien covering that unit. The amount of the payment must be proportionate to the ratio which that owner's liability for common expenses bears to the liabilities for common expenses of all owners whose units are subject to the lien. After payment, the association may not assess or have a lien against that owner's unit for any portion of the common expenses incurred in connection with that lien.

(d) A judgment against the association must be indexed in the name of the common-interest community and the association and, when so indexed, is notice of the lien against the units.

2. In a cooperative:

(a) If the association receives notice of an impending foreclosure on all or any portion of the association's real estate, the association shall promptly transmit a copy of that notice to each owner of a unit located within the real estate to be foreclosed. Failure of the association to transmit the notice does not affect the validity of the foreclosure.

(b) Whether an owner's unit is subject to the claims of the association's creditors, no other property of an owner is subject to those claims.

(Added to NRS by 1993, 2355; A 2011, 2450)

Books, Records and Other Documents

NRS 116.31175 Maintenance and availability of books, records and other papers of association: General requirements; exceptions; general records concerning certain violations; enforcement by Ombudsman; limitations on amount that may be charged to conduct review.

1. Except as otherwise provided in subsection 4, 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 at the business office of the association or a designated business location not to exceed 60 miles from the physical location of the common-interest community and during the regular working hours of the association, including, without limitation:

(a) The financial statement of the association;

(b) The budgets of the association required to be prepared pursuant to NRS 116.31151;

(c) The study of the reserves of the association required to be conducted pursuant to NRS 116.31152; and

(d) 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.

2. The executive board shall provide a copy of any of the records described in paragraphs (a), (b) and (c) of subsection 1 to a unit's owner or the Ombudsman within 21 days after receiving a written request therefor. Such records must be provided in electronic format at no charge to the unit's owner or, if the association is unable to provide the records in electronic format, the executive board may charge a fee to cover the actual costs of preparing a copy, but the fee may not exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

3. If the executive board fails to provide a copy of any of the records pursuant to subsection 2 within 21 days, the executive board must pay a penalty of \$25 for each day the executive board fails to provide the records.

4. The provisions of subsection 1 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 5; and

(c) Any document, including, without limitation, minutes of an executive board meeting, a reserve study and a budget, if the document:

(1) Is in the process of being developed for final consideration by the executive board; and

(2) Has not been placed on an agenda for final approval by the executive board.

5. 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.

6. 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 the Ombudsman 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.

7. 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.

8. 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 subsection 1.

(Added to NRS by 1999, 2996; A 2003, 2245; 2009, 1737, 2807, 2894, 2928; 2011, 1879, 2451)

NRS 116.3118 Maintenance and availability of certain financial records necessary to provide information required for resale of units; right of units' owners to inspect, examine, photocopy and audit records of association.

1. The association shall keep financial records sufficiently detailed to enable the association to comply with NRS 116.4109.

2. All financial and other records of the association must be:

(a) Maintained and made 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) Made reasonably available for any unit's owner and his or her authorized agents to inspect, examine, photocopy and audit.

(Added to NRS by 1991, 571; A 1995, 2231; 2003, 2247)

Miscellaneous Rights, Duties and Restrictions

NRS 116.31183 Retaliatory action prohibited; separate action by unit's owner.

1. An executive board, a member of an executive board, a community manager or an officer, employee or agent of an association shall not take, or direct or encourage another person to take, any retaliatory action against a unit's owner because the unit's owner has:

(a) Complained in good faith about any alleged violation of any provision of this chapter or the governing documents of the association;

(b) Recommended the selection or replacement of an attorney, community manager or vendor; or

(c) Requested in good faith to review the books, records or other papers of the association.

2. In addition to any other remedy provided by law, upon a violation of this section, a unit's owner may bring a separate action to recover:

(a) Compensatory damages; and

(b) Attorney's fees and costs of bringing the separate action.

(Added to NRS by 2003, 2218; A 2009, 2808, 2895)

NRS 116.31184 Threats, harassment and other conduct prohibited; penalty.

1. A community manager, an agent or employee of the community manager, a member of the executive board, an officer, employee or agent of an association, a unit's owner or a guest or tenant of a unit's owner shall not willfully and without legal authority threaten, harass or otherwise engage in a course of conduct against any other person who is the community manager of his or her common-interest community or an agent or employee of that community manager, a member of the executive board of his or her association, an officer, employee or agent of his or her association, another unit's owner in his or her common-interest community or a guest or tenant of a unit's owner in his or her common-interest community which:

(a) Causes harm or serious emotional distress, or the reasonable apprehension thereof, to that person; or

(b) Creates a hostile environment for that person.

2. A person who violates the provisions of subsection 1 is guilty of a misdemeanor.

(Added to NRS by 2013, 2529)

NRS 116.31185 Prohibition against certain personnel soliciting or accepting compensation, gratuity or remuneration under certain circumstances.

1. Except as otherwise provided in subsection 2, a member of an executive board, an officer of an association or a community manager shall not solicit or accept any form of compensation, gratuity or other remuneration that:

(a) Would improperly influence or would appear to a reasonable person to improperly influence the decisions made by those persons; or

(b) Would result or would appear to a reasonable person to result in a conflict of interest for those persons.

2. Notwithstanding the provisions of subsection 1, a member of an executive board, an officer of an association, a community manager or any person working for a community manager shall not accept, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value from:

(a) An attorney, law firm or vendor, or any person working directly or indirectly for the attorney, law firm or vendor, which total more than the amount established by the Commission by regulation, not to exceed \$100 per year per such attorney, law firm or vendor; or

(b) A declarant, an affiliate of a declarant or any person responsible for the construction of the applicable community or association which total more than the amount established by the Commission by regulation, not to exceed \$100 per year per such declarant, affiliate or person.

3. An attorney, law firm or vendor, or any person working directly or indirectly for the attorney, law firm or vendor, shall not provide, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value to a member of the executive board, an officer of the association, the community manager or any person working for the community manager which total more than the amount established by the Commission by regulation, not to exceed \$100 per year per such member, officer, community manager or person.

4. A declarant, an affiliate of a declarant or any person responsible for the construction of a community or association, shall not provide, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value to a member of the executive board, an officer of the association, the community manager or any person working for the community manager which total more than the amount established by the Commission by regulation, not to exceed \$100 per year per such member, officer, community manager or person.

5. In addition to the limitations set forth in subsection 1, a community manager shall not solicit or accept any form of compensation, fee or other remuneration that is based, in whole or in part, on:

(a) The number or amount of fines imposed against or collected from units' owners or tenants or guests of units' owners pursuant to NRS 116.31031 for violations of the governing documents of the association; or

(b) Any percentage or proportion of those fines.

6. The provisions of this section do not prohibit a community manager from being paid compensation, a fee or other remuneration under the terms of a contract between the community manager and an association if:

(a) The scope of the respective rights, duties and obligations of the parties under the contract comply with the standards of practice for community managers set forth as NRS 116A.630 and 116A.640 and any additional standards of practice adopted by the Commission by regulation pursuant to NRS 116A.400;

(b) The compensation, fee or other remuneration is being paid to the community manager for providing management of the common-interest community; and

(c) The compensation, fee or other remuneration is not structured in a way that would violate the provisions of subsection 1 or 5.

(Added to NRS by 2003, 2218; A 2005, 1716, 2611; 2009, 2808)

NRS 116.31187 Prohibition against certain personnel contracting with association or accepting commission, personal profit or compensation from association; exceptions.

1. Except as otherwise provided in this section, a member of an executive board or an officer of an association shall not:

(a) On or after October 1, 2003, enter into a contract or renew a contract with the association to provide financing, goods or services to the association; or

(b) Otherwise accept any commission, personal profit or compensation of any kind from the association for providing financing, goods or services to the association.

2. The provisions of this section do not prohibit a declarant, an affiliate of a declarant or an officer, employee or agent of a declarant or an affiliate of a declarant from:

(a) Receiving any commission, personal profit or compensation from the association, the declarant or an affiliate of the declarant for any financing, goods or services furnished to the association;

(b) Entering into contracts with the association, the declarant or affiliate of the declarant; or

(c) Serving as a member of the executive board or as an officer of the association.

(Added to NRS by 2003, 2218; A 2009, 2896, 2929)

NRS 116.31189 Bribery of community manager or member of executive board; penalties; exceptions.

1. Except as otherwise provided in subsection 3, a community manager or member of the executive board who asks for or receives, directly or indirectly, any compensation, gratuity or reward, or any promise thereof, upon an agreement or understanding that his or her vote, opinion or action upon any matter then pending or which may be brought before him or her in his or her capacity as a community manager or member of the executive board, will be influenced thereby, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

2. Except as otherwise provided in subsection 3, a person who offers or gives, directly or indirectly, any compensation, gratuity or reward, or any promise thereof, upon an agreement or understanding that the vote, opinion or action of a community manager or member of the executive board upon any matter then pending or which may be brought before the community manager or member of the executive board in his or her capacity as a community manager or member of the executive board will be influenced thereby, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

3. The provisions of this section do not prohibit:

(a) An employee of a declarant or an affiliate of a declarant who is a member of an executive board from asking for or receiving, directly or indirectly, any compensation, gratuity or reward, or any promise thereof, from the declarant or affiliate.

(b) A declarant or an affiliate of a declarant whose employee is a member of an executive board from offering or giving, directly or indirectly, any compensation, gratuity or reward, or any promise thereof, to the employee who is a member of the executive board.

(c) A community manager from asking for or receiving, directly or indirectly, or an employer of a community manager from offering or giving, directly or indirectly, any compensation for work performed by the community manager pursuant to the laws of this State.

(Added to NRS by 2009, 2876)

NRS 116.3119 Association as trustee. With respect to a third person dealing with the association in the association's capacity as a trustee, the existence of trust powers and their proper exerc_67_ the association may be assumed without inquiry. A third person

is not bound to inquire whether the association has power to act as trustee or is properly exercising trust powers. A third person, without actual knowledge that the association is exceeding or improperly exercising its powers, is fully protected in dealing with the association as if it possessed and properly exercised the powers it purports to exercise. A third person is not bound to assure the proper application of trust assets paid or delivered to the association in its capacity as trustee.

(Added to NRS by 1991, 571)

NRS 116.318 Right of units' owners to keep pet.

1. Except as otherwise provided in subsections 2, 3 and 4, the executive board of an association shall not and the governing documents of that association must not prohibit a unit's owner from keeping at least one pet within such physical portion of the common-interest community as that owner has a right to occupy and use exclusively.

2. This section does not preclude an association from adopting, and does not preclude the governing documents of the association from setting forth, reasonable restrictions on the ownership of pets by a unit's owner. For the purpose of this subsection, it is presumed that a restriction on the ownership of a dangerous or vicious dog as defined in NRS 202.500 is a reasonable restriction on pet ownership.

3. If an association adopts a new provision or amends an existing provision of a governing document to restrict the number of pets kept by a unit's owner, the provision must not prohibit a unit's owner from continuing to keep his or her pet within such physical portion of the common-interest community as that owner has a right to occupy and use exclusively, if the pet otherwise conformed to the previous provisions of the governing documents.

4. The original declaration may prohibit a unit's owner from keeping at least one pet within such physical portion of the common-interest community as that owner has a right to occupy and use exclusively. A declaration may not be amended to include such a prohibition.

5. Nothing in this section shall be construed to affect:

(a) The validity and enforceability of a provision in a governing document prohibiting a unit's owner from keeping at least one pet within such physical portion of the common-interest community as that owner has a right to occupy and use exclusively, if such a prohibition was effective on or before October 1, 2019.

(b) Any other right provided by law to a unit's owner concerning his or her right to keep a pet within such physical portion of the common-interest community as that owner has a right to occupy and use exclusively.

6. For purposes of this section:

(a) "Governing documents" means:

(1) The articles of incorporation, articles of association, articles of organization, certificate of registration, certificate of limited partnership, certificate of trust or other documents that are used to organize the association for the common-interest community;

(2) The bylaws and rules of the association; and

(3) Any other documents that govern the operation of the common-interest community or the association.

(b) "Pet" means any domesticated bird, cat, dog or aquatic animal kept within an aquarium or other animal as agreed upon by the association and the unit's owner.

(Added to NRS by 2019, 2626)

NRS 116.320 Right of units' owners to display flag of the United States or of the State of Nevada in certain areas; conditions and limitations on exercise of right.

1. Except as otherwise provided in subsection 2, the executive board of an association shall not and the governing documents of that association must not prohibit a unit's owner from engaging in the display of the flag of the United States or of the State of Nevada within such physical portion of the common-interest community as that owner has a right to occupy and use exclusively.

2. The provisions of this section do not:

(a) Apply to the display of the flag of the United States or of the State of Nevada for commercial advertising purposes.

(b) Preclude an association from adopting, and do not preclude the governing documents of an association from setting forth, rules that reasonably restrict the placement and manner of the display of the flag of the United States or of the State of Nevada by a unit's owner.

3. In any action commenced to enforce the provisions of this section, the prevailing party is entitled to recover reasonable attorney's fees and costs.

4. As used in this section, "display of the flag of the United States or of the State of Nevada" means a flag of the United States or of the State of Nevada that is:

(a) Made of cloth, fabric or paper;

(b) Displayed from a pole or staff or in a window;

(c) With regard to a flag of the United States, displayed in a manner that is consistent with 4 U.S.C. Chapter 1; and

(d) With regard to a flag of the State of Nevada, not larger than the size of a flag of the United States that is displayed, if at all, by a unit's owner.

↪ The term does not include a depiction or emblem of the flag of the United States or of the State of Nevada that is made of balloons, flora, lights, paint, paving materials, roofing, siding or any other similar building, decorative or landscaping component.

(Added to NRS by 2003, 2966; A 2015, 851)—(Substituted in revision for NRS 116.31067)

NRS 116.325 Right of units' owners to exhibit political signs in certain areas; conditions and limitations on exercise of right.

1. The executive board shall not and the governing documents must not prohibit a unit's owner or an occupant of a unit from exhibiting one or more political signs within such physical portion of the common-interest community as that owner or occupant has a right to occupy and use exclusively, subject to the following conditions:

(a) All political signs exhibited must not be larger than 24 inches by 36 inches.

(b) If the unit is occupied by a tenant, the unit's owner may not exhibit any political sign unless the tenant consents, in writing, to the exhibition of the political sign.

(c) All political signs exhibited are subject to any applicable provisions of law governing the posting of political signs.

(d) A unit's owner or an occupant of a unit may exhibit as many political signs as desired, but may not exhibit more than one political sign for each candidate, political party or ballot question.

2. The provisions of this section establish the minimum rights of a unit's owner or an occupant of a unit to exhibit political signs. The provisions of this section do not preempt any provisions of the governing documents that provide greater rights and do not require the governing documents or the executive board to impose any restrictions on the exhibition of political signs other than those established by other provisions of law.

3. As used in this section, "political sign" means a sign that expresses support for or opposition to a candidate, political party or ballot question in any federal, state or local election or any election of an association.

(Added to NRS by 2005, 2585; A 2009, 2896)

NRS 116.330 Right of units' owners to install or maintain drought tolerant landscaping; conditions and limitations on exercise of right; installation of drought tolerant landscaping within common elements.

1. The executive board shall not and the governing documents must not prohibit a unit's owner from installing or maintaining drought tolerant landscaping within such physical portion of the common-interest community as that owner has a right to occupy and use exclusively, including, without limitation, the front yard or back yard of the unit's owner, except that:

(a) Before installing drought tolerant landscaping, the unit's owner must submit a detailed description or plans for the drought tolerant landscaping for architectural review and approval in accordance with the procedures, if any, set forth in the governing documents of the association; and

(b) The drought tolerant landscaping must be selected or designed to the maximum extent practicable to be compatible with the style of the common-interest community.

↪ The provisions of this subsection must be construed liberally in favor of effectuating the purpose of encouraging the use of drought tolerant landscaping, and the executive board shall not and the governing documents must not unreasonably deny or withhold approval for the installation of drought tolerant landscaping or unreasonably determine that the drought tolerant landscaping is not compatible with the style of the common-interest community.

2. Installation of drought tolerant landscaping within any common element or conversion of traditional landscaping or cultivated vegetation, such as turf grass, to drought tolerant landscaping within any common element shall not be deemed to be a change of use of the common element unless:

(a) The common element has been designated as a park, open play space or golf course on a recorded plat map; or

(b) The traditional landscaping or cultivated vegetation is required by a governing body under the terms of any applicable zoning ordinance, permit or approval or as a condition of approval of any final subdivision map.

3. As used in this section, "drought tolerant landscaping" means landscaping which conserves water, protects the environment and is adaptable to local conditions. The term includes, without limitation, the use of mulches such as decorative rock and artificial turf.

(Added to NRS by 2005, 2583; A 2009, 2896)

NRS 116.332 Right of units' owners to store containers for collection of solid waste or recyclable materials; adoption of rules by association.

1. Except as otherwise provided in this section, an association of a planned community may not regulate or restrict the manner in which containers for the collection of solid waste or recyclable materials are stored on the premises of a residential unit with curbside service.

2. An association of a planned community may adopt rules, in accordance with the procedures set forth in the governing documents, as defined in subsections 1 and 2 of NRS 116.049, or the bylaws of the association, that reasonably restrict the manner in which containers for the collection of solid waste or recyclable materials are stored on the premises of a residential unit with curbside service during the time the containers are not within the collection area, including, without limitation, rules prescribing the location at which the containers are stored during that time. The rules adopted by the association:

(a) Must:

(1) Comply with all applicable codes and regulations; and

(2) Allow the unit's owner, or a tenant of the unit's owner, to store containers for the collection of solid waste or recyclable materials outside any building or garage on the premises of the unit during the time the containers are not within the collection area.

(b) May:

(1) Provide that the containers for the collection of solid waste or recyclable materials must be stored in the rear or side yard of the unit, if such locations exist, and in such a manner that the containers are screened from view from the street, a sidewalk or any adjacent property; and

(2) Include, without limitation, rules prescribing the size, location, color and material of any device, structure or item used to screen containers for the collection of solid waste or recyclable materials from view from the street, a sidewalk or any adjacent property and the manner of attachment of the device, structure or item to the structure on the premises where the containers are stored.

3. An association of a planned community may adopt rules that reasonably restrict the conditions under which containers for the collection of solid waste or recyclable materials are placed in the collection area, including, without limitation:

- (a) The boundaries of the collection area;
- (b) The time at which the containers may be placed in the collection area; and
- (c) The length of time for which the containers may be kept in the collection area.

4. As used in this section:

(a) "Collection area" means the area designated for the collection of the contents of containers for the collection of solid waste or recyclable materials.

(b) "Curbside service" means the collection of solid waste or recyclable materials on an individual basis for each residential unit by an entity that is authorized to collect solid waste or recyclable materials.

(c) "Recyclable material" has the meaning ascribed to it in NRS 444A.013.

(d) "Residential unit" means an attached or detached unit intended or designed to be occupied by one family.

(e) "Solid waste" has the meaning ascribed to it in NRS 444.490.

(Added to NRS by 2013, 1367)

NRS 116.335 Association prohibited from requiring unit's owner to obtain approval to rent or lease unit; exceptions.

1. Unless, at the time a unit's owner purchased his or her unit, the declaration prohibited the unit's owner from renting or leasing his or her unit, the association may not prohibit the unit's owner from renting or leasing his or her unit.

2. Unless, at the time a unit's owner purchased his or her unit, the declaration required the unit's owner to secure or obtain any approval from the association in order to rent or lease his or her unit, an association may not require the unit's owner to secure or obtain any approval from the association in order to rent or lease his or her unit.

3. If a declaration contains a provision establishing a maximum number or percentage of units in the common-interest community which may be rented or leased, that provision of the declaration may not be amended to decrease that maximum number or percentage of units in the common-interest community which may be rented or leased.

4. If the governing documents of an association require a unit's owner who leases or rents his or her unit, or the tenant of a unit's owner, to register with the association or its agent or otherwise submit to the association or its agent information concerning the lease or rental agreement or the tenant, the association or its agent:

(a) Must conduct such activities in accordance with the governing documents;

(b) May not require the unit's owner or tenant of the unit's owner to provide information which the association or its agent does not require to be provided to the association or its agent by a unit's owner who occupies his or her unit, except that the association or its agent may require the unit's owner to provide a copy of the lease or rental agreement; and

(c) May not charge a fee to the unit's owner for the registration or submission of information.

5. The provisions of this section do not prohibit an association from enforcing any provisions which govern the renting or leasing of units and which are contained in this chapter or in any other applicable federal, state or local laws or regulations.

6. Notwithstanding any other provision of law or the declaration to the contrary:

(a) If a unit's owner is prohibited from renting or leasing a unit because the maximum number or percentage of units which may be rented or leased in the common-interest community have already been rented or leased, the unit's owner may seek a waiver of the prohibition from the executive board based upon a showing of economic hardship, and the executive board may grant such a waiver and approve the renting or leasing of the unit.

(b) If the declaration contains a provision establishing a maximum number or percentage of units in the common-interest community which may be rented or leased, in determining the maximum number or percentage of units in the common-interest community which may be rented or leased, the number of units owned by the declarant must not be counted or considered.

(Added to NRS by 2005, 2584; A 2009, 1100; 2011, 2137)

NRS 116.340 Transient commercial use of units within certain planned communities.

1. Except as otherwise provided in subsection 2, a person who owns, or directly or indirectly has an interest in, one or more units within a planned community that are restricted to residential use by the declaration may use that unit or one of those units for a transient commercial use only if:

(a) The governing documents of the association and any master association do not prohibit such use;

(b) The executive board of the association and any master association approve the transient commercial use of the unit, except that such approval is not required if the planned community and one or more hotels are subject to the governing documents of a master association and those governing documents do not prohibit such use; and

(c) The unit is properly zoned for the transient commercial use and any license required by the local government for the transient commercial use is obtained.

2. A declarant who owns, or directly or indirectly has an interest in, one or more units within a planned community under the governing documents of the association that are restricted to residential use by the declaration may use that unit or those units for a transient commercial use during the period that the declarant is offering units for sale within the planned community if such use complies with the requirements set forth in paragraphs (a) and (c) of subsection 1.

3. The association and any master association may establish requirements for the transient commercial use of a unit pursuant to the provisions of this section, including, without limitation, the payment of additional fees that are related to any increase in services or other costs associated with the transient commercial use of the unit.

4. As used in this section:

(a) "Remuneration" means any compensation, money, rent or other valuable consideration given in return for the occupancy, possession or use of a unit.

(b) "Transient commercial use" means the use of a unit, for remuneration, as a hostel, hotel, inn, motel, resort, vacation rental or other form of transient lodging if the term of the occupancy, possession or use of the unit is for less than 30 consecutive calendar days.

(Added to NRS by 2003, 2219; A 2009, 1101)—(Substituted in revision for NRS 116.31123)

NRS 116.345 Association of planned community prohibited from taking certain actions regarding property, buildings and structures within planned community; validity of existing restrictions.

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 or her 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 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. An association may not interrupt any utility service furnished to a unit's owner or a tenant of a unit's owner except for the nonpayment of utility charges when due. The interruption of any utility service pursuant to this subsection must be performed in a manner which is consistent with all laws, regulations and governing documents relating to the interruption of any utility service. An association shall in every case send a written notice of its intent to interrupt any utility service to the unit's owner or the tenant of the unit's owner at least 10 days before the association interrupts any utility service.

5. 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.

(Added to NRS by 1999, 3354; A 2009, 1615, 2897, 2930)—(Substituted in revision for NRS 116.31125)

NRS 116.347 Prohibition against restricting hours construction work may begin; exceptions.

1. If the governing body of a county or city in which a common-interest community is located adopts an ordinance restricting the hours in which construction work may begin, the executive board shall not and the governing documents must not restrict the hours that construction work may begin in the common-interest community during the period beginning on May 1 and ending on September 30 to hours other than those set forth in the ordinance.

2. The provisions of subsection 1 do not preclude the executive board or the governing documents from restricting the hours that construction work may begin:

(a) If a governing body of a county or city has not adopted an ordinance restricting the hours in which construction work may begin; or

(b) During the period beginning on October 1 and ending on April 30.

(Added to NRS by 2021, 939)

NRS 116.350 Limitations regarding regulation of certain roads, streets, alleys or other thoroughfares; permissible regulation of parking or storage of certain vehicles.

1. In a common-interest community which is not gated or enclosed and the access to which is not restricted or controlled by a person or device, the executive board shall not and the governing documents must not provide for the regulation of any road, street, alley or other thoroughfare the right-of-way of which is accepted by the State or a local government for dedication as a road, street, alley or other thoroughfare for public use.

2. Except as otherwise provided in subsection 3, the provisions of subsection 1 do not preclude an association from adopting, and do not preclude the governing documents of an association from setting forth, rules that reasonably restrict the parking or storage of recreational vehicles, watercraft, trailers or commercial vehicles in the common-interest community to the extent authorized by law. The governing documents of an association may authorize the executive board of the association to impose a fine pursuant to NRS 116.31031 for any violation of the rules authorized pursuant to this subsection.

3. In any common-interest community, the executive board shall not and the governing documents must not prohibit a person from:

(a) Parking a utility service vehicle that has a gross vehicle weight rating of 20,000 pounds or less:

(1) In an area designated for parking for visitors, in a designated parking area or common parking area, or on the driveway of the unit of a subscriber or consumer, while the person is engaged in any activity relating to the delivery of public utility services to subscribers or consumers; or

(2) In an area designated for parking for visitors, in a designated parking area or common parking area, or on the driveway of his or her unit, if the person is:

(I) A unit's owner or a tenant of a unit's owner; and

(II) Bringing the vehicle to his or her unit pursuant to his or her employment with the entity which owns the vehicle for the purpose of responding to emergency requests for public utility services; or

(b) Parking a law enforcement vehicle or emergency services vehicle:

(1) In an area designated for parking for visitors, in a designated parking area or common parking area, or on the driveway of the unit of a person to whom law enforcement or emergency services are being provided, while the person is engaged in his or her official duties; or

(2) In an area designated for parking for visitors, in a designated parking area or common parking area, or on the driveway of his or her unit, if the person is:

(I) A unit's owner or a tenant of a unit's owner; and

(II) Bringing the vehicle to his or her unit pursuant to his or her employment with the entity which owns the vehicle for the purpose of responding to requests for law enforcement services or emergency services.

4. An association may require that a person parking a utility service vehicle, law enforcement vehicle or emergency services vehicle as set forth in subsection 3 provide written confirmation from his or her employer that the person is qualified to park his or her vehicle in the manner set forth in subsection 3.

5. As used in this section:

(a) "Emergency services vehicle" means a vehicle:

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide emergency services.

(b) "Law enforcement vehicle" means a vehicle:

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide law enforcement services.

(c) "Utility service vehicle" means any motor vehicle:

(1) Used in the furtherance of repairing, maintaining or operating any structure or any other physical facility necessary for the delivery of public utility services, including, without limitation, the furnishing of electricity, gas, water, sanitary sewer, telephone, cable or community antenna service; and

(2) Except for any emergency use, operated primarily within the service area of a utility's subscribers or consumers, without regard to whether the motor vehicle is owned, leased or rented by the utility.

(Added to NRS by 2005, 2585; A 2009, 974; 2017, 1096)

ARTICLE 4

PROTECTION OF PURCHASERS

NRS 116.4101 Applicability; exceptions.

1. NRS 116.4101 to 116.412, inclusive, apply to all units subject to this chapter, except as otherwise provided in subsection 2 or as modified or waived by agreement of purchasers of units in a common-interest community in which all units are restricted to nonresidential use.

2. Neither a public offering statement nor a resale package described in NRS 116.4109 need be prepared or delivered in the case of a:

(a) Gratuitous disposition of a unit;

(b) Disposition pursuant to court order;

(c) Disposition by a government or governmental agency;

(d) Disposition by foreclosure or deed in lieu of foreclosure;

(e) Disposition to a dealer;

(f) Disposition that may be cancelled at any time and for any reason by the purchaser without penalty;

(g) Disposition of a unit in a planned community which contains no more than 12 units if:

(1) The declarant reasonably believes in good faith that the maximum assessment stated in the declaration will be sufficient to pay the expenses of the planned community; and

(2) The declaration cannot be amended to increase the assessment during the period of the declarant's control without the consent of all units' owners; or

(h) Disposition of a unit restricted to nonresidential purposes.

(Added to NRS by 1991, 571; A 1993, 2373; 1997, 3122; 1999, 3012; 2011, 2453; 2021, 1406)

NRS 116.4102 Liability for preparation and delivery of public offering statement.

1. Except as otherwise provided in subsection 2, a declarant, before offering any interest in a unit to the public, shall prepare a public offering statement conforming to the requirements of NRS 116.4103 to 116.4106, inclusive.

2. A declarant may transfer responsibility for the preparation of all or a part of the public offering statement to a successor declarant pursuant to NRS 116.3104 and 116.31043, or to a dealer who intends to offer units in the common-interest community. In the event of any such transfer, the transferor shall provide the transferee with any information necessary to enable the transferee to fulfill the requirements of subsection 1.

3. Any declarant or dealer who offers a unit to a purchaser shall deliver a public offering statement in the manner prescribed in subsection 1 of NRS 116.4108. The declarant or his or her transferee under subsection 2 is liable under NRS 116.4108 and 116.4117 for any false or misleading statement set forth therein or for any omission of a material fact therefrom with respect to that portion of the public offering statement which he or she prepared. If a declarant or dealer did not prepare any part of a public offering statement that he or she delivers, he or she is not liable for any false or misleading statement set forth therein or for any omission of a material fact therefrom unless he or she had actual knowledge of the statement or omission or, in the exercise of reasonable care, should have known of the statement or omission.

4. If a unit is part of a common-interest community and is part of any other real estate in connection with the sale of which the delivery of a public offering statement is required under the laws of this State, a single public offering statement conforming to the requirements of NRS 116.4103 to 116.4106, inclusive, as those requirements relate to the real estate in which the unit is located, and to any other requirements imposed under the laws of this State, may be prepared and delivered in lieu of providing two or more public offering statements. If the requirements of this chapter conflict with those of another law of this State, the requirements of this chapter prevail.

(Added to NRS by 1991, 571; A 1993, 2374; 2001, 2493)

NRS 116.4103 Public offering statement: General provisions.

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 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 is not required.

(e) The financial information required by subsection 2.

(f) A description of any services or subsidies being provided by the declarant or an affiliate of the declarant, not reflected in the budget that the declarant provides, or expenses which the declarant pays and which the declarant expects may become at any subsequent time a common expense of the association and the projected common expense assessment attributable to each of those services or expenses for the association and for each type of unit.

(g) Any initial or special fee due from the purchaser or seller at closing, including, without limitation, any transfer fees, whether payable to the association, the community manager of the association or any third party, 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 or her agent has personally inspected the unit, the purchaser may cancel, by written notice, his or her 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 judgment or pending action against the association, and the status of any pending action 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) In addition to any other document, a statement describing all current and expected fees or charges for each unit, including, without limitation, association fees, fines, assessments, late charges or penalties, interest rates on delinquent assessments, additional costs for collecting past due fines and charges for opening or closing any file for each unit.

(m) Any restraints on alienation of any portion of the common-interest community and any restrictions:

(1) On the leasing or renting of 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 the sale or condemnation of or casualty loss to the unit or to the common-interest community, or on termination of the common-interest community.

(n) A description of any arrangement described in NRS 116.1209 binding the association.

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

2. The public offering statement must contain any current balance sheet and a 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, a statement of who prepared the budget and a statement of the budget's assumptions concerning occupancy and inflation factors. The budget must include:

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

(b) A statement of any other reserves;

(c) The projected common expense assessment by category of expenditures for the association; and

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

3. 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."

(Added to NRS by 1991, 572; A 1993, 2375; 1997, 3122; 1999, 3012; 2005, 2612; 2009, 1616, 2809; 2011, 2453)

NRS 116.4103 Public offering statement: Limitations for certain small offerings. If a common-interest community composed of not more than 12 units is not subject to any developmental rights and no power is reserved to a declarant to make the common-interest community part of a larger common-interest community, group of common-interest communities or other real estate, a public offering statement may include the information otherwise required by paragraphs (h) and (k) of subsection 1 of NRS 116.4103.

(Added to NRS by 1991, 573; A 1993, 553, 2376; 2011, 2455)

NRS 116.4104 Public offering statement: Common-interest communities subject to developmental rights. If the declaration provides that a common-interest community is subject to any developmental rights, the public offering statement must disclose, in addition to the information required by NRS 116.4103:

1. The maximum number of units that may be created;

2. A statement of how many or what percentage of the units that may be created will be restricted exclusively to residential use, or a statement that no representations are made regarding restrictions of use;

3. A statement of the extent to which any buildings or other improvements that may be erected pursuant to any developmental right in any part of the common-interest community will be compatible with existing buildings and improvements in the common-interest community in terms of architectural style, quality of construction, and size, or a statement that no assurances are made in those regards;

4. General descriptions of all other improvements that may be made and limited common elements that may be created within any part of the common-interest community pursuant to any developmental right reserved by the declarant, or a statement that no assurances are made in that regard;

5. A statement of any limitations as to the locations of any building or other improvement that may be constructed or made within any part of the common-interest community pursuant to any developmental right reserved by the declarant, or a statement that no assurances are made in that regard;

6. A statement that any limited common elements created pursuant to any developmental right reserved by the declarant will be of the same general types and sizes as the limited common elements within other parts of the common-interest community, or a statement of the types and sizes planned, or a statement that no assurances are made in that regard;

7. A statement that the proportion of limited common elements to units created pursuant to any developmental right reserved by the declarant will be approximately equal to the proportion existing within other parts of the common-interest community, or a statement of any other assurances in that regard, or a statement that no assurances are made in that regard;

8. A statement that all restrictions in the declaration affecting use, occupancy and alienation of units will apply to any units created pursuant to any developmental right reserved by the declarant, or a statement of any differentiations that may be made as to those units, or a statement that no assurances are made in that regard; and

9. A statement of the extent to which any assurances made pursuant to this section apply or do not apply if any developmental right is not exercised by the declarant.

(Added to NRS by 1991, 573)

NRS 116.4105 Public offering statement: Time shares. If the declaration provides that ownership or occupancy of any units, is or may be in time shares, the public offering statement shall disclose, in addition to the information required by NRS 116.4103 and 116.41035:

1. The number and identity of units in which time shares may be created;

2. The total number of time shares that may be created;

3. The minimum duration of any time shares that may be created; and

4. The extent to which the creation of time shares will or may affect the enforceability of the association's lien for assessments provided in NRS 116.3116 and 116.31162.

(Added to NRS by 1991, 574)

NRS 116.4106 Public offering statement: Common-interest community containing converted building.

1. The public offering statement of a common-interest community containing any converted building must contain, in addition to the information required by NRS 116.4103 and 116.41035:

(a) A statement by the declarant, based on a report prepared by an independent registered architect or licensed professional engineer, describing the present condition of all structural components and mechanical and electrical installations material to the use and enjoyment of the building;

(b) A list of any outstanding notices of uncured violations of building codes or other municipal regulations, together with the estimated cost of curing those violations; and

(c) The budget to maintain the reserves required pursuant to paragraph (b) of subsection 2 of NRS 116.3115 which 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;

(2) As of the end of the fiscal year for which the budget was prepared, the current estimate of the amount of cash reserves that are necessary to repair, replace and restore the major components of the common elements and the current amount of accumulated cash reserves that are set aside for such repairs, replacements and restorations;

(3) A statement as to whether the declarant has determined or anticipates that the levy of one or more special assessments will be required within the next 10 years to repair, replace and restore any major component of the common elements or to provide adequate reserves for that purpose;

(4) A general statement describing the procedures used for the estimation and accumulation of cash reserves described in subparagraph (2), including, without limitation, the qualifications of the person responsible for the preparation of the study of reserves required pursuant to NRS 116.31152; and

(5) The funding plan that is designed to allocate the costs for the repair, replacement and restoration of the major components of the common elements over a period of years.

2. This section applies only to a common-interest community comprised of a converted building or buildings containing more than 12 units that may be occupied for residential use.

(Added to NRS by 1991, 574; A 1997, 1060; 2005, 2613)

NRS 116.4107 Public offering statement: Common-interest community registered with Securities and Exchange Commission or State of Nevada. If an interest in a common-interest community is currently registered with the Securities and Exchange Commission of the United States or with the State of Nevada pursuant to chapter 119, 119A or 119B of NRS, a declarant satisfies all requirements of this chapter relating to the preparation of a public offering statement if the declarant delivers to the purchaser a copy of the public offering statement filed with the Securities and Exchange Commission or the appropriate Nevada regulatory authority. An interest in a common-interest community is not a security under the provisions of chapter 90 of NRS.

(Added to NRS by 1991, 574)

NRS 116.4108 Purchaser's right to cancel.

1. A person required to deliver a public offering statement pursuant to subsection 3 of NRS 116.4102 shall provide a purchaser with a copy of the current public offering statement not later than the date on which an offer to purchase becomes binding on the purchaser. Unless the purchaser has personally inspected the unit, the purchaser may cancel, by written notice, the contract of purchase until midnight of the fifth calendar day following the date of execution of the contract, and the contract for purchase must contain a provision to that effect.

2. If a purchaser elects to cancel a contract pursuant to subsection 1, the purchaser may do so by hand delivering notice thereof to the offeror or by mailing notice thereof by prepaid United States mail to the offeror or to his or her agent for service of process. Cancellation is without penalty, and all payments made by the purchaser before cancellation must be refunded promptly.

3. If a person required to deliver a public offering statement pursuant to subsection 3 of NRS 116.4102 fails to provide a purchaser to whom a unit is conveyed with a current public offering statement, the purchaser is entitled to actual damages, rescission or other relief, but if the purchaser has accepted a conveyance of the unit, the purchaser is not entitled to rescission.

(Added to NRS by 1991, 574; A 1993, 2376; 2003, 2247)

NRS 116.4109 Resales of units.

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 or her authorized agent shall, at the expense of the unit's owner, furnish to a purchaser a resale package containing all of the following:

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

(b) A statement from the association setting forth the amount of the monthly assessment for common expenses and any unpaid obligation of any kind, including, without limitation, management fees, transfer fees, fines, penalties, interest, collection costs, foreclosure fees and attorney's fees 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.

(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.

(e) A statement of any transfer fees, transaction fees or any other fees associated with the resale of a unit.

(f) In addition to any other document, a statement describing all current and expected fees or charges for each unit, including, without limitation, association fees, fines, assessments, late charges or penalties, interest rates on delinquent assessments, additional costs for collecting past due fines and charges for opening or closing any file for each unit.

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, a contract for purchase must contain a provision to that effect. If

the purchaser elects to cancel a contract pursuant to this subsection, the purchaser must hand deliver the notice of cancellation to the unit's owner or his or her authorized agent, mail the notice of cancellation by prepaid United States mail to the unit's owner or his or her authorized agent or deliver the notice of cancellation by electronic transmission to the unit's owner or his or her 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 or her authorized agent failed to furnish the resale package, or any portion thereof, as required by this section.

3. Within 10 calendar days after receipt of a written request by a unit's owner or his or her authorized agent, the association shall furnish all of the following to the unit's owner or his or her 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), (d), (e) and (f) of subsection 1.

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

(a) The unit's owner or his or her authorized agent shall include the documents and certificate in the resale package provided to the purchaser, and neither the unit's owner nor his or her 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 and must not exceed \$185, except that if a unit's owner or an authorized agent thereof requests that the certificate be furnished sooner than 3 business days after the date of the request, the association may charge a fee, which must not exceed \$100, to expedite the preparation of the certificate. The amount of the fee may increase, on an annual basis, by a percentage equal to the percentage of increase in the Consumer Price Index (All Items) published by the United States Department of Labor for the preceding calendar year, but must not increase by more than 3 percent each year.

(c) The other documents furnished pursuant to subsection 3 must be provided in electronic format to the unit's owner. If the association is unable to provide such documents in electronic format, the association may charge the unit's owner a reasonable fee, not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter, to cover the cost of copying.

(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 calendar days allowed by this section, the purchaser is not liable for the delinquent assessment. A resale package provided to a unit's owner or his or her authorized agent pursuant to this section remains effective for 90 calendar days.

6. Upon the request of a unit's owner or his or her 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 or her 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.

7. A unit's owner, the authorized agent of the unit's owner or the holder of a security interest on the unit may request a statement of demand from the association. Not later than 10 calendar days after receipt of a written request from the unit's owner, the authorized agent of the unit's owner or the holder of a security interest on the unit for a statement of demand, the association shall furnish a statement of demand to the person who requested the statement and provide a copy of the statement to any other interested party. The association may charge a fee of not more than \$165 to prepare and furnish a statement of demand pursuant to this subsection and an additional fee of not more than \$100 to furnish a statement of demand within 3 business days after receipt of a written request for a statement of demand. The amount of the fees for preparing and furnishing a statement of demand and the additional fee for furnishing a statement of demand within 3 business days may increase, on an annual basis, by a percentage equal to the percentage of increase in the Consumer Price Index (All Items) published by the United States Department of Labor for the preceding calendar year, but must not increase by more than 3 percent each year. The statement of demand:

(a) Must set forth the amount of the monthly assessment for common expenses and any unpaid obligation of any kind, including, without limitation, management fees, transfer fees, fines, penalties, interest, collection costs, foreclosure fees and attorney's fees currently due from the selling unit's owner; and

(b) Remains effective for the period specified in the statement of demand, which must not be less than 15 business days after the date of delivery by the association to the unit's owner, the authorized agent of the unit's owner or the holder of a security interest on the unit, whichever is applicable.

↪ As used in this subsection, "interested party" includes the unit's owner selling the unit and the prospective purchaser of the unit.

8. In preparing, copying, furnishing or expediting or otherwise providing any document or other item pursuant to this section, an association, or entity related to or acting on behalf of an association, shall not charge a unit's owner, the authorized agent of a unit's owner, a purchaser or, pursuant to subsection 7, the holder of a security interest on a unit, any fee:

(a) Not authorized in this section; or

(b) In an amount which exceeds any limit set forth in this section.

9. If the association becomes aware of an error in a statement of demand furnished pursuant to subsection 7 during the period in which the statement of demand is effective but before the consummation of a resale for which a resale package was furnished pursuant to subsection 1, the association must deliver a replacement statement of demand to the person who requested the statement of demand. Unless the person who requested the statement of demand receives a replacement statement of demand, the person may rely upon the accuracy of the information set forth in the statement of demand provided by the association for the resale. Payment of the amount set forth in the statement of demand constitutes full payment of the amount due from the selling unit's owner.

(Added to NRS by 1991, 575; A 1993, 2376; 1997, 3124; 2001, 2494; 2003, 2247; 2005, 2614; 2009, 1102, 1617, 2810, 2819; 2011, 2047, 2455, 3542; 2013, 3792; 2017, 1305; 2019, 856, 859; 2021, 1406)

NRS 116.41095 Required form of information statement. 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. Alternatively, if you are not the original purchaser and received a resale package, you may deliver the notice of cancellation by electronic transmission to the seller within the 5-day period in order to exercise your right to cancel. 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 commu . . . 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: _____

(Added to NRS by 1997, 3114; A 1999, 3013; 2003, 2248; 2005, 2616; 2007, 2269; 2009, 1738; 2017, 1308)

NRS 116.411 Escrow of deposits; furnishing of bond in lieu of deposit.

1. Except as otherwise provided in subsections 2, 3 and 4, a deposit made in connection with the purchase or reservation of a unit from a person required to deliver a public offering statement pursuant to subsection 3 of NRS 116.4102 must be placed in escrow and held either in this State or in the state where the unit is located in an account designated solely for that purpose by a licensed title insurance company, an independent bonded escrow company, or an institution whose accounts are insured by a governmental agency or instrumentality until:

- (a) Delivered to the declarant at closing;
- (b) Delivered to the declarant because of the purchaser's default under a contract to purchase the unit;
- (c) Released to the declarant for an additional item, improvement, optional item or alteration, but the amount so released:

(1) Must not exceed the lesser of the amount due the declarant from the purchaser at the time of the release or the amount expended by the declarant for the purpose; and

(2) Must be credited upon the purchase price; or

(d) Refunded to the purchaser.

2. A deposit or advance payment made for an additional item, improvement, optional item or alteration may be deposited in escrow or delivered directly to the declarant, as the parties may contract.

3. In lieu of placing a deposit in escrow pursuant to subsection 1, the declarant may furnish a bond executed by the declarant as principal and by a corporation qualified under the laws of this State as surety, payable to the State of Nevada, and conditioned upon the performance of the declarant's duties concerning the purchase or reservation of a unit. Each bond must be in a principal sum equal to the amount of the deposit. The bond must be held until:

(a) Delivered to the declarant at closing;

(b) Delivered to the declarant because of the purchaser's default under a contract to purchase the unit; or

(c) Released to the declarant for an additional item, improvement, optional item or alteration, but the amount so released must not exceed the amount due the declarant from the purchaser at the time of the release or the amount expended by the declarant for that purpose, whichever is less.

4. Pursuant to subsection 1, a deposit made in connection with the purchase or reservation of a unit from a person required to deliver a public offering statement pursuant to subsection 3 of NRS 116.4102 is deemed to be placed in escrow and held in this State when the escrow holder has:

(a) The legal right to conduct business in this State;

(b) A registered agent in this State pursuant to subsection 1 of NRS 14.020; and

(c) Consented to the jurisdiction of the courts of this State by:

(1) Maintaining a physical presence in this State; or

(2) Executing a written instrument containing such consent, with respect to any suit or claim, whether brought by the declarant or purchaser, relating to or arising in connection with such sale or the escrow agreement related thereto.

(Added to NRS by 1991, 575; A 1993, 2377; 1995, 1420; 2009, 2931)

NRS 116.4111 Release of liens.

1. In the case of a sale of a unit where delivery of a public offering statement is required pursuant to subsection 3 of NRS 116.4102, a seller:

(a) Before conveying a unit, shall record or furnish to the purchaser releases of all liens, except liens on real estate that a declarant has the right to withdraw from the common-interest community, that the purchaser does not expressly agree to take subject to or assume and that encumber:

(1) In a condominium, that unit and its interest in the common elements; and

(2) In a cooperative or planned community, that unit and any limited common elements assigned thereto; or

(b) Shall provide a surety bond against the lien as provided for liens on real estate in NRS 108.2413 to 108.2425, inclusive.

2. Before conveying real estate to the association, the declarant shall have that real estate released from:

(a) All liens the foreclosure of which would deprive units' owners of any right of access to or easement of support of their units; and

(b) All other liens on that real estate unless the public offering statement describes certain real estate that may be conveyed subject to liens in specified amounts.

(Added to NRS by 1991, 575; A 2003, 2618)

NRS 116.4112 Converted buildings.

1. A declarant of a common-interest community containing converted buildings, and any dealer who intends to offer units in such a common-interest community, shall give each of the residential tenants and any residential subtenant in possession of a portion of a converted building notice of the conversion and provide those persons with the public offering statement no later than 120 days before the tenants and any subtenant in possession are required to vacate. The notice must set forth generally the rights of tenants and subtenants under this section and must be hand-delivered to the unit or mailed by prepaid United States mail to the tenant and subtenant at the address of the unit or any other mailing address provided by a tenant. No tenant or subtenant may be required to vacate upon less than 120 days' notice, except by reason of nonpayment of rent, waste or conduct that disturbs other tenants' peaceful enjoyment of the premises, and the terms of the tenancy may not be altered during that period. Failure to give notice as required by this section is a defense to an action for possession. If, during the 6-month period before the recording of a declaration, a majority of the tenants or any subtenants in possession of any portion of the property described in such declaration has been required to vacate for reasons other than nonpayment of rent, waste or conduct that disturbs other tenants' peaceful enjoyment of the premises, a rebuttable presumption is created that the owner of such property intended to offer the vacated premises as units in a common-interest community at all times during that 6-month period.

2. For 60 days after delivery or mailing of the notice described in subsection 1, the person required to give the notice shall offer to convey each unit or proposed unit occupied for residential use to the tenant who leases that unit. If a tenant fails to purchase the unit during that 60-day period, the offeror may not offer to dispose of an interest in that unit during the following 180 days at a price or on terms more favorable to the offeree than the price or terms offered to the tenant. This subsection does not apply to any unit in a converted building if that unit will be restricted exclusively to nonresidential use or the boundaries of the converted unit do not substantially conform to the dimensions of the residential unit before conversion.

3. If a seller, in violation of subsection 2, conveys a unit to a purchaser for value who has no knowledge of the violation, the recordation of the deed conveying the unit or, in a cooperative, the conveyance of the unit, extinguishes any right a tenant may have under subsection 2 to purchase that unit if the deed states that the seller has complied with subsection 2, but the conveyance does not affect the right of a tenant to recover damages from the seller for a violation of subsection 2.

4. If a notice of conversion specifies a date by which a unit or proposed unit must be vacated and otherwise complies with the provisions of NRS 40.251 and 40.280, the notice also constitutes a notice to surrender specified by those sections.

5. This section does not permit termination of a lease by a declarant in violation of its terms.

(Added to NRS by 1991, 576; A 2007, 1280; 2015, 3132)

NRS 116.4113 Express warranties of quality.

1. Express warranties made by any seller to a purchaser of a unit, if relied upon by the purchaser, are created as follows:

(a) Any affirmation of fact or promise that relates to the unit, its use or rights appurtenant thereto, improvements to the common-interest community that would directly benefit the unit or the right to use or have the benefit of facilities not located in the common-interest community creates an express warranty that the unit and related rights and uses will conform to the affirmation or promise;

(b) Any model or description of the physical characteristics of the common-interest community, including plans and specifications of or for improvements, creates an express warranty that the common-interest community will reasonably conform to the model or description;

(c) Any description of the quantity or extent of the real estate comprising the common-interest community, including plats or surveys, creates an express warranty that the common-interest community will conform to the description, subject to customary tolerances; and

(d) A provision that a purchaser may put a unit only to a specified use is an express warranty that the specified use is lawful.

2. Neither formal words, such as "warranty" or "guarantee," nor a specific intention to make a warranty is necessary to create an express warranty of quality, but a statement purporting to be merely an opinion or commendation of the real estate or its value does not create a warranty.

3. Any conveyance of a unit transfers to the purchaser all express warranties of quality made by previous sellers.

4. A warranty created by this section may be excluded or modified by agreement of the parties.

(Added to NRS by 1991, 577; A 1993, 2770)

NRS 116.4114 Implied warranties of quality.

1. A declarant and any dealer warrant that a unit will be in at least as good condition at the earlier of the time of the conveyance or delivery of possession as it was at the time of contracting, reasonable wear and tear excepted.

2. A declarant and any dealer impliedly warrant that a unit and the common elements in the common-interest community are suitable for the ordinary uses of real estate of its type and that any improvements made or contracted for by a declarant or dealer, or made by any person before the creation of the common-interest community, will be:

(a) Free from defective materials; and

(b) Constructed in accordance with applicable law, according to sound standards of engineering and construction, and in a workmanlike manner.

3. A declarant and any dealer warrant to a purchaser of a unit that may be used for residential use that an existing use, continuation of which is contemplated by the parties, does not violate applicable law at the earlier of the time of conveyance or delivery of possession.

4. Warranties imposed by this section may be excluded or modified as specified in NRS 116.4115.

5. For purposes of this section, improvements made or contracted for by an affiliate of a declarant are made or contracted for by the declarant.

6. Any conveyance of a unit transfers to the purchaser all of the declarant's implied warranties of quality.

(Added to NRS by 1991, 577; A 2011, 2457)

NRS 116.4115 Exclusion or modification of warranties of quality.

1. Except as limited by subsection 2 with respect to a purchaser of a unit that may be used for residential use, implied warranties of quality:

(a) May be excluded or modified by agreement of the parties; and

(b) Are excluded by expression of disclaimer, such as "as is," "with all faults," or other language that in common understanding calls the purchaser's attention to the exclusion of warranties.

2. With respect to a purchaser of a unit that may be occupied for residential use, no general disclaimer of implied warranties of quality is effective, but a declarant and any dealer may disclaim liability in an instrument signed by the purchaser for a specified defect or specified failure to comply with applicable law, if the defect or failure entered into and became a part of the basis of the bargain.

(Added to NRS by 1991, 578)

NRS 116.4116 Statute of limitations for warranties.

1. Unless a period of limitation is tolled under NRS 116.3111 or affected by subsection 4, a judicial proceeding for breach of any obligation arising under NRS 116.4113 or 116.4114 must be commenced within 6 years after the cause of action accrues, but the parties may agree to reduce the period of limitation to not less than 2 years. With respect to a unit that may be occupied for residential use, an agreement to reduce the period of limitation must be evidenced by a separate instrument executed by the purchaser.

2. Subject to subsection 3, a cause of action for breach of warranty of quality, regardless of the purchaser's lack of knowledge of the breach, accrues:

(a) As to a unit, at the time the purchaser to whom the warranty is first made enters into possession if a possessory interest was conveyed or at the time of acceptance of the instrument of conveyance if a nonpossessory interest was conveyed; and

(b) As to each common element, at the time the common element is completed or, if later, as to:

(1) A common element that may be added to the common-interest community or portion thereof, at the time the first unit therein is conveyed to a bona fide purchaser; or

(2) A common element within any other portion of the common-interest community, at the time the first unit is conveyed to a purchaser in good faith.

3. If a warranty of quality explicitly extends to future performance or duration of any improvement or component of the common-interest community, the cause of action accrues at the time the breach is discovered or at the end of the period for which the warranty explicitly extends, whichever is earlier.

4. During the period of declarant control, the association may authorize an independent committee of the executive board to evaluate and enforce any warranty claims involving the common elements, and to address those claims. Only members of the executive board elected by units' owners other than the declarant and other persons appointed by those independent members may serve on the committee, and the committee's decision must be free of any control by the declarant or any member of the executive board or officer appointed by the declarant. All costs reasonably incurred by the committee, including attorney's fees, are common expenses, and must be added to the budget annually adopted by the association in accordance with the requirements of NRS 116.31151. If the committee is so created, the period of limitation for a warranty claim considered by the committee begins to run from the date of the first meeting of the committee.

(Added to NRS by 1991, 578; A 2011, 2457)

NRS 116.4117 Effect of violations on rights of action; civil action for damages for failure or refusal to comply with provisions of chapter or governing documents; members of executive board not personally liable to victims of crimes; circumstances under which punitive damages may be awarded; attorney's fees.

1. Subject to the requirements set forth in subsection 2, if a declarant, community manager or any other person subject to this chapter fails to comply with any of its provisions or any provision of the declaration or bylaws, any person or class of persons suffering actual damages from the failure to comply may bring a civil action for damages or other appropriate relief.

2. Subject to the requirements set forth in NRS 38.310 and except as otherwise provided in NRS 116.3111, a civil action for damages or other appropriate relief for a failure or refusal to comply with any provision of this chapter or the governing documents of an association may be brought:

(a) By the association against:

(1) A declarant;

(2) A community manager; or

(3) A unit's owner.

(b) By a unit's owner against:

(1) The association;

(2) A declarant; or

(3) Another unit's owner of the association.

(c) By a class of units' owners constituting at least 10 percent of the total number of voting members of the association against a community manager.

3. Members of the executive board are not personally liable to the victims of crimes occurring on the property.

4. Except as otherwise provided in subsection 5, punitive damages may be awarded for a willful and material failure to comply with any provision of this chapter if the failure is established by clear and convincing evidence.

5. Punitive damages may not be awarded against:

(a) The association;

(b) The members of the executive board for acts or omissions that occur in their official capacity as members of the executive board; or

(c) The officers of the association for acts or omissions that occur in their capacity as officers of the association.

6. The court may award reasonable attorney's fees to the prevailing party.

7. The civil remedy provided by this section is in addition to, and not exclusive of, any other available remedy or penalty.

8. The provisions of this section do not prohibit the Commission from taking any disciplinary action against a member of an executive board pursuant to NRS 116.745 to 116.795, inclusive.

(Added to NRS by 1991, 578; A 1993, 2377; 1997, 3125; 2009, 2812, 2898; 2011, 2458)

NRS 116.4118 Labeling of promotional material. No promotional material may be displayed or delivered to prospective purchasers which describes or portrays an improvement that is not in existence unless the description or portrayal of the improvement in the promotional material is conspicuously labeled or identified either as "MUST BE BUILT" or as "NEED NOT BE BUILT."

(Added to NRS by 1991, 579)

NRS 116.4119 Declarant's obligation to complete and restore.

1. Except for improvements labeled "NEED NOT BE BUILT" the declarant shall complete all improvements depicted on any site plan or other graphic representation, including any plats or pl-81 - epared pursuant to NRS 116.2109, whether or not that site plan

or other graphic representation is contained in the public offering statement or in any promotional material distributed by or for the declarant.

2. The declarant is subject to liability for the prompt repair and restoration, to a condition compatible with the remainder of the common-interest community, of any portion of the common-interest community affected by the exercise of rights reserved pursuant to or created by NRS 116.211 to 116.2113, inclusive, 116.2115 or 116.2116.
(Added to NRS by 1991, 579)

NRS 116.412 Substantial completion of units. In the case of a sale of a unit in which delivery of a public offering statement is required, a contract of sale may be executed, but no interest in that unit may be conveyed, until the declaration is recorded and the unit is substantially completed, in accordance with local ordinances.
(Added to NRS by 1991, 579; A 1993, 2377)

ADMINISTRATION AND ENFORCEMENT OF CHAPTER

General Provisions

NRS 116.600 Commission for Common-Interest Communities and Condominium Hotels: Creation; appointment and qualifications of members; terms of office; compensation.

1. The Commission for Common-Interest Communities and Condominium Hotels is hereby created.
2. The Commission consists of seven members appointed by the Governor. The Governor shall appoint to the Commission:
 - (a) One member who is a unit's owner residing in a unit within this State and who has served as a member of an executive board in this State;
 - (b) Two members who are units' owners, each of whom resides in a unit within this State, but who are not required to have served as members of an executive board;
 - (c) One member who is in the business of developing common-interest communities in this State;
 - (d) One member who holds a certificate;
 - (e) One member who is a certified public accountant certified to practice in this State pursuant to the provisions of chapter 628 of NRS; and
 - (f) One member who is an attorney licensed to practice in this State.
3. Each member of the Commission must be a resident of this State. At least four members of the Commission must be residents of a county whose population is 700,000 or more.
4. Each member of the Commission must have resided in a common-interest community or have been actively engaged in a business or profession related to common-interest communities for not less than 3 years immediately preceding the date of the member's appointment.
5. After the initial terms, each member of the Commission serves a term of 3 years. Each member may serve not more than two consecutive full terms. If a vacancy occurs during a member's term, the Governor shall appoint a person qualified under this section to replace the member for the remainder of the unexpired term.
6. While engaged in the business of the Commission, each member is entitled to receive:
 - (a) A salary of not more than \$80 per day, as established by the Commission; and
 - (b) The per diem allowance and travel expenses provided for state officers and employees generally.(Added to NRS by 2003, 2209; A 2005, 2619; 2007, 2272; 2009, 2899; 2011, 1146; 2017, 1319)

NRS 116.605 Commission for Common-Interest Communities and Condominium Hotels: Courses of instruction for members.

1. The Division shall employ one or more training officers who are qualified by training and experience to provide to each member of the Commission courses of instruction concerning rules of procedure and substantive law appropriate for members of the Commission. Such courses of instruction may be made available to the staff of the Division as well as to community managers.
2. The training officer shall:
 - (a) Prepare and make available a manual containing the policies and procedures to be followed by executive boards and community managers; and
 - (b) Perform any other duties as directed by the Division.
3. Each member of the Commission must attend the courses of instruction described in subsection 1 not later than 6 months after the date that the member is first appointed to the Commission.
(Added to NRS by 2003, 2209; A 2009, 2899)

NRS 116.610 Commission for Common-Interest Communities and Condominium Hotels: Election of officers; meetings; quorum.

1. At the first meeting of each fiscal year, the Commission shall elect from its members a Chair, a Vice Chair and a Secretary.
2. The Commission shall meet at least once each calendar quarter and at other times on the call of the Chair or a majority of its members.
3. A majority of the members of the Commission constitutes a quorum for the transaction of all business.
(Added to NRS by 2003, 2210)

NRS 116.615 Administration of chapter; regulations of Commission and Real Estate Administrator; delegation of authority; publications.

1. The provisions of this chapter must be administered by the Division, subject to the administrative supervision of the Director of the Department of Business and Industry.

2. The Commission and the Division may do all things necessary and convenient to carry out the provisions of this chapter, including, without limitation, prescribing such forms and adopting such procedures as are necessary to carry out the provisions of this chapter.

3. The Commission, or the Administrator with the approval of the Commission, may adopt such regulations as are necessary to carry out the provisions of this chapter.

4. The Commission may by regulation delegate any authority conferred upon it by the provisions of this chapter to the Administrator to be exercised pursuant to the regulations adopted by the Commission.

5. When regulations are proposed by the Administrator, in addition to other notices required by law, the Administrator shall provide copies of the proposed regulations to the Commission not later than 30 days before the next meeting of the Commission. The Commission shall approve, amend or disapprove any proposed regulations at that meeting.

6. All regulations adopted by the Commission, or adopted by the Administrator with the approval of the Commission, must be published by the Division, posted on its website and offered for sale at a reasonable fee.

(Added to NRS by 2003, 2210; A 2005, 2619)

NRS 116.620 Employment of personnel by Real Estate Division; designation of deputy attorney general by Attorney General; legal opinions and assistance by deputy attorney general.

1. Except as otherwise provided in this section and within the limits of legislative appropriations and any other money available for this purpose, the Division may employ experts, attorneys, investigators, consultants and other personnel as are necessary to carry out the provisions of this chapter. At least one person employed pursuant to this subsection or NRS 116B.810 must be a certified public accountant certified to practice in this State pursuant to the provisions of chapter 628 of NRS or have training, expertise and experience in performing audits.

2. The Attorney General shall designate one of his or her deputies to act as the attorney for the Division in all actions and proceedings brought against or by the Division pursuant to the provisions of this chapter. The deputy attorney general so designated must have legal experience and expertise in cases involving fraud or fiscal malfeasance.

3. The deputy attorney general designated pursuant to subsection 2 shall:

(a) Render to the Commission and the Division opinions upon all questions of law relating to the construction or interpretation of this chapter, or arising in the administration thereof, that may be submitted to the deputy attorney general by the Commission or the Division.

(b) Assist the Ombudsman in performing his or her duties to assist in the resolution of affidavits filed pursuant to NRS 116.760 and to prepare reports required pursuant to NRS 116.765.

(Added to NRS by 2003, 2210; A 2015, 2784; 2019, 675)

NRS 116.623 Petitions for declaratory orders or advisory opinions: Regulations; scope; contents of petition; filing; period for response.

1. The Division shall provide by regulation for the filing and prompt disposition of petitions for declaratory orders and advisory opinions as to the applicability or interpretation of:

(a) Any provision of this chapter or chapter 116A or 116B of NRS;

(b) Any regulation adopted by the Commission, the Administrator or the Division; or

(c) Any decision of the Commission, the Administrator or the Division or any of its sections.

2. Declaratory orders disposing of petitions filed pursuant to this section have the same status as agency decisions.

3. A petition filed pursuant to this section must:

(a) Set forth the name and address of the petitioner; and

(b) Contain a clear and concise statement of the issues to be decided by the Division in its declaratory order or advisory opinion.

4. A petition filed pursuant to this section is submitted for consideration by the Division when it is filed with the Administrator.

5. The Division shall:

(a) Respond to a petition filed pursuant to this section within 60 days after the date on which the petition is submitted for consideration; and

(b) Upon issuing its declaratory order or advisory opinion, mail a copy of the declaratory order or advisory opinion to the petitioner.

(Added to NRS by 2009, 2876)

NRS 116.625 Ombudsman for Owners in Common-Interest Communities and Condominium Hotels: Creation of office; appointment; qualifications; powers and duties.

1. The Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels is hereby created within the Division.

2. The Administrator shall appoint the Ombudsman. The Ombudsman is in the unclassified service of the State.

3. The Ombudsman must be qualified by training and experience to perform the duties and functions of office.

4. In addition to any other duties set forth in this chapter, the Ombudsman shall:

(a) Assist in processing claims submitted to mediation or arbitration or referred to a program pursuant to NRS 38.300 to 38.360, inclusive;

(b) Assist owners in common-interest communities and condominium hotels to understand their rights and responsibilities as set forth in this chapter and chapter 116B of NRS and the governing documents of their associations, including, without limitation, publishing materials related to those rights and responsibilities;

(c) Assist members of executive boards and officers of associations to carry out their duties;

(d) When appropriate, investigate disputes involving the provisions of this chapter or chapter 116B of NRS or the governing documents of an association and assist in resolving such disputes; and

(e) Compile and maintain a registration of each association organized within the State which includes, without limitation, the following information:

(1) The name, address and telephone number of the association;

(2) The name of each community manager for the common-interest community or the association of a condominium hotel and the name of any other person who is authorized to manage the property at the site of the common-interest community or condominium hotel;

(3) The names, mailing addresses and telephone numbers of the members of the executive board of the association;

(4) The name of the declarant;

(5) The number of units in the common-interest community or condominium hotel;

(6) The total annual assessment made by the association;

(7) The number of foreclosures which were completed on units within the common-interest community or condominium hotel and which were based on liens for the failure of the unit's owner to pay any assessments levied against the unit or any fines imposed against the unit's owner; and

(8) Whether the study of the reserves of the association has been conducted pursuant to NRS 116.31152 or 116B.605 and, if so, the date on which it was completed.

(Added to NRS by 1997, 3112; A 1999, 2997; 2003, 1302, 2222; 2007, 2273; 2013, 2300)

NRS 116.630 Account for Common-Interest Communities and Condominium Hotels: Creation; administration; sources; uses.

1. There is hereby created the Account for Common-Interest Communities and Condominium Hotels in the State General Fund. The Account must be administered by the Administrator.

2. Except as otherwise provided in subsection 3, all money received by the Commission, a hearing panel or the Division pursuant to this chapter or chapter 116B of NRS, including, without limitation, the fees collected pursuant to NRS 116.31155 and 116B.620, must be deposited into the Account.

3. If the Commission imposes a fine or penalty, the Commission shall deposit the money collected from the imposition of the fine or penalty with the State Treasurer for credit to the State General Fund. If the money is so deposited, the Commission may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is required to pay attorney's fees or the costs of an investigation, or both.

4. The interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account.

5. The money in the Account must be used solely to defray:

(a) The costs and expenses of the Commission and the Office of the Ombudsman;

(b) If authorized by the Commission or any regulations adopted by the Commission, the costs and expenses of subsidizing proceedings for mediation, arbitration and a program conducted pursuant to NRS 38.300 to 38.360, inclusive; and

(c) If authorized by the Legislature or by the Interim Finance Committee if the Legislature is not in session, the costs and expenses of administering the Division.

(Added to NRS by 1997, 3113; A 1999, 8, 2998; 2003, 2223; 2007, 2274; 2010, 26th Special Session, 79; 2013, 2301)

NRS 116.635 Immunity. The Commission and its members, each hearing panel and its members, the Administrator, the Ombudsman, the Division, and the experts, attorneys, investigators, consultants and other personnel of the Commission and the Division are immune from any civil liability for any decision or action taken in good faith and without malicious intent in carrying out the provisions of this chapter.

(Added to NRS by 2003, 2211)

NRS 116.640 Service of notice and other information upon Commission. Any notice or other information that is required to be served upon the Commission pursuant to the provisions of this chapter may be delivered to the principal office of the Division.

(Added to NRS by 2003, 2210)

NRS 116.643 Authority for Commission or Real Estate Administrator to adopt regulations requiring additional disclosures for sale of unit. The Commission, or the Administrator with the approval of the Commission, may adopt regulations to require any additional disclosures in the case of a sale of a unit as it deems necessary.

(Added to NRS by 2009, 2908)

NRS 116.645 Authority for Real Estate Division to conduct business electronically; regulations; fees; use of unsworn declaration; exclusions.

1. The Administrator may adopt regulations which establish procedures for the Division to conduct business electronically pursuant to title 59 of NRS with persons who are regulated pursuant to this chapter and with any other persons with whom the Division conducts business. The regulations may include, without limitation, the establishment of fees to pay the costs of conducting business electronically with the Division.

2. In addition to the process authorized by NRS 719.280, if the Division is conducting business electronically with a person and a law requires a signature or record to be notarized, acknowledged, verified or made under oath, the Division may allow the person to substitute a declaration that complies with the provisions of NRS 53.045 or NRS 53.250 to 53.390, inclusive, to satisfy the legal requirement.

3. The Division may refuse to conduct business electronically with a person who has failed to pay money which the person owes to the Division or the Commission.

(Added to NRS by 2003, 1301; A 2011, 15)

General Powers and Duties of Commission

NRS 116.660 Issuance and enforcement of subpoenas.

1. To carry out the purposes of this chapter, the Commission, or any member thereof acting on behalf of the Commission or acting on behalf of a hearing panel, may issue subpoenas to compel the attendance of witnesses and the production of books, records and other papers.

2. If any person fails to comply with a subpoena issued by the Commission or any member thereof pursuant to this section within 20 days after the date of service of the subpoena, the Commission may petition the district court for an order of the court compelling compliance with the subpoena.

3. Upon such a petition, the court shall enter an order directing the person subpoenaed to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 20 days after the date of service of the order, and show cause why the person has not complied with the subpoena. A certified copy must be served upon the person subpoenaed.

4. If it appears to the court that the subpoena was regularly issued by the Commission or any member thereof pursuant to this section, the court shall enter an order compelling compliance with the subpoena, and upon failure to obey the order the person shall be dealt with as for contempt of court.

(Added to NRS by 1999, 2996; A 2003, 2222)—(Substituted in revision for NRS 116.11145)

NRS 116.662 Witnesses: Payment of fees and mileage.

1. Each witness who is subpoenaed and appears at a hearing is entitled to receive for his or her attendance the same fees and mileage allowed by law to a witness in a civil case.

2. The fees and mileage for the witness:

(a) Must be paid by the party at whose request the witness is subpoenaed; or

(b) If the appearance of the witness is not requested by any party but the witness is subpoenaed at the request of the Commission or a hearing panel, must be paid by the Division.

(Added to NRS by 2005, 2586)

NRS 116.665 Conducting hearings and other proceedings; collection of information; development and promotion of educational guidelines; accreditation of programs of education and research.

1. The Commission shall conduct such hearings and other proceedings as are required by the provisions of this chapter.

2. The Commission shall collect and maintain or cause to be collected and maintained accurate information relating to:

(a) The number and kind of common-interest communities in this State;

(b) The effect of the provisions of this chapter and any regulations adopted pursuant thereto on the development and construction of common-interest communities, the residential lending market for units within common-interest communities and the operation and management of common-interest communities;

(c) Violations of the provisions of this chapter and any regulations adopted pursuant thereto;

(d) The accessibility and use of, and the costs related to, the arbitration, mediation and program procedures set forth in NRS 38.300 to 38.360, inclusive, and the decisions rendered and awards made pursuant to those procedures;

(e) The number of foreclosures which were completed on units within common-interest communities and which were based on liens for the failure of the unit's owner to pay any assessments levied against the unit or any fines imposed against the unit's owner;

(f) The study of the reserves required by NRS 116.31152; and

(g) Other issues that the Commission determines are of concern to units' owners, associations, community managers, developers and other persons affected by common-interest communities.

3. The Commission shall develop and promote:

(a) Educational guidelines for conducting the elections of the members of an executive board, the meetings of an executive board and the meetings of the units' owners of an association; and

(b) Educational guidelines for the enforcement of the governing documents of an association through liens, penalties and fines.

4. The Commission shall recommend and approve for accreditation programs of education and research relating to common-interest communities, including, without limitation:

(a) The management of common-interest communities;

(b) The sale and resale of units within common-interest communities;

(c) Alternative methods that may be used to resolve disputes - 85 - g to common-interest communities; and

(d) The enforcement, including by foreclosure, of liens on units within common-interest communities for the failure of the unit's owner to pay any assessments levied against the unit or any fines imposed against the unit's owner.

(Added to NRS by 2003, 2211; A 2013, 2301)

NRS 116.670 Establishment of standards for subsidizing arbitration, mediation and educational programs; acceptance of gifts, grants and donations; agreements and cooperation with other entities. The Commission may:

1. By regulation, establish standards for subsidizing proceedings for mediation, arbitration and a program conducted pursuant to NRS 38.300 to 38.360, inclusive, to ensure that such proceedings are not lengthy and are affordable and readily accessible to all parties;

2. By regulation, establish standards for subsidizing educational programs for the benefit of units' owners, members of executive boards and officers of associations;

3. Accept any gifts, grants or donations; and

4. Enter into agreements with other entities that are required or authorized to carry out similar duties in this State or in other jurisdictions and cooperate with such entities to develop uniform procedures for carrying out the provisions of this chapter and for accumulating information needed to carry out those provisions.

(Added to NRS by 2003, 2212; A 2013, 2302)

NRS 116.675 Appointment of hearing panels; delegation of powers and duties; appeals to Commission.

1. The Commission may appoint one or more hearing panels. Each hearing panel must consist of one or more independent hearing officers. An independent hearing officer may be, without limitation, a member of the Commission or an employee of the Commission.

2. The Commission may by regulation delegate to one or more hearing panels the power of the Commission to conduct hearings and other proceedings, determine violations, impose fines and penalties and take other disciplinary action authorized by the provisions of this chapter.

3. While acting under the authority of the Commission, a hearing panel and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the Commission and its members.

4. A final order of a hearing panel:

(a) May be appealed to the Commission if, not later than 20 days after the date that the final order is issued by the hearing panel, any party aggrieved by the final order files a written notice of appeal with the Commission.

(b) Must be reviewed and approved by the Commission if, not later than 40 days after the date that the final order is issued by the hearing panel, the Division, upon the direction of the Chair of the Commission, provides written notice to all parties of the intention of the Commission to review the final order.

(Added to NRS by 2003, 2210; A 2009, 2899)

NRS 116.680 Use of audio or video teleconference for hearings. The Commission or a hearing panel may conduct a hearing by means of an audio or video teleconference to one or more locations if the audio or video technology used at the hearing provides the persons present at each location with the ability to hear and communicate with the persons present at each other location.

(Added to NRS by 2003, 2211)

Investigation of Violations; Remedial and Disciplinary Action

NRS 116.745 "Violation" defined. As used in NRS 116.745 to 116.795, inclusive, unless the context otherwise requires, "violation" means a violation of:

1. Any provision of this chapter except NRS 116.31184;

2. Any regulation adopted pursuant to this chapter; or

3. Any order of the Commission or a hearing panel.

(Added to NRS by 2003, 2213; A 2005, 2620; 2013, 2530; 2021, 1409)

NRS 116.750 Jurisdiction of Real Estate Division, Ombudsman, Commission and hearing panels.

1. In carrying out the provisions of NRS 116.745 to 116.795, inclusive, the Division and the Ombudsman have jurisdiction to investigate and the Commission and each hearing panel has jurisdiction to take appropriate action against any person who commits a violation, including, without limitation:

(a) Any association and any officer, employee or agent of an association.

(b) Any member of an executive board.

(c) Any community manager who holds a certificate and any other community manager.

(d) Any person who is registered as a reserve study specialist, or who conducts a study of reserves, pursuant to chapter 116A of NRS.

(e) Any declarant or affiliate of a declarant.

(f) Any unit's owner.

(g) Any tenant of a unit's owner if the tenant has entered into an agreement with the unit's owner to abide by the governing documents of the association and the provisions of this chapter and any regulations adopted pursuant thereto.

2. The jurisdiction set forth in subsection 1 applies to any officer, employee or agent of an association or any member of an executive board who commits a violation and who:

(a) Currently holds his or her office, employment, agency or position or who held the office, employment, agency or position at the commencement of proceedings against him or her.

(b) Resigns his or her office, employment, agency or position:

(1) After the commencement of proceedings against him or her; or

(2) Within 1 year after the violation is discovered or reasonably should have been discovered.

(Added to NRS by 2003, 2213; A 2005, 2620; 2009, 2932; 2021, 1409)

NRS 116.755 Rights, remedies and penalties are cumulative and not exclusive; limitations on power of Commission and hearing panels regarding internal activities of association.

1. The rights, remedies and penalties provided by NRS 116.745 to 116.795, inclusive, are cumulative and do not abrogate and are in addition to any other rights, remedies and penalties that may exist at law or in equity.

2. If the Commission, a hearing panel or another agency or officer elects to take a particular action or pursue a particular remedy or penalty authorized by NRS 116.745 to 116.795, inclusive, or another specific statute, that election is not exclusive and does not preclude the Commission, the hearing panel or another agency or officer from taking any other actions or pursuing any other remedies or penalties authorized by NRS 116.745 to 116.795, inclusive, or another specific statute.

3. In carrying out the provisions of NRS 116.745 to 116.795, inclusive, the Commission or a hearing panel shall not intervene in any internal activities of an association except to the extent necessary to prevent or remedy a violation.

(Added to NRS by 2003, 2214; A 2021, 1410)

NRS 116.757 Confidentiality of records: Certain records relating to complaint or investigation deemed confidential; certain records relating to disciplinary action deemed public records.

1. Except as otherwise provided in this section and NRS 239.0115, a written affidavit filed with the Division pursuant to NRS 116.760, all documents and other information filed with the written affidavit and all documents and other information compiled as a result of an investigation conducted to determine whether to file a formal complaint with the Commission are confidential. The Division shall not disclose any information that is confidential pursuant to this subsection, in whole or in part, to any person, including, without limitation, a person who is the subject of an investigation or complaint, unless and until a formal complaint is filed pursuant to subsection 2 and the disclosure is required pursuant to subsection 2.

2. A formal complaint filed by the Administrator with the Commission and all documents and other information considered by the Commission or a hearing panel when determining whether to impose discipline or take other administrative action pursuant to NRS 116.745 to 116.795, inclusive, are public records.

(Added to NRS by 2005, 2586; A 2007, 2070; 2009, 2900)

NRS 116.760 Right of person aggrieved by alleged violation to file affidavit with Real Estate Division; procedure for filing affidavit; administrative fine for filing false or fraudulent affidavit.

1. Except as otherwise provided in this section, a person who is aggrieved by an alleged violation may, not later than 1 year after the person discovers or reasonably should have discovered the alleged violation, file with the Division a written affidavit that sets forth the facts constituting the alleged violation. The affidavit may allege any actual damages suffered by the aggrieved person as a result of the alleged violation.

2. An aggrieved person may not file such an affidavit unless the aggrieved person has provided the respondent by certified mail, return receipt requested, with written notice of the alleged violation set forth in the affidavit. The notice must:

(a) Be mailed to the respondent's last known address.

(b) Specify, in reasonable detail, the alleged violation, any actual damages suffered by the aggrieved person as a result of the alleged violation, and any corrective action proposed by the aggrieved person.

3. A written affidavit filed with the Division pursuant to this section must be:

(a) On a form prescribed by the Division.

(b) Accompanied by evidence that:

(1) The respondent has been given a reasonable opportunity after receiving the written notice to correct the alleged violation; and

(2) Reasonable efforts to resolve the alleged violation have failed.

4. The Commission or a hearing panel may impose an administrative fine of not more than \$1,000 against any person who knowingly files a false or fraudulent affidavit with the Division.

(Added to NRS by 2003, 2214; A 2005, 2620)

NRS 116.765 Referral of affidavit to Ombudsman for assistance in resolving alleged violation; report by Ombudsman; investigation by Real Estate Division; determination of whether to file complaint with Commission.

1. Upon receipt of an affidavit that complies with the provisions of NRS 116.760, the Division shall refer the affidavit to the Ombudsman.

2. The Ombudsman shall give such guidance to the parties as the Ombudsman deems necessary to assist the parties to resolve the alleged violation.

3. If the parties are unable to resolve the alleged violation with the assistance of the Ombudsman, the Ombudsman shall provide to the Division a report concerning the alleged violation and any information collected by the Ombudsman during his or her efforts to assist the parties to resolve the alleged violation.

4. Upon receipt of the report from the Ombudsman, the Division shall conduct an investigation to determine whether good cause exists to proceed with a hearing on the alleged violation.

5. If, after investigating the alleged violation, the Division determines that the allegations in the affidavit are not frivolous, false or fraudulent and that good cause exists to proceed with a hearing on the alleged violation, the Administrator shall file a formal complaint with the Commission and schedule a hearing on the complaint before the Commission or a hearing panel.

(Added to NRS by 2003, 2215)

NRS 116.770 Procedure for hearing complaints: Time for holding hearing; continuances; notices; evidence; answers; defaults.

1. Except as otherwise provided in subsection 2, if the Administrator files a formal complaint with the Commission, the Commission or a hearing panel shall hold a hearing on the complaint not later than 90 days after the date that the complaint is filed.

2. The Commission or the hearing panel may continue the hearing upon its own motion or upon the written request of a party to the complaint, for good cause shown, including, without limitation, the existence of proceedings for mediation or arbitration or a civil action involving the facts that constitute the basis of the complaint.

3. The Division shall give the respondent written notice of the date, time and place of the hearing on the complaint at least 30 days before the date of the hearing. The notice must be:

(a) Delivered personally to the respondent or mailed to the respondent by certified mail, return receipt requested, to his or her last known address.

(b) Accompanied by:

(1) A copy of the complaint; and

(2) Copies of all communications, reports, affidavits and depositions in the possession of the Division that are relevant to the complaint.

4. At any hearing on the complaint, the Division may not present evidence that was obtained after the notice was given to the respondent pursuant to this section, unless the Division proves to the satisfaction of the Commission or the hearing panel that:

(a) The evidence was not available, after diligent investigation by the Division, before such notice was given to the respondent; and

(b) The evidence was given or communicated to the respondent immediately after it was obtained by the Division.

5. The respondent must file an answer not later than 30 days after the date that notice of the complaint is delivered or mailed by the Division. The answer must:

(a) Contain an admission or a denial of the allegations contained in the complaint and any defenses upon which the respondent will rely; and

(b) Be delivered personally to the Division or mailed to the Division by certified mail, return receipt requested.

6. If the respondent does not file an answer within the time required by subsection 5, the Division may, after giving the respondent written notice of the default, request the Commission or the hearing panel to enter a finding of default against the respondent. The notice of the default must be delivered personally to the respondent or mailed to the respondent by certified mail, return receipt requested, to his or her last known address.

(Added to NRS by 2003, 2215)

NRS 116.775 Representation by attorney. Any party to the complaint may be represented by an attorney at any hearing on the complaint.

(Added to NRS by 2003, 2216)

NRS 116.780 Decisions on complaints.

1. After conducting its hearings on the complaint, the Commission or the hearing panel shall render a final decision on the merits of the complaint not later than 20 days after the date of the final hearing.

2. The Commission or the hearing panel shall notify all parties to the complaint of its decision in writing by certified mail, return receipt requested, not later than 60 days after the date of the final hearing. The written decision must include findings of fact and conclusions of law.

(Added to NRS by 2003, 2216)

NRS 116.785 Remedial and disciplinary action: Orders to cease and desist and to correct violations; administrative fines; removal from office or position; payment of costs; exemptions from liability.

1. If the Commission or the hearing panel, after notice and hearing, finds that the respondent has committed a violation, the Commission or the hearing panel may take any or all of the following actions:

(a) Issue an order directing the respondent to cease and desist from continuing to engage in the unlawful conduct that resulted in the violation.

(b) Issue an order directing the respondent to take affirmative action to correct any conditions resulting from the violation.

(c) Impose an administrative fine of not more than \$1,000 for each violation.

2. If the respondent is a member of an executive board or an officer of an association, the Commission or the hearing panel may order the respondent removed from his or her office or position if the Commission or the hearing panel, after notice and hearing, finds that:

(a) The respondent has knowingly and willfully committed a violation; and

(b) The removal is in the best interest of the association.

3. If the respondent violates any order issued by the Commission or the hearing panel pursuant to this section, the Commission or the hearing panel, after notice and hearing, may impose an administrative fine of not more than \$1,000 for each violation.

4. If the Commission or the hearing panel takes any disciplinary action pursuant to this section, the Commission or the hearing panel may order the respondent to pay the costs of the proceedings incurred by the Division, including, without limitation, the cost of the investigation and reasonable attorney's fees.

5. Notwithstanding any other provision of this section, unless the respondent has knowingly and willfully committed a violation, if the respondent is a member of an executive board or an officer of an association:

(a) The association is liable for all fines and costs imposed against the respondent pursuant to this section; and

(b) The respondent may not be held personally liable for those fines and costs.

(Added to NRS by 2003, 2216)

NRS 116.790 Remedial and disciplinary action: Audit of association; requiring association to hire community manager who holds certificate; appointment of receiver.

1. If the Commission or a hearing panel, after notice and hearing, finds that the executive board or any person acting on behalf of the association has committed a violation, the Commission or the hearing panel may take any or all of the following actions:

(a) Order an audit of the association, at the expense of the association.

(b) Require the executive board to hire a community manager who holds a certificate.

2. The Commission, or the Division with the approval of the Commission, may apply to a court of competent jurisdiction for the appointment of a receiver for an association if, after notice and a hearing, the Commission or a hearing officer finds that any of the following violations occurred:

(a) The executive board, or any member thereof, has been guilty of fraud or collusion or gross mismanagement in the conduct or control of its affairs;

(b) The executive board, or any member thereof, has been guilty of misfeasance, malfeasance or nonfeasance; or

(c) The assets of the association are in danger of waste or loss through attachment, foreclosure, litigation or otherwise.

3. In any application for the appointment of a receiver pursuant to this section, notice of a temporary appointment of a receiver may be given to the association alone, by process as in the case of an application for a temporary restraining order or injunction. 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, appoint one or more receivers pursuant to this section to carry out the business of the association. The members of the executive board who have not been guilty of negligence or active breach of duty must be preferred in making the appointment.

5. The powers of any receiver appointed pursuant to this section may be continued as long as the court deems necessary and proper. At any time, for sufficient cause, the court may order the receivership terminated.

6. Any receiver appointed pursuant to this section has, 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 or not the association is insolvent. Such powers include, without limitation, the powers to:

(a) Take charge of the estate and effects of the association;

(b) Appoint an agent or agents;

(c) Collect any debts and property due and belonging to the association and prosecute and defend, in the name of the association, or otherwise, any civil action as may be necessary or proper for the purposes of collecting debts and property;

(d) Perform any other act in accordance with the governing documents of the association and this chapter that may be necessary for the association to carry out its obligations; and

(e) By injunction, restrain the association from exercising any of its powers or doing business in any way except by and through a receiver appointed by the court.

(Added to NRS by 2003, 2217; A 2005, 2621; 2009, 2900)

NRS 116.793 Complaint for violation of fee provisions; procedure; fine for violation.

1. Notwithstanding the provisions of NRS 116.745 to 116.795, inclusive, a person who is aggrieved by an alleged violation of subsection 6 of NRS 116.3102 or subsection 8 of NRS 116.4109 may file with the Division a written complaint that sets forth the facts constituting the alleged violation. The complaint may allege any actual damages suffered by the aggrieved person as a result of the alleged violation.

2. The Division shall:

(a) Review a complaint filed pursuant to subsection 1 in a timely manner.

(b) If circumstances warrant, issue to the person who is alleged to have committed the violation a notice requesting a written response and proof of corrective action, including, without limitation, the reimbursement of any excessive fees to the aggrieved person.

3. Failure to respond to a notice issued pursuant to paragraph (b) of subsection 2 within 30 days after receipt of the notice:

(a) Shall be deemed to be an admission of the violation; and

(b) Is punishable by an administrative fine in the amount of \$250.

(Added to NRS by 2021, 1397)

NRS 116.795 Injunctions.

1. If the Commission or the Division has reasonable cause to believe, based on evidence satisfactory to it, that any person violated or is about to violate any provision of this chapter, any r-89- ion adopted pursuant thereto or any order, decision, demand or

requirement of the Commission or Division or a hearing panel, the Commission or the Division may bring an action in the district court for the county in which the person resides or, if the person does not reside in this State, in any court of competent jurisdiction within or outside this State, to restrain or enjoin that person from engaging in or continuing to commit the violations or from doing any act in furtherance of the violations.

2. The action must be brought in the name of the State of Nevada. If the action is brought in a court of this State, an order or judgment may be entered, when proper, issuing a temporary restraining order, preliminary injunction or final injunction. A temporary restraining order or preliminary injunction must not be issued without at least 5 days' notice to the opposite party.

3. The court may issue the temporary restraining order, preliminary injunction or final injunction without:

(a) Proof of actual damages sustained by any person.

(b) The filing of any bond.

(Added to NRS by 2003, 2217; A 2005, 2622)

CHAPTER 116 - COMMON-INTEREST OWNERSHIP
GENERAL PROVISIONS

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GENERAL PROVISIONS

NAC 116.010 **Definitions.** (NRS 116.615) As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 116.013 to 116.080, inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Real Estate Comm'n by R058-98, 6-26-98, eff. 7-1-98; A by R136-99, 4-3-2000; A by Comm'n for Common-Interest Communities by R129-04, 4-14-2005; R205-05, 9-18-2006; A by Comm'n for Common-Interest Communities & Condo. Hotels by R165-09, 12-16-2010)

NAC 116.013 **"Administrator" defined.** (NRS 116.615) "Administrator" means the Real Estate Administrator.

(Added to NAC by Real Estate Comm'n by R136-99, eff. 4-3-2000; A by Comm'n for Common-Interest Communities by R129-04, 4-14-2005)

NAC 116.020 **"Certificate" defined.** (NRS 116.615) "Certificate" means a certificate, other than a temporary certificate, for the management of a common-interest community issued by the Division.

(Added to NAC by Real Estate Comm'n by R058-98, 6-26-98, eff. 7-1-98; A by Comm'n for Common-Interest Communities by R129-04, 4-14-2005; A by Comm'n for Common-Interest Communities & Condo. Hotels by R165-09, 12-16-2010)

NAC 116.025 **"Client" defined.** (NRS 116.615) "Client" means an executive board that has entered into a management agreement with a community manager.

(Added to NAC by Real Estate Comm'n by R136-99, eff. 4-3-2000; A by Comm'n for Common-Interest Communities by R129-04, 4-14-2005)

NAC 116.030 **"Commission" defined.** (NRS 116.615) "Commission" means the Commission for Common-Interest Communities and Condominium Hotels created by NRS 116.600.

(Added to NAC by Real Estate Comm'n by R058-98, 6-26-98, eff. 7-1-98; A by Comm'n for Common-Interest Communities by R129-04, 4-14-2005)

NAC 116.033 **"Common elements" defined.** (NRS 116.615) "Common elements" means the common elements of a common-interest community.

(Added to NAC by Comm'n for Common-Interest Communities by R129-04, eff. 4-14-2005)

NAC 116.035 “Community manager” defined. (NRS 116.615) “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.

(Added to NAC by Real Estate Comm’n by R136-99, eff. 4-3-2000; A by Comm’n for Common-Interest Communities by R129-04, 4-14-2005; R205-05, 9-18-2006; A by Comm’n for Common-Interest Communities & Condo. Hotels by R165-09, 12-16-2010)

NAC 116.037 “Component inventory” defined. (NRS 116.615) “Component inventory” means a list of major components of the common elements identified in a reserve study that may require repair, replacement or restoration.

(Added to NAC by Comm’n for Common-Interest Communities by R129-04, eff. 4-14-2005)

NAC 116.040 “Division” defined. (NRS 116.615) “Division” means the Real Estate Division of the Department of Business and Industry.

(Added to NAC by Real Estate Comm’n by R058-98, 6-26-98, eff. 7-1-98)

NAC 116.043 “Executive board” defined. (NRS 116.615) “Executive board” has the meaning ascribed to it in NRS 116.045.

(Added to NAC by Real Estate Comm’n by R136-99, eff. 4-3-2000; A by Comm’n for Common-Interest Communities by R129-04, 4-14-2005)

NAC 116.0433 “Financial records” defined. (NRS 116.615) “Financial records” means the financial or transaction records necessary to support the financial statements of an association which include, without limitation, receipts, bank statements, income tax reports, reserve studies, budgets, contracts, minutes of executive board meetings, inventories, investments, expenses, disbursements, obligations, depreciation in property or equipment, contingent liabilities and any other records deemed necessary by the Division or by the accountants or auditors of an association.

(Added to NAC by Comm’n for Common-Interest Communities by R205-05, eff. 9-18-2006)

NAC 116.0437 “Guide” defined. (NRS 116.615) “Guide” means the *Guide to Homeowners’ Associations and Other Common Interest Realty Associations*, as adopted by reference in NAC 116.410.

(Added to NAC by Comm’n for Common-Interest Communities by R205-05, eff. 9-18-2006; A by Comm’n for Common-Interest Communities & Condo. Hotels by R186-07, 5-5-2011)

NAC 116.046 “Major components” defined. (NRS 116.615) “Major components” means the major components of the common elements, whether real or personal property, which the association is responsible for maintaining, repairing, replacing or restoring, including, without limitation, amenities, improvements, furnishings, fixtures, finishes, systems and equipment.

(Added to NAC by Comm’n for Common-Interest Communities by R129-04, eff. 4-14-2005; A by Comm’n for Common-Interest Communities & Condo. Hotels by R050-13, 8-10-2015)

NAC 116.047 “Management agreement” defined. (NRS 116.615) “Management agreement” means an agreement for the management of a common-interest community.

(Added to NAC by Real Estate Comm’n by R136-99, eff. 4-3-2000; A by Comm’n for Common-Interest Communities by R129-04, 4-14-2005)

NAC 116.050 “Management of a common-interest community” defined. (NRS 116.615) “Management of a common-interest community” means the physical, administrative or financial maintenance and management of a common-interest community, or the supervision of those activities, for a fee, commission or other valuable consideration.

(Added to NAC by Real Estate Comm’n by R058-98, 6-26-98, eff. 7-1-98; A by Comm’n for Common-Interest Communities by R129-04, 4-14-2005)

NAC 116.065 “Provisional community manager” defined. (NRS 116.615) “Provisional community manager” means a person who has fulfilled the educational requirements for certification as set forth in NAC 116A.120 but has not yet fulfilled the experience requirements for certification as set forth in NAC 116A.155. A provisional community manager may perform the tasks of a community manager under the supervision of a supervising community manager.

(Added to NAC by Comm’n for Common-Interest Communities by R129-04, eff. 4-14-2005; A by R205-05, 9-18-2006)

NAC 116.070 “Reserve study” defined. (NRS 116.615) “Reserve study” means the study required pursuant to NRS 116.31152.

(Added to NAC by Comm’n for Common-Interest Communities by R129-04, eff. 4-14-2005)

NAC 116.075 “Supervising community manager” defined. (NRS 116.615) “Supervising community manager” means a community manager who:

1. Meets the qualifications set forth in NAC 116A.165; and
2. Is responsible for the supervision of one or more provisional community managers or community managers.

(Added to NAC by Comm’n for Common-Interest Communities by R129-04, eff. 4-14-2005; A by R205-05, 9-18-2006)

NAC 116.078 “Temporary certificate” defined. (NRS 116.615) “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.

(Added to NAC by Comm’n for Common-Interest Communities & Condo. Hotels by R165-09, eff. 12-16-2010)

NAC 116.080 “Unit’s owner” defined. (NRS 116.615) “Unit’s owner” has the meaning ascribed to it in NRS 116.095.

(Added to NAC by Comm’n for Common-Interest Communities by R205-05, eff. 9-18-2006)

NAC 116.090 “Limited-purpose association” interpreted. (NRS 116.1201, 116.615)

1. An association is a limited-purpose association pursuant to subparagraph (1) of paragraph (a) of subsection 6 of NRS 116.1201 if:

- (a) The association has been created for the sole purpose of maintaining the common elements consisting of landscaping, public lighting or security walls, or trails, parks and open space;
- (b) The declaration states that the association has been created as a landscape maintenance association; and
- (c) The declaration expressly prohibits:
 - (1) The association, and not a unit's owner, from enforcing a use restriction against a unit's owner;
 - (2) The association from adopting any rules or regulations concerning the enforcement of a use restriction against a unit's owner; and
 - (3) The imposition of a fine or any other penalty against a unit's owner for a violation of a use restriction.

2. An association is a limited-purpose association pursuant to subparagraph (2) of paragraph (a) of subsection 6 of NRS 116.1201 if the association is created for the sole purpose of maintaining:

- (a) Areas on an official plat that are designated as unsuitable for building;
- (b) Areas required by the governing body to be designated as floodways, natural drainage or spillways; or
- (c) Other areas that the governing body requires to be used for the purpose of collecting, facilitating, retaining or channeling storm water drainage of the residential property of the common-interest community.

3. An association is a limited-purpose association pursuant to subparagraph (3) of paragraph (a) of subsection 6 of NRS 116.1201 if:

- (a) The association has been created as a rural agricultural residential common-interest community;
- (b) The residential lots in the common-interest community are a minimum of 1 acre and are zoned for agricultural purposes by the county in which the community is located; and
- (c) The governing documents of the association authorize the residents to farm or raise livestock on the residential lots.

4. As used in this section:

- (a) "Governing body" has the meaning ascribed to it in NRS 278.015.
- (b) "Landscaping" has the meaning ascribed to it in NRS 278.4781.
- (c) "Public lighting" has the meaning ascribed to it in NRS 278.4783.
- (d) "Security wall" has the meaning ascribed to it in NRS 271.203.
- (e) "Trails, parks and open space" means trails, parks and open space that provide a substantial public benefit or are required by the governing body for the primary use of the public. The term does not include a private street or roadway, gated entry, swimming pool, gazebo, clubhouse, pond, tennis court, miniature golf course or frisbee golf course.

(f) "Use restriction" means any provision of the governing documents of an association that restricts a unit's owner in the use of his or her unit.

(Added to NAC by Real Estate Div. by R114-99, eff. 5-5-2000; A by Comm'n for Common-Interest Communities by R129-04, 4-14-2005; R205-05, 9-18-2006)

NAC 116.095 Limited-purpose associations: Compliance with certain statutory provisions. (NRS 116.1201, 116.615) A limited-purpose association must comply with all the provisions of NRS 116.4101 to 116.412, inclusive.

(Added to NAC by Comm'n for Common-Interest Communities by R205-05, eff. 9-18-2006)

PROTECTION OF PURCHASERS

NAC 116.151 Escrow of deposits: Money deemed to be held in this State. (NRS 116.411, 116.615) For purposes of NRS 116.411, money deposited in an escrow account in connection with the purchase or reservation of a unit from a person required to deliver a public offering statement pursuant to subsection 3 of NRS 116.4102 is deemed to be held in this State if the escrow holder:

- 1. Is authorized to do business in this State;
- 2. Has appointed a resident agent pursuant to subsection 1 of NRS 14.020; and
- 3. Has consented to the jurisdiction of the courts of this State by:
 - (a) Maintaining a physical address in this State; or
 - (b) Executing written consent to such jurisdiction over any lawsuit or claim, whether brought by or against the declarant or purchaser, relating to or arising from the sale of a unit or the related escrow agreement.

(Added to NAC by Comm'n for Common-Interest Communities & Condo. Hotels by R145-06, eff. 4-17-2008)

MANAGEMENT OF COMMON-INTEREST COMMUNITIES

Unit-Owners' Associations

NAC 116.385 Executive board: Submission to Division of contact information for members. (NRS 116.615, 116.625)

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

2. The executive board shall:

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

(Added to NAC by Comm'n for Common-Interest Communities & Condo. Hotels by R108-08, eff. 4-20-2010)

NAC 116.395 Executive board: Fiduciary duty with respect to institutions holding money of association. (NRS 116.3103, 116.615) The executive board has a fiduciary duty to ensure that any institution which holds money of the association:

1. Is authorized to do business in the State of Nevada; or
2. Has consented to the jurisdiction of the courts of this State.

(Added by Comm'n for Common-Interest Communities & Condo. Hotels by R145-06, eff. 4-17-2008)

NAC 116.405 Executive board: Determination by Commission of whether members have performed their duties. (NRS 116.3103, 116.615) In determining whether a member of the executive board has performed his or her duties pursuant to NRS 116.3103, the Commission may consider whether the member of the executive board has:

1. Acted outside the scope of the authority granted in the governing documents;
2. Acted for reasons of self-interest, gain, prejudice or revenge;
3. Committed an act or omission which amounts to incompetence, negligence or gross negligence;
4. Except as otherwise required by law or court order, disclosed confidential information relating to a unit's owner, a member of the executive board or an officer, employee or authorized agent of the association unless the disclosure is consented to by the person to whom the information relates;
5. Impeded or otherwise interfered with an investigation of the Division by:
 - (a) Failing to comply with a request by the Division to provide information or documents;
 - (b) Supplying false or misleading information to an investigator, auditor or any other officer or agent of the Division; or
 - (c) Concealing any facts or documents relating to the business of the association;
6. Kept informed of laws, regulations and developments relating to common-interest communities;
7. Cooperated with the Division in resolving complaints filed with the Division; and
8. Caused the association to:
 - (a) Comply with all applicable federal, state and local laws and regulations and the governing documents of the association;
 - (b) Uniformly enforce the governing documents of the association;
 - (c) Hold meetings of the executive board with such frequency as to properly and efficiently address the affairs of the association;
 - (d) Obtain, when practicable, at least three bids from reputable service providers who possess the proper licensing before purchasing any such service for use by the association;
 - (e) Consult with appropriate professionals as necessary before making any major decision affecting the association or the common elements, including, without limitation, consulting with a reserve study specialist who is registered pursuant to chapter 116A of NRS and chapter 116A of NAC when conducting the reserve study, as required by subsection 2 of NRS 116.31152 and NRS 116A.420;
 - (f) Deposit all funds of the association for investment in government securities that are backed by the full faith and credit of the United States or in a financial institution whose accounts are insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund, the Securities Investor Protection Corporation or a private insurer approved pursuant to NRS 678.755;
 - (g) Maintain current, accurate and properly documented financial records;
 - (h) Establish policies and procedures for the disclosure of potential conflicts of interest and the appropriate manner by which to resolve such conflicts;
 - (i) Establish policies and procedures that are designed to provide reasonable assurances in the reliability of financial reporting, including, without limitation, proper maintenance of accounting records, documentation of the authorization for receipts and disbursements, verification of the integrity of the data used in making business decisions, facilitation of fraud detection and prevention, and compliance with the applicable laws and regulations governing financial records;
 - (j) Prepare interim and annual financial statements that will allow the Division, the executive board, the units' owners and the accountant or auditor to determine whether the financial position of the association is fairly presented in accordance with the provisions of NAC 116.451 to 116.461, inclusive;
 - (k) Make the financial records of the association available for inspection by the Division in accordance with the applicable laws and regulations of this State;
 - (l) Cooperate with the Division in resolving complaints filed with the Division; and
 - (m) Adopt and fairly enforce the collection policies of the association.

(Added to NAC by Comm'n for Common-Interest Communities by R129-04, eff. 4-14-2005; A by Comm'n for Common-Interest Communities & Condo. Hotels by R108-08, 4-20-2010; R050-13, 8-10-2015)

NAC 116.410 Adoption by reference of reporting principles and practices of financial accounting. (NRS 116.615)

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

2. If the publication adopted by reference in subsection 1 is revised, the Commission will review the revision to determine its suitability for this State. If the Commission determines that the revision is not suitable for this State, the Commission will hold a public hearing to review its determination and give notice of that hearing within 90 days after the date of the publication of the revision. If, after the hearing, the Commission does not revise its -95- ination, the Commission will give notice that the revision is

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

(Added to NAC by Comm'n for Common-Interest Communities by R129-04, eff. 4-14-2005; A by Comm'n for Common-Interest Communities & Condo. Hotels by R186-07, 5-5-2011)

NAC 116.415 Contents of budget to maintain reserve. (NRS 116.31151, 116.615) An executive board shall, in addition to the requirements set forth in paragraph (b) of subsection 1 of NRS 116.31151, include in the budget to maintain the reserve:

1. An estimate of the amount of reserve funds necessary in the projected fiscal year, based on industry standards, to complete the maintenance, repairs, replacement or restoration of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore as recommended in the study of reserves conducted pursuant to NRS 116.31152; and

2. If the projected balance of the reserve account at the end of the budgeted fiscal year is less than the amount required to adequately fund the reserves on a reasonable basis at the end of the budgeted fiscal year, as determined by the study of reserves conducted pursuant to NRS 116.31152:

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

(Added to NAC by Comm'n for Common-Interest Communities by R129-04, eff. 4-14-2005; A by Comm'n for Common-Interest Communities & Condo. Hotels by R135-09, 8-13-2010; R050-13, 8-10-2015)

NAC 116.425 Reserve study: Contents. (NRS 116.31152, 116.615)

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

- (a) A 30-year schedule which shows:
 - (1) The actual or projected beginning balance of the reserve fund;
 - (2) The projected increase in reserve contributions to the reserve fund, adjusted for inflation, that will be required in any given year to provide adequately funded reserves;
 - (3) The estimated interest income, net of projected federal income tax, earned in the reserve fund;
 - (4) The projected expenditures from the reserve fund; and
 - (5) The projected ending balance of the reserve fund;
- (b) The names and credentials of any consultants and other persons with expertise used to assist in the preparation of the reserve study;
- (c) Any written reports prepared by consultants and other persons with expertise;
- (d) If there are any conflicting recommendations of the consultants or other persons with expertise while preparing the reserve study, a written explanation as to which recommendations were selected and the reasons for their selection;
- (e) The number of units in the association;
- (f) A general statement describing the current status of the reserve fund;
- (g) A general statement describing the overall status of the reserves of the association;
- (h) The beginning and ending dates for which the reserve study is prepared;
- (i) A general statement describing the reconciliation, development or computation of the initial balance of the reserve fund;
- (j) A listing and detailed description of each major component of the common elements;
- (k) A table showing the remaining useful life of each major component of the common elements from the time of each component's initial or last installation, maintenance, repair, replacement or restoration;
 - (l) Using the current replacement cost, a 30-year table that reflects the projected ending reserve fund balance for each year as compared to the fully funded balance for that year;
 - (m) A general statement describing the objectives of the funding plan that is designed to allocate the costs for the maintenance, repair, replacement and restoration of the major components of the common elements and the methods used in projecting the 30-year funding plan, using the following terms and discussing, where applicable:
 - (1) Full funding;
 - (2) Threshold funding; and
 - (3) Baseline funding;
 - (n) A statement identifying the sources relied upon to obtain an estimate for the cost to maintain, repair, replace or restore a major component of the common elements;
 - (o) A detailed description of the type of reserve study that was performed and the level of service accorded to the reserve study, including whether the reserve study was:
 - (1) A full reserve study in which the following tasks were performed:
 - (I) An inventory and measurement of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;
 - (II) An assessment of the condition of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore, which is based upon on-site visual observations if such components and portions are reasonably accessible for such observation;
 - (III) Estimates of the remaining useful life and valuation of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;
 - (IV) Financial analysis of data and the status of the reser-

(V) Development of a funding plan;

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

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

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

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

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

(V) Development of a funding plan; or

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

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

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

(III) Development of a funding plan;

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

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

(1) The projected life expectancy of the major components and the funding needs of the reserves of the association are based upon the association performing appropriate routine and preventative maintenance for each major component. Failure to perform such maintenance can negatively impact the remaining useful life of the major components and dramatically increase the funding needs of the reserves of the association.

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

2. As used in this section, "adequately funded reserves" means the funds sufficient to maintain the common elements:

(a) At the level described in the governing documents and in a reserve study; and

(b) Without using the funds from the operating accounts or without special or reserve assessments, except for occurrences that are a result of unforeseen catastrophic events.

(Added to NAC by Comm'n for Common-Interest Communities by R129-04, eff. 4-14-2005; A by Comm'n for Common-Interest Communities & Condo. Hotels by R145-06, 4-17-2008; R050-13, 8-10-2015)

NAC 116.427 Reserve study: Commencement of period for conducting reserve study. (NRS 116.31152, 116.615) For the purposes of paragraph (a) of subsection 1 of NRS 116.31152, the 5-year period for conducting a reserve study commences on the date on which the on-site inspection of the major components is performed.

(Added to NAC by Comm'n for Common-Interest Communities & Condo. Hotels by R050-13, eff. 8-10-2015)

NAC 116.430 Reserve study: Required disclosures. (NRS 116.31152, 116.615) A person conducting a reserve study and any consultant assisting in the preparation of a reserve study shall include in the reserve study the following disclosures:

1. The background, training, qualifications and references that would qualify the person conducting or assisting in the preparation of the reserve study as competent to conduct or assist in the preparation of the reserve study.

2. Any relationship which could result in actual or perceived conflicts of interest.

3. Whether the person conducting or assisting in the preparation of the reserve study is bonded or has professional liability insurance with a minimum coverage of \$1,000,000.

4. The method or methods for determining the common area components based on:

(a) An actual on-site inspection of the common elements with representative sampling;

(b) An inventory and material information provided by the client;

(c) A previous reserve study and the date of that study; or

(d) Plans, governing documents or any other additional industry resources used by the person conducting or assisting in the preparation of the reserve study.

5. Industry sources used for determining:

(a) The life of a major component of the common elements; and

(b) The cost of maintaining, repairing, replacing or restoring a major component of the common elements.

6. If known, any guarantees, express or implied, that are provided by any component manufacturer or service provider, with the predictions that would affect the cost or life expectancy of any of the major components.

7. The source of the initial reserve fund balance presented in the reserve study.
8. Whether a reserve assessment is anticipated during the current 30-year life of the reserve study.
9. The source of the interest rate and inflation rate assumptions used in the 30-year projection contained in the reserve study.
10. A statement, prominently displayed, which reads substantially as follows:

Information provided to the preparer of a reserve study by an official representative of the association regarding financial, historical, physical, quantitative or reserve project issues will be deemed reliable by the preparer. A reserve study will be a reflection of information provided to the preparer of the reserve study. The total of actual or projected reserves required as presented in the reserve study is based upon information provided that was not audited.

A reserve study is not intended to be used to perform an audit, an analysis of quality, a forensic study or a background check of historical records. An on-site inspection conducted in conjunction with a reserve study should not be deemed to be a project audit or quality inspection.

11. A listing of any significant components of the common-interest community that the association may be obligated to maintain, repair, replace or restore which are not included in the funding projection in the reserve study and the reason for excluding those components from that funding projection.

12. For updated reserve studies, a statement, prominently displayed, which reads substantially as follows:

Quantities of major components of the common elements as reported in previous reserve studies are deemed to be accurate and reliable. This reserve study relies upon the validity of previous reserve studies.

(Added to NAC by Comm'n for Common-Interest Communities by R129-04, eff. 4-14-2005; A by Comm'n for Common-Interest Communities & Condo. Hotels by R145-06, 4-17-2008; R050-13, 8-10-2015)

NAC 116.435 Reserve study: Dissemination of summary of results. (NRS 116.31152, 116.615) Not later than 210 days after the executive board receives a draft of the reserve study, the executive board shall submit a summary of the reserve study to the Division pursuant to subsection 4 of NRS 116.31152 by filing, electronically if possible, on Form 609 as prescribed by the Division, the summary of the results of the reserve study with the Division. The Division may post the summary of the results of the reserve studies filed with the Division on its website.

(Added to NAC by Comm'n for Common-Interest Communities by R129-04, eff. 4-14-2005; A by Comm'n for Common-Interest Communities & Condo. Hotels by R050-13, 8-10-2015)

NAC 116.440 Availability of records of association: "Regular working hours" interpreted. (NRS 116.31175, 116.615) As used in NRS 116.31175, "regular working hours" means a period of at least 4 consecutive hours per week.

(Added to NAC by Comm'n for Common-Interest Communities by R129-04, eff. 4-14-2005)

NAC 116.445 Annual fee required from certain associations for deposit in Account for Common-Interest Communities and Condominium Hotels. (NRS 116.31155)

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

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

(Added to NAC by Real Estate Div. by R066-98, eff. 6-26-98; A by Comm'n for Common-Interest Communities & Condo. Hotels by R115-15, 6-28-2016) — (Substituted in revision for NAC 116.250)

NAC 116.448 Delivery by declarant of audited financial statements: Satisfaction of obligation. (NRS 116.31038, 116.615) The obligation of a declarant to deliver the audited financial statements pursuant to subsection 2 of NRS 116.31038 may be satisfied by the declarant if, within 30 days after units' owners other than the declarant may elect a majority of the members of the executive board, the declarant delivers to the association:

1. All financial records of the association;
2. All records relating to audits that were completed during the period of the declarant's control, including, without limitation, applicable signed audit management and representation letters; and
3. Payment for the cost of the required ancillary audit for the ancillary period from the date of the last audit of the association to the date the period of the declarant's control ends, as required by subsection 2 of NRS 116.31038. The ancillary audit representation letter for the period described in this subsection must be signed by the declarant.

(Added to NAC by Comm'n for Common-Interest Communities & Condo. Hotels by R108-08, eff. 4-20-2010)

NAC 116.451 Preparation, contents and distribution of interim financial statements. (NRS 116.31142, 116.615) The interim financial statements of an association may be prepared using fund accounting or a single-column presentation and must:

1. Present a balance sheet that reflects the operating funds, reserve funds for future repairs and replacements and any other funds of the association.
2. List the assets, liabilities and fund balances or members' equity if a single-column format is used.
3. Include, at a minimum, a month-to-date and year-to-date presentation of:

- (a) The statement of revenues and expenses for all operating, reserve and other activities, presenting information about all assessments, revenues and expenses;
- (b) A schedule comparing the details of the actual expenses of the association with the expenses budgeted for the association;
- (c) Any changes in the fund balances to be presented on the balance sheet or statement of revenues and expenses; and
- (d) A footnote or disclosure which states that the association is in compliance with paragraph (b) of subsection 2 of NRS 116.3115 and that reserve funds have not been used for daily maintenance.

4. Be prepared using accrual basis of accounting in accordance with generally accepted accounting principles.

5. Be prepared by, or the preparation of the interim financial statements must be supervised by, a person with accounting knowledge and experience in the preparation of financial statements.

6. Be distributed monthly, promptly upon completion, to the treasurer of the association, the community manager if the association is professionally managed and each member of the executive board.

(Added to NAC by Comm'n for Common-Interest Communities by R205-05, eff. 9-18-2006; A by Comm'n for Common-Interest Communities & Condo. Hotels by R050-13, 8-10-2015)

NAC 116.453 Presentation and contents of interim financial statements subject to audit or review. (NRS 116.31142, 116.31144, 116.615) The financial statements of an association subject to an audit or review must be presented using fund accounting and must include, at a minimum:

1. An operating fund which reflects the accounting transactions surrounding the normal maintenance and service operations of the association; and

2. A reserve fund which reflects the accounting transactions pertaining to the long-term, major repair and replacement requirements of the association and the restrictions of its use as described in paragraph (b) of subsection 2 of NRS 116.3115.

(Added to NAC by Comm'n for Common-Interest Communities by R205-05, eff. 9-18-2006)

NAC 116.457 Preparation, contents and availability of audited financial statements; qualifications of auditor. (NRS 116.31142, 116.31144, 116.615)

1. The audited financial statement of an association must:

(a) Include a full presentation of accrual-basis accounting prepared in accordance with generally accepted accounting principles which includes, at a minimum:

(1) A balance sheet for the operating fund and reserve fund, presenting assets, liabilities and fund balances;

(2) A statement of revenues and expenses for the operating fund and reserve fund which presents information about all assessments, revenues and expenses;

(3) A statement of changes in fund balances which reconciles beginning and ending fund balances with results of operations;

(4) A statement of cash flows;

(5) Any note disclosures as required by the *Guide*; and

(6) The following unaudited supplementary information:

(I) Any reserve disclosures as required by the *Guide* and NRS 116.31152; and

(II) An accompanying schedule which compares details of the actual expenses of the association to the budgeted amounts of the association.

(b) Be prepared and completed not later than 210 days after the end of the fiscal year for the association.

(c) Be made available to the Division not later than 30 days after requested by the Division.

(d) Include on the annual registration form with the Division the following information:

(1) The amount of budgeted revenues;

(2) Whether the financial statements were audited or reviewed and, if so, the date on which the audit or review of the financial statements was completed; and

(3) Whether the audit opinion is qualified or unqualified or whether the review report is modified or unmodified.

2. An auditor performing the annual audit for an association must:

(a) Be a certified public accountant licensed pursuant to chapter 628 of NRS.

(b) Be independent of the association as set forth in the *Guide*.

(Added to NAC by Comm'n for Common-Interest Communities by R205-05, eff. 9-18-2006; A by Comm'n for Common-Interest Communities & Condo. Hotels by R186-07, 5-5-2011)

NAC 116.459 Inclusion of additional funds in financial statements. (NRS 116.31142, 116.31144, 116.615) The financial statements of an association described in NAC 116.451, 116.453 and 116.457 may provide for such other funds as the association deems appropriate to report the transactions of separate business activities, special assessments and contingency or other restricted funds.

(Added to NAC by Comm'n for Common-Interest Communities by R205-05, eff. 9-18-2006)

NAC 116.461 Review of financial statements; qualifications of auditor. (NRS 116.31142, 116.31144, 116.615)

1. The review of the financial statements of an association must be performed in accordance with the *Guide*. The financial statements must include a full presentation of accrual-basis accounting prepared pursuant to subsection 1 of NAC 116.457. The supplementary information may be compiled or reviewed.

2. An auditor performing the annual review for an association must:

(a) Be a certified public accountant licensed pursuant to chapter 628 of NRS.

(b) Be independent of the association as set forth in the *Guide*. -99-

(Added to NAC by Comm'n for Common-Interest Communities by R205-05, eff. 9-18-2006; A by Comm'n for Common-Interest Communities & Condo. Hotels by R186-07, 5-5-2011)

NAC 116.465 Fees for preparation of certificate for resale of unit. (NRS 116.4109, 116.615)

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

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

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

(Added to NAC by Comm'n for Common-Interest Communities by R205-05, eff. 9-18-2006)

NAC 116.470 Fees and costs for collection of past due obligations of unit's owner. (NRS 116.310313, 116.615)

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

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

(a) Demand or intent to lien letter.....	\$150
(b) Notice of delinquent assessment lien.....	325
(c) Intent to notice of default letter.....	90
(d) Notice of default.....	400
(e) Intent to notice of sale letter.....	90
(f) Notice of sale.....	275
(g) Intent to conduct foreclosure sale.....	25
(h) Conduct foreclosure sale.....	125
(i) Prepare and record transfer deed.....	125
(j) Payment plan agreement - One-time set-up fee.....	30
(k) Payment plan breach letter.....	25
(l) Release of notice of delinquent assessment lien.....	30
(m) Notice of rescission fee.....	30
(n) Bankruptcy package preparation and monitoring.....	100
(o) Mailing fee per piece for demand or intent to lien letter, notice of delinquent assessment lien, notice of default and notice of sale.....	2
(p) Insufficient funds fee.....	20
(q) Escrow payoff demand fee.....	150
(r) Substitution of agent document fee.....	25
(s) Postponement fee.....	75
(t) Foreclosure fee.....	150

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

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

(a) Reasonable management company fees which may not exceed a total of \$200; and

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

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

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

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

- (a) A person “controls” a community manager or agent if the person:
 - (1) Is a general partner, officer, director or employer of the community manager or agent;
 - (2) Directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote or holds proxies representing, more than 20 percent of the voting interest in the community manager or agent;
 - (3) Controls in any manner the election of a majority of the directors of the community manager or agent; or
 - (4) Has contributed more than 20 percent of the capital of the community manager or its agent.
- (b) A person “is controlled by” a community manager or agent if the community manager or agent:
 - (1) Is a general partner, officer, director or employer of the person;
 - (2) Directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote or holds proxies representing, more than 20 percent of the voting interest in the person;
 - (3) Controls in any manner the election of a majority of the directors of the person; or
 - (4) Has contributed more than 20 percent of the capital of the person.
- (c) Control does not exist if the powers described in this subsection are held solely as security for an obligation and are not exercised.

(Added to NAC by Comm’n for Common-Interest Communities & Condo. Hotels by R199-09, eff. 5-5-2011)

Receipt of Gifts, Incentives, Gratuities, Rewards or Other Items of Value

NAC 116.480 Restriction on and statements by members of executive boards and officers of associations. (NRS 116.31185, 116.615)

1. No member of an executive board or officer of an association shall receive, in the aggregate, any gift, incentive, gratuity, reward or other item of value pursuant to subsection 2 of NRS 116.31185 in any calendar year which exceeds the sum of \$100.

2. On or before the annual distribution to each unit’s owner of the budgets of the association pursuant to subsection 1 of NRS 116.31151, each member of an executive board and officer of an association shall deliver to the executive board for inclusion in the annual distribution of the budgets a statement of any gifts, incentives, gratuities, rewards or other items of value which exceed \$15 received pursuant to subsection 2 of NRS 116.31185.

(Added to NAC by Comm’n for Common-Interest Communities by R205-05, eff. 9-18-2006)

NAC 116.482 Restriction on and statements by community managers and employees of community managers. (NRS 116.31185, 116.615)

1. No community manager or employee of the community manager shall receive, in the aggregate, any gift, incentive, gratuity, reward or other item of value pursuant to subsection 2 of NRS 116.31185 in any calendar year which exceeds the sum of \$500.

2. On or before the date of renewal of a license for a community manager, each community manager shall disclose to the Division, in the renewal form, a statement of any gifts, incentives, gratuities, rewards or other items of value which exceed \$15 received pursuant to subsection 2 of NRS 116.31185 during each of the years following the last renewal.

(Added to NAC by Comm’n for Common-Interest Communities by R205-05, eff. 9-18-2006)

NAC 116.484 Attendance of or participation in approved class. (NRS 116.31185, 116.615)

1. As used in NRS 116.31185, the term “gifts, incentives, gratuities, rewards or other items of value” does not include:

- (a) Any prepaid tuition for an approved class within the State for members of an executive board, officers of an association, community managers or employees of the community manager;
- (b) The cost or value of an approved class that is offered free of charge; and
- (c) The cost or value of any breakfast, lunch, snack or hot or cold nonalcoholic beverage provided at an approved class or during the breaks of an approved class.

2. A member of the executive board or an officer of the association who attends or participates in an approved class must disclose his or her attendance or participation in the approved class to the executive board at the next meeting of the executive board after the date of the approved class.

3. As used in this section, “approved class” means a course which has been approved pursuant to the provisions of this chapter and which at all times satisfies the requirements of this chapter.

(Added to NAC by Comm’n for Common-Interest Communities by R205-05, eff. 9-18-2006)

NAC 116.486 Compliance with statutory prohibition. (NRS 116.31185, 116.615) Nothing in NAC 116.480, 116.482 and 116.484 is to be construed as permitting a member of an executive board, an officer of an association, a community manager or an employee of the community manager to solicit or accept any form of compensation, gratuity or other remuneration in violation of the provisions of subsection 1 of NRS 116.31185.

(Added to NAC by Comm’n for Common-Interest Communities by R205-05, eff. 9-18-2006)

ADMINISTRATION AND ENFORCEMENT

NAC 116.500 Public inspection of records maintained by Division. (NRS 116.615) 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.

(Added to NAC by Real Estate Comm'n by R136-99, eff. 4-3-2000; A by Comm'n for Common-Interest Communities by R129-04, 4-14-2005; A by Comm'n for Common-Interest Communities & Condo. Hotels by R165-09, 12-16-2010) — (Substituted in revision for NAC 116.390)

NAC 116.520 Subsidization of proceedings for mediation. (NRS 116.615, 116.670)

1. The Division may subsidize proceedings for mediation conducted pursuant to NRS 38.300 to 38.360, inclusive, to the extent that funds are available in the Account for Common-Interest Communities and Condominium Hotels in the State General Fund for that purpose.

2. A party who wishes to have a proceeding for mediation subsidized must:
 - (a) Submit an application to the Division on a form prescribed by the Division;
 - (b) File a claim for mediation within 1 year after the date of discovery of the alleged violation; and
 - (c) If the applicant is an association, be registered and in good standing with:
 - (1) The Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels; and
 - (2) The Secretary of State, if the association is required to register with the Secretary of State pursuant to title 7 of NRS.
3. A unit's owner is eligible to have one proceeding for mediation subsidized per fiscal year for each unit that he or she owns.
4. An association is eligible to have one proceeding for mediation subsidized per fiscal year against the same unit's owner for each unit that he or she owns.
5. The funds used to subsidize a proceeding for mediation pursuant to this section must not:
 - (a) Be applied to the fee required when filing a written claim pursuant to NRS 38.320 or any attorneys' costs or fees associated with the claim; and
 - (b) Exceed \$500 or \$250 for each party who is eligible to have the proceeding for mediation subsidized pursuant to this section, whichever is less.

6. The Division shall provide notice to the mediator that a proceeding for mediation may be subsidized by forwarding to the mediator a copy of the application received pursuant to subsection 2.

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

- (a) On a form prescribed by the Division, a request for payment of the cost of mediation; and
- (b) A copy of the mediator's statement concerning whether the mediation was successful or unsuccessful in resolving the dispute.

8. The Division shall pay the cost of mediation pursuant to this section in accordance with the Division's procedures after the Division receives a copy of the mediator's statement concerning whether the mediation was successful or unsuccessful in resolving the dispute.

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

(Added to NAC by Comm'n for Common-Interest Communities by R129-04, eff. 4-14-2005; A by Comm'n for Common-Interest Communities & Condo. Hotels by R125-12, 10-24-2014)

NAC 116.525 Duties of Ombudsman for Owners in Common-Interest Communities and Condominium Hotels: "Annual assessment" interpreted. (NRS 116.615, 116.625) As used in NRS 116.625, "annual assessment" means both the per unit assessments and the total budget revenues for the association.

(Added to NAC by Comm'n for Common-Interest Communities by R129-04, eff. 4-14-2005)

Administrative Proceedings

NAC 116.550 Investigation and audit of financial accounts of association; remedial and disciplinary action. (NRS 116.615)

1. The Division may investigate and audit all financial accounts related to an association if the Division has reasonable cause to believe that the accounts or records of the association have not been properly maintained and the Division:

- (a) Has reasonable cause to believe or has received a credible complaint that the association is insolvent or is in any financial condition or has engaged in any financial practice which creates a substantial risk of insolvency; or
- (b) Determines that the investigation and audit are reasonably necessary to assist the Division in administering or enforcing any other provision of this chapter, chapter 116 of NRS or any other statute that the Division is charged with administering or enforcing.

2. The Commission may, after notice and hearing, take action pursuant to NRS 116.785 if the Division finds that a person has committed a violation of this chapter or chapter 116 of NRS.

3. As used in this section, "insolvent" or "insolvency" means a condition in which an association is unable to meet its, or a community manager is unable to meet his or her, liabilities as those liabilities become due in the regular course of the association's or community manager's business and which creates a substantial risk of harm to the association.

(Added to NAC by Comm'n for Common-Interest Communities by R129-04, eff. 4-14-2005)

NAC 116.553 Hearing panels: Powers; qualifications of independent hearing officers. (NRS 116.615, 116.675)

1. A hearing panel appointed by the Commission has the power of the Commission to conduct hearings and other proceedings, determine violations, impose fines and penalties and take other disciplinary action authorized by the provisions of this chapter or chapter 116 of NRS.

2. An independent hearing officer appointed to a hearing panel must be a licensed member, in good standing, of the State Bar of Nevada.

(Added to NAC by Comm'n for Common-Interest Communities by R142-06, eff. 12-7-2006)

NAC 116.555 Informality of proceedings; rules of evidence. (NRS 116.615, 116.675)

1. In conducting any investigation, inquiry or hearing, the Commission and its members, each hearing panel and its members, and the employees of the Division are not bound by the technical rules of evidence, and any informality in a proceeding or in the manner of taking testimony does not invalidate any order, decision, rule or regulation made, approved or confirmed by the Commission or a hearing panel. The rules of evidence of courts of this State will be followed generally but may be relaxed at the discretion of the Commission or a hearing panel if deviation from the technical rules of evidence will aid in determining the facts.

2. Any evidence offered at a hearing must be material and relevant to the issues of the hearing.

3. The Commission or a hearing panel may exclude inadmissible, incompetent, repetitious or irrelevant evidence or order that presentation of that evidence be discontinued.

4. A party who objects to the introduction of evidence shall briefly state the grounds of the objection at the time the evidence is offered. The party who offers the evidence may present a rebuttal argument to the objection.

5. If an objection is made to the admissibility of evidence, the Commission or a hearing panel may:

(a) Note the objection and admit the evidence;

(b) Sustain the objection and refuse to admit the evidence; or

(c) Receive the evidence subject to a subsequent ruling by the Commission or a hearing panel.

(Added to NAC by Comm'n for Common-Interest Communities by R129-04, eff. 4-14-2005)

NAC 116.557 Prehearing conferences. (NRS 116.615, 116.675)

1. The Commission or a hearing panel may, upon its own motion or a motion made by a party of record, hold a prehearing conference to accomplish one or more of the following purposes:

(a) Formulate or simplify the issues involved in the hearing.

(b) Obtain admissions of fact or any stipulation of the parties.

(c) Arrange for the exchange of proposed exhibits or prepared expert testimony.

(d) Identify the witnesses and the subject matter of their expected testimony and limit the number of witnesses, if necessary.

(e) Rule on any pending prehearing motions or matters.

(f) Establish a schedule for the completion of discovery.

(g) Establish any other procedure that may expedite the orderly conduct and disposition of the proceedings or settlements thereof.

2. Notice of any prehearing conference must be provided to all parties of record. Unless otherwise ordered for good cause shown, the failure of a party of record to attend a prehearing conference constitutes a waiver of any objection to the agreements reached or rulings made at the conference.

3. The action taken and the agreements made at a prehearing conference:

(a) Must be made a part of the record.

(b) Control the course of subsequent proceedings unless modified at the hearing by the Commission or hearing panel.

(c) Are binding upon all parties of record and persons who subsequently become parties of record.

(Added to NAC by Comm'n for Common-Interest Communities by R142-06, eff. 12-7-2006)

NAC 116.560 Motions. (NRS 116.615, 116.675)

1. All motions, unless made during a hearing, must be in writing.

2. A written motion must be served on the opposing party and the Commission or a hearing panel at least 10 working days before the time set for the hearing on the motion.

3. An opposing party may file a written response to a motion within 7 working days after the receipt of the motion by serving the written response on all parties and the Commission or a hearing panel, except that a written response may be filed less than 3 working days before the time set for the hearing on the motion only with the permission of the Commission or a hearing panel upon good cause shown.

4. The Commission or a hearing panel may require oral argument or the submission of additional information or evidence to decide the motion.

(Added to NAC by Comm'n for Common-Interest Communities by R129-04, eff. 4-14-2005)

NAC 116.565 Amendment and withdrawal of complaints; continuances. (NRS 116.615, 116.675)

1. A complaint may be amended at any time.

2. The Commission or a hearing panel may grant a continuance if the amendment materially alters the complaint or a respondent demonstrates an inability to prepare for the case in a timely manner.

3. A complaint may be withdrawn at any time before the hearing begins.

(Added to NAC by Comm'n for Common-Interest Communities by R129-04, eff. 4-14-2005)

NAC 116.570 Complaint or disciplinary hearing concerning provisional community manager. (NRS 116.615, 116.675)

1. The Division shall provide a copy of any complaint filed against, or a disciplinary hearing or other proceeding commenced against, a provisional community manager to the supervising community manager with whom the provisional community manager is associated.

2. The supervising community manager with whom the provisional community manager is associated shall attend any disciplinary hearing before the Commission or a hearing panel concerning that provisional community manager.

(Added to NAC by Comm'n for Common-Interest Communities by R129-04, eff. 4-14-2005)

NAC 116.575 Responsibilities of respondent. (NRS 116.615, 116.675)

1. Not less than 5 working days before a hearing before the Commission or a hearing panel, the respondent must provide to the Division:

(a) A copy of all documents that are reasonably available to the respondent which the respondent reasonably anticipates will be used in support of his or her position; and

(b) A list of witnesses whom the respondent intends to call at the time of the hearing, which must include for each witness:

(1) The name of the witness;

(2) The company for whom the witness works and the title of the witness; and

(3) A brief summary of the expected testimony of the witness.

2. The respondent shall promptly supplement and update any documents and lists provided to the Division pursuant to this section.

3. The respondent shall provide, at the time of the hearing, 10 copies of each document he or she wishes to have admitted into evidence at the hearing.

4. If the respondent fails to provide any document required to be provided by the provisions of this section, the Commission or a hearing panel may exclude the document.

(Added to NAC by Comm'n for Common-Interest Communities by R129-04, eff. 4-14-2005)

NAC 116.580 Failure of party to appear. (NRS 116.615, 116.675) If a party fails to appear at a hearing scheduled by the Commission or a hearing panel and a continuance has not been requested or granted, upon an offer of proof by the other party that the absent party was given proper notice and upon a determination by the Commission or a hearing panel that proper notice was given, the Commission or a hearing panel may proceed to consider the case without the participation of the absent party and may dispose of the matter on the basis of the evidence before it. If a party fails to appear at the hearing or fails to reply to the notice, the charges specified in the complaint may be considered as true.

(Added to NAC by Comm'n for Common-Interest Communities by R129-04, eff. 4-14-2005)

NAC 116.585 Procedure for hearings; date of decision. (NRS 116.615, 116.675)

1. The presiding officer of a hearing shall:

(a) Ascertain whether all persons commanded to appear under subpoena are present and whether all documents, books, records and other evidence under subpoena are present in the hearing room.

(b) Administer the oath to the reporter as follows:

Do you solemnly swear or affirm that you will report this hearing to the best of your stenographic ability?

(c) Administer the oath to all persons whose testimony will be taken:

Do you and each of you solemnly swear or affirm to tell the truth and nothing but the truth in these proceedings?

(d) Ascertain whether either party wishes to have a witness excluded from the hearing except during the testimony of the witness. A witness may be excluded upon the motion of the Commission or a hearing panel or upon the motion of either party. If a witness is excluded, he or she will be instructed not to discuss the case during the pendency of the proceeding. The respondent will be allowed to remain present at the hearing. The Division may designate a person who is a member of the staff of the Division and who may also be a witness to act as its representative. Such a representative will be allowed to remain present at the hearing.

(e) Ascertain whether a copy of the complaint or decision to deny has been filed and whether an answer has been filed as part of the record in the proceedings.

(f) Hear any preliminary motions, stipulations or orders upon which the parties agree and address any administrative details.

(g) Request the Division to proceed with the presentation of its case.

2. The Division may not submit any evidence to the Commission or a hearing panel before the hearing except for the complaint and answer.

3. The respondent may cross-examine witnesses in the order that the Division presents them.

4. Witnesses or counsel may be questioned by the members of the Commission or a hearing panel at any time during the proceeding.

5. Evidence which is to be introduced:
 - (a) Must first be marked for identification; and
 - (b) May be received by the Commission or a hearing panel at any point during the proceeding.
6. When the Division has completed its presentation, the presiding officer shall request the respondent to proceed with the introduction of evidence and calling of witnesses on his or her behalf.
7. The Division may cross-examine witnesses in the order that the respondent presents them.
8. When the respondent has completed his or her presentation, the Division may call any rebuttal witnesses.
9. When all testimony for the Division and respondent has been given and all evidence submitted, the presiding officer may request the Division and the respondent to summarize their presentations.
10. The Commission or a hearing panel may waive any provision of this section if necessary to expedite or ensure the fairness of the hearing.
11. The date of decision is the date the written decision is signed by a commissioner or a member of a hearing panel or filed with the Commission, whichever occurs later.
12. In the absence of the Chair of the Commission, any matter which must be acted upon may be submitted to the Vice Chair or, if the Vice Chair is unavailable, to the Secretary.
13. Upon the presentation of evidence that the respondent received notice of the hearing and has not filed an answer within the time prescribed pursuant to NRS 116.770, his or her default may be entered and a decision may be issued based upon the allegations of the complaint.

(Added to NAC by Comm'n for Common-Interest Communities by R129-04, eff. 4-14-2005)

NAC 116.586 Recess of hearing for conference. (NRS 116.615, 116.675) In any hearing, the Commission or hearing panel may recess the hearing for a conference in order to discuss matters relating to the testimony about to be given by a witness or for any other purpose that may expedite the orderly conduct and disposition of the proceedings or settlements thereof. The Commission or hearing panel will state on the record the results of such a conference.

(Added to NAC by Comm'n for Common-Interest Communities by R142-06, eff. 12-7-2006)

NAC 116.588 Preparation and dissemination of final decision after hearing. (NRS 116.615, 116.675) After a hearing, the Commission or hearing panel will, within 30 days:

1. Prepare findings of fact, conclusions of law and a final decision on the issues presented at the hearing; and
2. Provide a copy of the findings of fact, conclusions of law and final decision to the Division, which will then serve the parties of record and the Commission.

(Added to NAC by Comm'n for Common-Interest Communities by R142-06, eff. 12-7-2006)

NAC 116.600 Appeal of final order of hearing panel; filing of briefs. (NRS 116.615, 116.675)

1. Pursuant to NRS 116.675, a final order of a hearing panel may be appealed and a review hearing held by the Commission. If a final order of a hearing panel is appealed, the order is stayed until the Commission issues its ruling, order or decision after the review hearing.

2. A written notice of appeal filed pursuant to NRS 116.675 must be accompanied by an appellant's brief which must describe the basis for the appeal, cite any supporting authorities and designate any part of the record which was before the hearing panel and is relevant to the appeal.

3. A respondent may file a respondent's brief within 20 days after service of the appellant's brief.

4. An appellant may then file a reply brief within 12 days after service of a respondent's brief. The reply brief may only respond to issues raised in a respondent's brief. Any issues raised for the first time which are contained in the reply brief will not be considered by the Commission.

5. The Division may file an amicus brief which describes the Division's position on any issue raised by a final order of a hearing panel. The Division's brief must be filed within 20 days after the filing of the appellant's brief.

(Added to NAC by Comm'n for Common-Interest Communities by R142-06, eff. 12-7-2006)

NAC 116.605 Review hearings: Setting; notice. (NRS 116.615, 116.675)

1. After the date for the filing of a reply brief has passed, the Commission will set the matter for a review hearing to be conducted as soon as practicable.

2. The review hearing must be held at such time and place as the Commission prescribes. At least 15 days before the date set for the review hearing, the Commission will notify in writing each party of record of the date. Written notice of the review hearing may be served by delivery personally to each party or by mailing the notice by certified mail to the last known address of each party.

(Added to NAC by Comm'n for Common-Interest Communities by R142-06, eff. 12-7-2006)

NAC 116.610 Review hearings: Oral argument. (NRS 116.615, 116.675)

1. The Commission may, in the written notice described in NAC 116.605, provide for oral argument at the review hearing. The written notice must state whether the oral argument is limited to a particular issue or inquiry.

2. Unless extended by the Commission, an oral argument will be limited to 10 minutes.

3. The Commission may allow the Division to participate as an amicus party at oral argument.

(Added to NAC by Comm'n for Common-Interest Communities by R142-06, eff. 12-7-2006)

NAC 116.615 Review hearings: Issuance of written decision. (NRS 116.615, 116.675)

1. The Commission will render a written decision on any appeal within 30 days after the review hearing and will notify the parties to the proceedings, in writing, of its ruling, order or decision 105- 15 days after it is made.

2. The Commission may affirm, reverse or modify a decision of the hearing panel.

(Added to NAC by Comm'n for Common-Interest Communities by R142-06, eff. 12-7-2006)

NAC 116.617 Posthearing motions; rehearing and reconsideration. (NRS 116.615)

1. After the close of a hearing before the Commission, a party may file only the following motions:

(a) A motion for rehearing.

(b) A motion for reconsideration of the final decision of the Commission.

(c) With leave of the Commission, any other motion requesting action or relief after the close of the hearing.

2. A motion for rehearing or reconsideration must be filed with the Commission, and a copy of the motion provided to all parties, not later than 15 days after the date on which the final decision of the Commission is served.

3. A motion for rehearing or reconsideration does not stay any decision of the Commission unless the Commission so orders.

4. A motion for rehearing or reconsideration must:

(a) State with particularity the point of law or fact which, in the opinion of the moving party, the Commission has overlooked or misconstrued, or the change of law or circumstances forming the basis of the motion; and

(b) Contain every argument in support of the motion that the moving party desires to present.

5. Oral argument in support of the motion is not permitted unless granted by the Commission.

6. A party who opposes a motion filed pursuant to this section may file an opposition to the motion within 7 days after the date on which the motion is served on that party.

7. The Commission may authorize the Chair of the Commission to rule on a motion filed pursuant to this section.

8. If:

(a) A motion for rehearing or reconsideration is filed;

(b) The Commission is not scheduled to meet before the effective date of the penalty; and

(c) The Commission has not authorized the Chair of the Commission to rule on the motion,

↪ the Division may stay enforcement of the decision for which a rehearing or reconsideration is requested. When determining whether to grant a stay, the Division shall determine whether the motion was timely filed and whether it alleges a cause or ground which may entitle the moving party to a rehearing or reconsideration of the decision.

9. A motion for rehearing or reconsideration may be based only on one of the following causes or grounds:

(a) Newly discovered or available evidence of a material nature which the moving party could not with reasonable diligence have discovered and produced at the original hearing before the Commission.

(b) Error in the hearing or in the decision that would be grounds for reversal of the decision.

(c) A change of substantive law.

(d) The need in the public interest for further consideration of the issues or evidence, or both.

10. The filing of a motion pursuant to this section does not stop the running of the 30-day period of appeal to the district court from the date of the decision of the Commission for the purpose of judicial review pursuant to chapter 233B of NRS.

11. If a rehearing is ordered pursuant to this section, the rehearing must be confined to the issues upon which the rehearing is ordered.

(Added to NAC by Comm'n for Common-Interest Communities & Condo. Hotels by R052-13, eff. 8-10-2015)

NAC 116.620 Review of final order of hearing panel not appealed by party. (NRS 116.615, 116.675)

1. If a final order of a hearing panel is not appealed to the Commission by a party and if:

(a) The Chair determines that the Commission should review the final order; or

(b) A member of the Commission makes a written or oral request to the Chair that the Commission review the final order,

↪ the Chair of the Commission shall, not later than 7 days after the date that a final order may be appealed by a party pursuant to NRS 116.675, direct the Division to provide written notice to all parties that the Commission will review the final order at the next meeting of the Commission.

2. Any final order by a hearing panel which is under review by the Commission pursuant to this section is stayed until the Commission issues its ruling, order or decision.

(Added to NAC by Comm'n for Common-Interest Communities by R142-06, eff. 12-7-2006)

NAC 116.625 Payment of costs for transcript of hearing. (NRS 116.615, 116.675)

1. Except as otherwise provided in this section, a party which seeks a transcript of its hearing must pay the reasonable costs of transcription.

2. If the Commission determines that a transcript is reasonably necessary for a party for a review hearing, the Commission will pay the costs of transcription.

(Added to NAC by Comm'n for Common-Interest Communities by R142-06, eff. 12-7-2006)

NAC 116.630 Request for hearing, rehearing or reconsideration prohibited after initiation of civil action or submission for mediation or arbitration. (NRS 116.615, 116.675) A party may not request a hearing before the Commission or a hearing panel, or file a motion for rehearing before the Commission or for reconsideration of the final decision of the Commission, if a civil action based upon the same claim has already been initiated in any court in this State or has already been submitted to mediation or arbitration pursuant to the provisions of NRS 38.300 to 38.360, inclusive.

(Added to NAC by Comm'n for Common-Interest Communities by R142-06, eff. 12-7-2006; A by Comm'n for Common-Interest Communities & Condo. Hotels by R052-13, 8-10-2015)

NAC 116.635 Request for hearing prohibited for improper purpose. (NRS 116.615, 116.675) A party shall not request a review hearing for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.
(Added to NAC by Comm'n for Common-Interest Communities by R142-06, eff. 12-7-2006)

CHAPTER 117 - CONDOMINIUMS

<u>NRS 117.010</u>	Definitions.
<u>NRS 117.020</u>	Applicability; recordation, amendment and revocation of plan of project.
<u>NRS 117.030</u>	Conveyance of unit: Presumption of conveyance of entire condominium.
<u>NRS 117.040</u>	Incidents of grant.
<u>NRS 117.050</u>	Partition of project.
<u>NRS 117.060</u>	Declaration of restrictions.
<u>NRS 117.065</u>	Maintenance fees: Custodial accounts; records.
<u>NRS 117.070</u>	Assessment liens: Recording of notice of assessment; priority and expiration of lien; enforcement by sale.
<u>NRS 117.075</u>	Assessment liens: Exercise of power of sale.
<u>NRS 117.080</u>	Other liens.
<u>NRS 117.090</u>	Common personalty.
<u>NRS 117.100</u>	Liberal construction of deed, declaration or plan for project.
<u>NRS 117.103</u>	Rules against perpetuities and unreasonable restraints on alienation.
<u>NRS 117.105</u>	Interest of unit owner conveyed by tax deed.
<u>NRS 117.110</u>	Construction of local zoning ordinances.

NRS 117.010 Definitions. As used in this chapter:

1. "Common areas" means the entire project excepting all units therein granted or reserved.
 2. "Condominium" means an estate in real property consisting of an undivided interest in common in portions of a parcel of real property together with:
 - (a) A separate interest in space in a residential, industrial or commercial building or industrial and commercial building on such real property, such as, but not restricted to, an apartment, office or store; or
 - (b) A separate interest in air space only, without any building or structure, to be used for a mobile home.
- ↪ A condominium may include in addition a separate interest in other portions of such real property. Such estate may, with respect to the duration of its enjoyment, be either an estate of inheritance or perpetual estate, an estate for life, or an estate for years.
3. "Project" means the entire parcel of real property divided or to be divided into condominiums, including all structures thereon.
 4. "To divide" real property means to divide the ownership thereof by conveying one or more condominiums therein but less than the whole thereof.
 5. "Unit" means the elements of a condominium which are not owned in common with the owners of other condominiums in the project.

(Added to NRS by 1963, 126; A 1967, 200; 1981, 990)

NRS 117.020 Applicability; recordation, amendment and revocation of plan of project.

1. The provisions of this chapter apply to property divided into condominiums only if there was recorded before January 1, 1992, in the county in which the property lies a plan consisting of:
 - (a) A description or survey map of the surface of the land included within the project;
 - (b) Diagrammatic floor plans of the building or buildings built or to be built thereon in sufficient detail to identify each unit, its relative location and approximate dimensions; and
 - (c) A certificate consenting to the recordation of the plan pursuant to this chapter signed and acknowledged by the record owner of the property and by all record holders of security interests therein.
2. The plan may be amended or revoked by a subsequently acknowledged recorded instrument executed by the record owner of the property and by all record holders of security interests therein. Until recordation of a revocation, the provisions of this chapter continue to apply to the property.
3. The term "record owner" as used in this section includes all of the record owners of the property at the time of recordation, but does not include holders of security interests, mineral interests, easements or rights-of-way.

(Added to NRS by 1963, 126; A 1991, 580)

NRS 117.030 Conveyance of unit: Presumption of conveyance of entire condominium. Unless otherwise expressly stated therein, any transfer or conveyance of a unit, or an apartment, office or store which is a part of a unit shall be presumed to convey the entire condominium.

(Added to NRS by 1963, 127)

NRS 117.040 Incidents of grant. Unless otherwise expressly provided in the deeds, declaration of restrictions or plan, the incidents of a condominium grant are as follows:

1. The boundaries of the unit granted are the interior surfaces of the perimeter walls, floors, ceilings, windows and doors thereof, and the unit includes both the portions of the buildings so descr. | the airspace so encompassed. The following are not part of

the unit: Bearing walls, columns, floors, roofs, foundations, elevator equipment and shafts, central heating, central refrigeration and central air-conditioning equipment, reservoirs, tanks, pumps and other central services, pipes, ducts, flues, chutes, conduits, wires and other utility installations, wherever located, except the outlets thereof when located within the unit. In interpreting deeds and plans the existing physical boundaries of the unit or of a unit reconstructed in substantial accordance with the original plans thereof shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed in the deed or plan, regardless of settling or lateral movement of the building and regardless of minor variances between boundaries shown on the plan or in the deed and those of the building.

2. The common areas are owned by the owners of the unit as tenants in common in equal shares, one for each unit.

3. A nonexclusive easement for ingress, egress and support through the common areas is appurtenant to each unit and the common areas are subject to such easements.

4. Each condominium owner shall have the exclusive right to paint, repaint, tile, wax, paper or otherwise refinish and decorate the inner surfaces of the walls, ceilings, floors, windows and doors bounding his or her own unit.

(Added to NRS by 1963, 127)

NRS 117.050 Partition of project.

1. Where several persons own condominiums in a condominium project, an action may be brought pursuant to NRS 39.010 to 39.490, inclusive, by one or more of such persons for partition thereof by sale of the entire project, as if the owners of all the condominiums in such project were tenants in common in the entire project in the same proportion as their interests in the common areas, but a partition shall be made only upon the showing that:

(a) Three years after damage or destruction to the project which renders a material part thereof unfit for its use prior thereto, the project has not been rebuilt or repaired substantially to its state prior to its damage or destruction; or

(b) Three-fourths or more of the project has been destroyed or substantially damaged, and that condominium owners holding in aggregate more than 50 percent interest in the common areas are opposed to repair or restoration of the project; or

(c) The project has been in existence in excess of 50 years, that it is obsolete and uneconomic, and that condominium owners holding in aggregate more than 50 percent interest in the common areas are opposed to repair or restoration of the project; or

(d) Conditions for such a partition by sale set forth in restrictions entered into with respect to such project have been met.

2. Except as provided in subsection 1, the common areas shall remain undivided, and there shall be no judicial partition thereof. Nothing herein shall be deemed to prevent partition of a cotenancy in a condominium.

(Added to NRS by 1963, 127)

NRS 117.060 Declaration of restrictions. The owner of a project may, prior to the conveyance of any condominium therein, record a declaration of restrictions relating to such project, which restrictions shall be enforceable equitable servitudes where reasonable. Such servitudes, unless otherwise provided, may be enforced, by any owner of a condominium in the project, and may provide, among other things:

1. For the management of the project by one or more of the following management bodies:

(a) The condominium owners;

(b) A board of governors elected by the owners; or

(c) A management agent elected by the owners or the board or named in the declaration.

2. For voting majorities, quorums, notices, meeting dates and other rules governing such body or bodies.

3. As to any such management body:

(a) For the powers thereof, including power to enforce the provisions of the declaration of restrictions;

(b) For maintenance by it of fire, casualty, liability, workers' compensation and other insurance insuring condominium owners, and for bonding of the members of any management body;

(c) For provision by it of and payment by it for maintenance, utility, gardening and other services benefiting the common areas, for employment of personnel necessary for operation of the building, and legal and accounting services;

(d) For purchase by it of materials, supplies and the like and for maintenance and repair of the common areas;

(e) For payment by it of taxes which would be a lien upon the entire project or common areas, and for discharge by it of any lien or encumbrance levied against the entire project or common areas;

(f) For payment by it for reconstruction of any portion or portions of the project damaged or destroyed;

(g) For delegation by it of its powers;

(h) For entry by it or its agents into any unit when necessary in connection with maintenance or construction for which such body is responsible; and

(i) For the power of the management body to sell the entire project for the benefit of all of the owners thereof when partition of the project may be had under NRS 117.050, which power shall be binding upon all of the owners, whether they assume the obligations of the restrictions or not.

4. For amendments of such restrictions, which amendments, if reasonable and made upon vote or consent of a majority in interest of the owners in the project given after reasonable notice, shall be binding upon every owner and every condominium subject thereto, whether the burdens thereon are increased or decreased thereby, and whether the owner of each and every condominium consents thereto or not.

5. For independent audit of the accounts of any management body.

6. For reasonable assessments to meet authorized expenditures of any management body, and for a reasonable method for notice and levy thereof, each condominium to be assessed separately for its share of such expense in proportion (unless otherwise provided)

to its owner's fractional interest in any common areas, and for the subordination of the liens securing such assessments to other liens either generally or specifically described.

7. For the conditions upon which partition may be had of the project pursuant to NRS 117.050. Such right to partition may be conditioned upon failure of the condominium owners to elect to rebuild within a certain period, specified inadequacy of insurance proceeds, specified damage to the building, a decision of an arbitrator, or upon any other reasonable condition.

8. For restrictions upon the severability of the component interests in real property which comprise a condominium. No such restrictions shall extend beyond the period in which the right to partition a project is suspended under NRS 117.050.

(Added to NRS by 1963, 128)

NRS 117.065 Maintenance fees: Custodial accounts; records. Any person who receives fees from a purchaser of a condominium for the maintenance of the project shall:

1. Immediately deposit the money in a separate custodial account maintained by the person with some bank, credit union or recognized depository in this State.

2. Keep records of all such money deposited therein.

(Added to NRS by 1965, 1219; A 1999, 1457)

NRS 117.070 Assessment liens: Recording of notice of assessment; priority and expiration of lien; enforcement by sale.

1. A reasonable assessment upon any condominium made in accordance with a recorded declaration of restrictions permitted by NRS 117.060 shall be a debt of the owner thereof at the time the assessment is made. The amount of any such assessment plus any other charges thereon, such as interest, costs (including attorneys' fees), and penalties, as such may be provided for in the declaration of restrictions, shall be and become a lien upon the condominium assessed when the management body causes to be recorded with the county recorder of the county in which such condominium is located a notice of assessment, which shall state:

(a) The amount of such assessment and such other charges thereon as may be authorized by the declaration of restrictions;

(b) A description of the condominium against which the same has been assessed; and

(c) The name of the record owner thereof.

Such notice shall be signed by an authorized representative of the management body or as otherwise provided in the declaration of restrictions. Upon payment of the assessment and charges in connection with which such notice has been so recorded, or other satisfaction thereof, the management body shall cause to be recorded a further notice stating the satisfaction and the release of the lien thereof.

2. Such lien shall be prior to all other liens recorded subsequent to the recordation of the notice of assessment except that the declaration of restrictions may provide for the subordination thereof to any other liens and encumbrances. Unless sooner satisfied and released or the enforcement thereof initiated as provided in subsection 3, such lien shall expire and be of no further force or effect 1 year from the date of recordation of the notice of assessment, but the 1-year period may be extended by the management body for not to exceed 1 additional year by recording a written extension thereof.

3. Such lien may be enforced by sale by the management body, its agent or attorney, after failure of the owner to pay such an assessment in accordance with the terms of the declaration of restrictions. The sale shall be conducted in accordance with the provisions of Covenants Nos. 6, 7 and 8 of NRS 107.030, and NRS 107.090 insofar as they are consistent with the provisions of NRS 117.075, or in any other manner permitted by law. Unless otherwise provided in the declaration of restrictions, the management body, if it is a corporation, cooperative association, partnership or natural person, shall have power to bid in the condominium at foreclosure sale and to hold, lease, mortgage and convey the same.

(Added to NRS by 1963, 129; A 1975, 978)

NRS 117.075 Assessment liens: Exercise of power of sale.

1. The power of sale conferred in NRS 117.070 shall not be exercised until:

(a) The management body, its agent or attorney has first executed and caused to be recorded with the recorder of the county wherein the condominium is located a notice of default and election to sell the condominium or cause its sale to satisfy the assessment lien; and

(b) The condominium owner or his or her successor in interest has failed to pay the amount of the lien, including costs, fees and expenses incident to its enforcement for a period of 60 days computed as prescribed in subsection 2.

2. The 60-day period provided in subsection 1 shall commence on the first day following the day upon which the notice of default and election to sell is recorded as herein provided and a copy of the notice is mailed by certified or registered mail with postage prepaid to the condominium owner or to his or her successor in interest at his or her address if such address is known, otherwise to the address of the condominium unit. The notice shall describe the deficiency in payment.

3. The management body, its agent or attorney shall, after expiration of the 60-day period and prior to selling the condominium, give notice of the time and place of the sale in the manner and for a time not less than that required by law for the sale of real property upon execution, except that a copy of the notice of sale shall be mailed on or before the first publication or posting required by NRS 21.130 by certified or registered mail with postage prepaid to the condominium owner or to his or her successor in interest at his or her address if such address is known, otherwise to the address of the condominium unit. The sale itself may be made at the office of the management body if the notice so provided, whether the condominium is located within the same county as the office of the management body or not.

4. Every sale made under the provisions of NRS 117.070 vests in the purchaser the title of the condominium owner without equity or right of redemption.

(Added to NRS by 1975, 977)

NRS 117.080 Other liens. No labor performed or services or materials furnished with the consent of or at the request of a condominium owner or his or her agent or his or her contractor or subcontractor shall be the basis for the filing of a lien against the condominium of any other condominium owner, or against any part thereof, or against any other property of any other condominium owner, unless such other owner has expressly consented to or requested the performance of such labor or furnishing of such materials or services. Such express consent shall be deemed to have been given by the owner of any condominium in the case of emergency repairs thereto. Labor performed or services or materials furnished for the common areas, if duly authorized by a management body provided for in a declaration of restrictions governing the property, shall be deemed to be performed or furnished with the express consent of each condominium owner. The owner of any condominium may remove his or her condominium from a lien against two or more condominiums or any part thereof by payment to the holder of the lien of the fraction of the total sum secured by such lien which is attributable to his or her condominium.

(Added to NRS by 1963, 130)

NRS 117.090 Common personalty. Unless otherwise provided by a declaration of restrictions under NRS 117.060, the management body, if any, provided for therein, may acquire and hold, for the benefit of the condominium owners, tangible and intangible personal property and may dispose of the same by sale or otherwise; and the beneficial interest in such personal property shall be owned by the condominium owners in the same proportion as their respective interests in the common areas, and shall not be transferable except with a transfer of a condominium. A transfer of a condominium shall transfer to the transferee ownership of the transferor's beneficial interest in such personal property.

(Added to NRS by 1963, 130)

NRS 117.100 Liberal construction of deed, declaration or plan for project. Any deed, declaration or plan for a condominium project shall be liberally construed to facilitate the operation of the project, and its provisions shall be presumed to be independent and severable.

(Added to NRS by 1963, 131)

NRS 117.103 Rules against perpetuities and unreasonable restraints on alienation. NRS 111.1031 and the common-law rules of property known as the rule against perpetuities and the rule restricting unreasonable restraints on alienation must not be applied to defeat any of the provisions of this chapter.

(Added to NRS by 1967, 200; A 1987, 65)

NRS 117.105 Interest of unit owner conveyed by tax deed. If any person acquires or is entitled to the issuance of a tax deed conveying the interest of any condominium owner, such interest so acquired shall be subject to all the provisions of this chapter and to all terms, provisions, covenants, conditions and limitations contained in the declaration of restrictions, any plat, any bylaws or any deed affecting such interest then in force.

(Added to NRS by 1967, 200)

NRS 117.110 Construction of local zoning ordinances. Unless a contrary intent is clearly expressed, local zoning ordinances shall be construed to treat like structures, lots or parcels in like manner regardless of whether the ownership thereof is divided by sale of condominiums or into community apartments rather than by lease of apartments, offices or stores.

(Added to NRS by 1963, 131)

CHAPTER 118 - DISCRIMINATION IN HOUSING; LANDLORD AND TENANT

DISCRIMINATION IN HOUSING

<u>NRS 118.010</u>	Short title.
<u>NRS 118.020</u>	Declaration of public policy of State.
<u>NRS 118.030</u>	Definitions.
<u>NRS 118.040</u>	“Commission” defined.
<u>NRS 118.045</u>	“Disability” defined.
<u>NRS 118.050</u>	“Discriminate” defined.
<u>NRS 118.060</u>	“Dwelling” defined.
<u>NRS 118.065</u>	“Familial status” defined.
<u>NRS 118.070</u>	“Family” defined.
<u>NRS 118.075</u>	“Gender identity or expression” defined.
<u>NRS 118.080</u>	“Person” defined.
<u>NRS 118.090</u>	“Rent” defined.
<u>NRS 118.093</u>	“Sexual orientation” defined.
<u>NRS 118.095</u>	Regulations.
<u>NRS 118.100</u>	Prohibited acts and practices.
<u>NRS 118.101</u>	Modification of dwelling by person with disability.
<u>NRS 118.103</u>	Construction of certain covered multifamily dwellings to provide access to person with disability.
<u>NRS 118.105</u>	Landlord may not refuse to rent dwelling because person with disability will reside with animal that provides assistance, support or service.
<u>NRS 118.110</u>	Aggrieved person may file complaint.
<u>NRS 118.115</u>	Effect of violation of state or federal laws in proceeding for possession of dwelling.
<u>NRS 118.120</u>	Actions for injunction or damages.

PROPERTY TAXES PAID BY LANDLORD

<u>NRS 118.165</u>	Disclosure of portion of rent which represents property taxes; reduction of rent; penalty for failure to reduce rent; enforcement.
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ABANDONMENT OF REAL PROPERTY BY TENANT

<u>NRS 118.171</u>	Definitions.
<u>NRS 118.175</u>	Liability of tenant.
<u>NRS 118.185</u>	Date of termination of rental agreement.
<u>NRS 118.195</u>	Notice to tenant of landlord’s belief that property has been abandoned; property deemed abandoned unless disputed by tenant.
<u>NRS 118.205</u>	Requirements for notice.

DISCRIMINATION IN HOUSING

NRS 118.010 Short title. The provisions of NRS 118.010 to 118.120, inclusive, may be cited as the Nevada Fair Housing Law.

(Added to NRS by 1971, 729; A 1973, 1109; 1977, 1348, 1606; 2011, 867)

NRS 118.020 Declaration of public policy of State.

1. It is hereby declared to be the public policy of the State of Nevada that all people in the State have equal opportunity to inherit, purchase, lease, rent, sell, hold and convey real property without discrimination, distinction or restriction because of race, religious creed, color, national origin, disability, sexual orientation, gender identity or expression, ancestry, familial status or sex.

2. Nothing in this chapter shall be deemed to render enforceable a conveyance or other contract made by a person who lacks the capacity to contract.

(Added to NRS by 1971, 729; A 1973, 195; 1991, 1020, 1980; 2011, 867)

NRS 118.030 Definitions. As used in NRS 118.010 to 118.120, inclusive, unless the context otherwise requires, the words and terms defined in NRS 118.040 to 118.093, inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 1971, 729; A 1973, 1109; 1977, 1606; 1991, 112, 1980; 1999, 1228; 2011, 868)

NRS 118.040 “Commission” defined. “Commission” means the Nevada Equal Rights Commission.
(Added to NRS by 1971, 730; A 1975, 221)

NRS 118.045 “Disability” defined. “Disability” means, with respect to a person:

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.

(Added to NRS by 1991, 1020)

NRS 118.050 “Discriminate” defined. “Discriminate” includes both “segregate” and “separate.”
(Added to NRS by 1971, 730)

NRS 118.060 “Dwelling” defined.

1. “Dwelling” means any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

2. “Dwelling” does not include:

(a) A single-family house sold or rented by an owner if:

(1) The owner does not own more than three single-family houses at any one time or the owner does not own any interest in, nor is there owned or reserved on his or her behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three single-family houses at any one time; and

(2) The house was sold or rented without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, real estate broker-salesperson or real estate salesperson licensed pursuant to chapter 645 of NRS.

(b) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by not more than four families living independently of each other if the owner actually maintains and occupies one of the living quarters as his or her residence and the owner has not within the preceding 12-month period participated:

(1) As the principal in three or more transactions involving the sale or rental of any dwelling or any interest therein; or

(2) As an agent, otherwise than in the sale of his or her own personal residence in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein.

3. The sale of a single-family house by an owner not residing in that house at the time of the sale or who was not the most recent resident of that house before the sale does not bring the house within the definition of “dwelling” unless there is more than one such sale within any 24-month period.

(Added to NRS by 1971, 730; A 1995, 404; 1997, 50)

NRS 118.065 “Familial status” defined. “Familial status” means the fact that a person:

1. Lives with a child under the age of 18 and has:

(a) Lawful custody of the child; or

(b) 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.

(Added to NRS by 1991, 1979; A 1995, 1987)

NRS 118.070 “Family” defined. “Family” includes a single individual.

(Added to NRS by 1971, 730)

NRS 118.075 “Gender identity or expression” defined. “Gender identity or expression” means a gender-related identity, appearance, expression or behavior of a person, regardless of the person’s assigned sex at birth.

(Added to NRS by 2011, 867)

NRS 118.080 “Person” defined. “Person” includes the State of Nevada and all political subdivisions and agencies thereof.

(Added to NRS by 1971, 730; A 1985, 507; 1991, 1020, 1980; 1995, 1987)

NRS 118.090 “Rent” defined. “Rent” means rent, lease, sublease, let or otherwise grant for a consideration the right to occupy premises not owned by the occupant.

(Added to NRS by 1971, 731)

NRS 118.093 “Sexual orientation” defined. “Sexual orientation” means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

(Added to NRS by 2011, 867)

NRS 118.095 Regulations. The Commission may adopt regulations, consistent with the fair housing provisions of 42 U.S.C. §§ 3601 et seq., to carry out the provisions of NRS 118.010 to 118.120, inclusive.

(Added to NRS by 1991, 1980; A 2011, 868)

NRS 118.100 Prohibited acts and practices. A person shall not, because of race, religious creed, color, national origin, disability, sexual orientation, gender identity or expression, ancestry, familial status or sex:

1. Refuse to sell or rent or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person.

2. Discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, including the amount of breakage or brokerage fees, deposits or other undue penalties, or in the provision of services or facilities in connection therewith.

3. Make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination, or an intention to make any preference, limitation or discrimination. As used in this subsection, "dwelling" includes a house, room or unit described in subsection 2 or 3 of NRS 118.060.

4. Represent to any person because of race, religious creed, color, national origin, disability, sexual orientation, gender identity or expression, ancestry, familial status or sex that any dwelling is not available for inspection, sale or rental when the dwelling is in fact so available.

5. For profit, induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person of a particular race, religious creed, color, national origin, disability, sexual orientation, gender identity or expression, ancestry, familial status or sex.

6. Coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected in this chapter.

(Added to NRS by 1971, 731; A 1973, 195; 1991, 1020, 1980; 1995, 405; 1997, 51; 2011, 868)

NRS 118.101 Modification of dwelling by person with disability.

1. A person may not refuse to:

(a) Authorize a person with a disability to make reasonable modifications to a dwelling which he or she occupies or will occupy if:

(1) The person with the disability pays for the modifications; and

(2) The modifications are necessary to ensure that the person with the disability may use and enjoy the dwelling; or

(b) Make reasonable accommodations in rules, policies, practices or services if those accommodations are necessary to ensure that the person with the disability may use and enjoy the dwelling.

2. A landlord may, as a condition for the authorization of such a modification, reasonably require the person who requests the authorization, upon the termination of his or her occupancy, to restore the dwelling to the condition that existed before the modification, reasonable wear and tear excepted.

3. Except as otherwise provided in subsection 4, a landlord may not increase the amount of a security deposit the landlord customarily requires a person to deposit because that person has requested authorization to modify a dwelling pursuant to subsection 1.

4. If a person requests authorization to modify a dwelling pursuant to subsection 1, the landlord may require that person to deposit an additional security deposit in addition to the amount the landlord usually requires if the additional security deposit:

(a) Is necessary to ensure the restoration of the dwelling pursuant to subsection 2;

(b) Does not exceed the actual cost of the restoration; and

(c) Is deposited by the landlord in an interest-bearing account. Any interest earned on the additional amount must be paid to the person who requested the authorization.

5. As used in this section, "security deposit" has the meaning ascribed to it in NRS 118A.240.

(Added to NRS by 1995, 1986; A 2021, 398)

NRS 118.103 Construction of certain covered multifamily dwellings to provide access to person with disability.

1. A covered multifamily dwelling which is designed and constructed for occupancy on or after March 13, 1991, must be constructed in such a manner that the dwelling contains at least one entrance which is accessible to a person with a disability unless it is impracticable to so design or construct the dwelling because of the terrain or unusual characteristics of the site upon which it is constructed.

2. A covered multifamily dwelling which contains at least one entrance which is accessible to a person with a disability must be constructed in such a manner that:

(a) The common areas of the dwelling are readily accessible to and usable by a person with a disability;

(b) The doors of the dwelling are sufficiently wide to allow a person with a disability to enter and exit in a wheelchair;

(c) The units of the dwelling contain:

(1) An accessible route into and through the dwelling;

(2) Reinforcements in the bathroom walls so that bars for use by a person with a disability may be installed therein; and

(3) Kitchens and bathrooms in which a person in a wheelchair may maneuver; and

(d) The light switches, electrical outlets, thermostats or any other environmental controls in the units of the dwelling are placed in such a manner that they are accessible to a person in a wheelchair.

3. As used in this section, "covered multifamily dwelling" means:

(a) A building which consists of four or more units and contains at least one elevator; or

(b) The units located on the ground floor of any other building which consists of four or more units.

(Added to NRS by 1995, 1987)

NRS 118.105 Landlord may not refuse to rent dwelling because person with disability will reside with animal that provides assistance, support or service.

1. Except as otherwise provided in subsection 2, a landlord may not refuse to rent a dwelling subject to the provisions of chapter 118A of NRS to a person with a disability solely because an animal will be residing with the prospective tenant in the dwelling if the animal assists, supports or provides service to the person with a disability.

2. A landlord may require proof that an animal assists, supports or provides service to the person with a disability. This requirement may be satisfied, without limitation, by a statement from a provider of health care that the animal performs a function that ameliorates the effects of the person's disability.

(Added to NRS by 1977, 1347; A 1981, 1915; 1987, 824; 1991, 1021, 1981; 2003, 2975; 2005, 630)

NRS 118.110 Aggrieved person may file complaint. Any aggrieved person who claims to have been injured by a discriminatory housing practice or who believes that he or she will be injured by such a practice that is about to occur may file a complaint with the Commission in the manner prescribed in NRS 233.160.

(Added to NRS by 1971, 731; A 1973, 1109; 1977, 1606; 1995, 1987)

NRS 118.115 Effect of violation of state or federal laws in proceeding for possession of dwelling. A tenant has a defense in a summary proceeding or other action for possession of a dwelling if the landlord's attempt to terminate the tenancy or regain possession violates any provision of NRS 118.010 to 118.120, inclusive, or the Fair Housing Act of 1968, 42 U.S.C. §§ 3601 et seq.

(Added to NRS by 1999, 1228; A 2011, 868)

NRS 118.120 Actions for injunction or damages. Any person may commence an action in any district court in this state to enforce the provisions of NRS 118.100, 207.300, 207.310, 645.321 or 645C.480 not less than 1 year after the date of the occurrence or termination of an alleged violation of any of those provisions. If the court determines that the provisions of any of those sections have been violated by the defendant, and that the plaintiff has been injured thereby, it may enjoin the defendant from continued violation or may take such other affirmative action as may be appropriate, and, in the case of a prevailing plaintiff, may award to the plaintiff actual damages, punitive damages, court costs and a reasonable attorney's fee.

(Added to NRS by 1971, 732; A 1977, 1608; 1995, 1988)

PROPERTY TAXES PAID BY LANDLORD

NRS 118.165 Disclosure of portion of rent which represents property taxes; reduction of rent; penalty for failure to reduce rent; enforcement.

1. Unless exempted by subsection 3, every landlord of real property leased or otherwise rented to a tenant, including every landlord of a mobile home park, shall deliver to the tenant in July of each year, and whenever the periodic rent changes, a statement which shows separately for each periodic payment of rent:

- (a) The amount which represents property taxes paid by the landlord; and
- (b) The remainder of that payment.

2. If the property rented is one of several upon which the landlord pays taxes together, the amount which represents property taxes must be calculated by:

(a) Apportioning the total property tax paid for the year upon the entire property among the individual properties rented according to their respective areas.

(b) Reducing the amount so apportioned to each particular property for the year by the appropriate fraction to correspond to the period for which rent on it is paid.

3. This section does not apply to:

(a) Any property covered by a written agreement which requires the tenant to pay the property tax or otherwise provides for calculation and notice to the tenant of its amount.

(b) Any lodging unless it contains its own cooking and toilet facilities, separate from other living quarters.

(c) Any room in a hotel or motel.

(d) Any concession within a larger commercial enterprise, or any other property not customarily used separately from adjacent units.

(e) Any property for which the rent is a share of sales or profit.

4. The statements required in July 1981 by subsection 1 must show, in addition to the information required as of the date the statement is prepared, the comparable information as of July 1980. Each landlord of property which is subject to this section shall reduce the periodic rent otherwise payable by an amount equal to 90 percent of any reduction from 1980 to 1981 of the amount which represents property taxes as shown in the statements required by that subsection.

5. This section does not purport to regulate the total amount of rent payable.

6. A landlord who fails to reduce the periodic rent in accordance with subsection 4 is liable to each tenant whose rent was not properly reduced for an amount equal to three times the amount which was overpaid by the tenant, unless the landlord shows good cause for the failure. If the tenant made written demand upon his or her landlord at least 20 days before bringing his or her action under this subsection, a judgment for the tenant must include costs and a reasonable attorney's fee.

7. The Department of Taxation is responsible for enforcing the provisions of this section.

(Added to NRS by 1979, 1235; A 1981, 298; 1987, 976)

ABANDONMENT OF REAL PROPERTY BY TENANT

NRS 118.171 Definitions. As used in NRS 118.171 to 118.205, inclusive, unless the context otherwise requires:

1. "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. "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. "Tenant" means a person who has the right to possess real property pursuant to a rental agreement.
(Added to NRS by 1991, 1039; A 2009, 1965; 2011, 1489)

NRS 118.175 Liability of tenant. If a tenant of real property abandons the property, the landlord shall make reasonable efforts to rent it at a fair rental. If the landlord rents the property for a term beginning before the expiration of the rental agreement pursuant to its terms or if, despite the landlord's reasonable efforts, the landlord is unable to rent the property before the rental agreement is otherwise terminated, the former tenant is liable for any actual damages of the landlord which may result from the abandonment. If the landlord fails to make reasonable efforts to rent the property at a fair rental, the former tenant is liable for any actual damages of the landlord occurring before the landlord had reason to believe that the property was abandoned. If the tenancy is from month to month or week to week, the term of the rental agreement for this purpose is deemed to be a month or a week, as the case may be.

(Added to NRS by 1977, 1347; A 1991, 1040)

NRS 118.185 Date of termination of rental agreement. If a tenant of real property abandons the property before the expiration of the rental agreement pursuant to its terms, the rental agreement terminates when:

1. The tenant provides the landlord with notice of the tenant's intention to abandon the property, and the landlord accepts the surrender of the property;
 2. The landlord rents the property to another tenant;
 3. The property is deemed to be abandoned pursuant to NRS 118.195;
 4. The rental agreement is terminated by court order or pursuant to the provisions of chapter 118A of NRS; or
 5. The rental agreement expires pursuant to its terms,
- ↪ whichever occurs first.
(Added to NRS by 1991, 1039)

NRS 118.195 Notice to tenant of landlord's belief that property has been abandoned; property deemed abandoned unless disputed by tenant.

1. If a landlord of real property reasonably believes that his or her tenant has abandoned the property, and the tenant is in default in the payment of rent, the landlord may serve the tenant with a written notice of the landlord's belief that the property has been abandoned. If the tenant fails, within 5 days after service of the notice by the landlord, to:

- (a) Pay the rent due; and
- (b) Provide the landlord with a written notice:
 - (1) Stating the tenant's intention not to abandon the property; and
 - (2) Setting forth an address at which the tenant may be served with legal process,

↪ the property shall be deemed abandoned by the tenant and the rental agreement shall be deemed terminated. The property shall not be deemed abandoned if the tenant pays the rent due and provides the written notice within the prescribed time.

2. Real property shall not be deemed abandoned pursuant to this section if the tenant proves that at the time the landlord served notice:

- (a) The tenant was not in default in the payment of rent; or
- (b) It was not reasonable for the landlord to believe that the tenant had abandoned the real property. The fact that the landlord knew that the tenant left personal property on the real property does not, of itself, justify a finding that the landlord did not reasonably believe that the tenant had abandoned the real property.

3. The provisions of this section do not preclude a landlord or tenant from otherwise proving that real property has been abandoned.

(Added to NRS by 1991, 1040)

NRS 118.205 Requirements for notice. A notice provided by a landlord to a tenant pursuant to NRS 118.195:

1. Must advise the tenant of the provisions of that section and specify:
 - (a) The address or other location of the property;
 - (b) The date upon which the property will be deemed abandoned and the rental agreement terminated; and
 - (c) An address for payment of the rent due and delivery of notice to the landlord.
2. Must be served pursuant to subsection 1 of NRS 40.280.
3. May be included in the notice required by subsection 1 of NRS 40.253 or subsection 1 of NRS 40.2542, as applicable.
(Added to NRS by 1991, 1040; A 2019, 3926)

CHAPTER 118A - LANDLORD AND TENANT: DWELLINGS

GENERAL PROVISIONS

<u>NRS 118A.010</u>	Short title.
<u>NRS 118A.020</u>	Definitions.
<u>NRS 118A.030</u>	“Abandoned property” defined.
<u>NRS 118A.040</u>	“Action” defined.
<u>NRS 118A.050</u>	“Building, housing and health codes” defined.
<u>NRS 118A.060</u>	“Cause” defined.
<u>NRS 118A.070</u>	“Court” defined.
<u>NRS 118A.080</u>	“Dwelling” and “dwelling unit” defined.
<u>NRS 118A.090</u>	“Exclude” defined.
<u>NRS 118A.095</u>	“Federal worker” defined.
<u>NRS 118A.100</u>	“Landlord” defined.
<u>NRS 118A.110</u>	“Normal wear” defined.
<u>NRS 118A.120</u>	“Owner” defined.
<u>NRS 118A.125</u>	“Periodic rent” defined.
<u>NRS 118A.130</u>	“Person” defined.
<u>NRS 118A.140</u>	“Premises” defined.
<u>NRS 118A.150</u>	“Rent” defined.
<u>NRS 118A.160</u>	“Rental agreement” defined.
<u>NRS 118A.163</u>	“Shutdown” defined.
<u>NRS 118A.167</u>	“State worker” defined.
<u>NRS 118A.170</u>	“Tenant” defined.
<u>NRS 118A.175</u>	“Tribal worker” defined.
<u>NRS 118A.180</u>	Applicability.
<u>NRS 118A.190</u>	Notice: Definition; service.
<u>NRS 118A.200</u>	Rental agreements: Signing; copies; required provisions; disputable presumptions; use of nonconforming agreement unlawful.
<u>NRS 118A.210</u>	Rental agreements: Payment of rent; term of tenancy; late fee.
<u>NRS 118A.220</u>	Rental agreements: Prohibited provisions.
<u>NRS 118A.230</u>	Rental agreements: Unconscionability.

OBLIGATIONS OF LANDLORD

<u>NRS 118A.240</u>	“Security deposit” defined.
<u>NRS 118A.242</u>	Security deposit: Limitation on amount or value; surety bond in lieu of security deposit; duties and liability of landlord; damages; disputing itemized accounting of security deposit; prohibited provisions.
<u>NRS 118A.244</u>	Notice or transfer of security deposit or surety bond to tenant and successor in interest required upon transfer of dwelling unit.
<u>NRS 118A.250</u>	Receipts for security deposit, surety bond, rent and other payments.
<u>NRS 118A.260</u>	Disclosure of names and addresses of managers and owners; emergency telephone number; service of process.
<u>NRS 118A.270</u>	Alternative method of disclosure.
<u>NRS 118A.275</u>	Disclosure of foreclosure proceedings on premises to prospective tenant; willful violation constitutes deceptive trade practice by landlord.
<u>NRS 118A.280</u>	Delivery of possession of premises.
<u>NRS 118A.290</u>	Habitability of dwelling unit.
<u>NRS 118A.300</u>	Advance notice of increase of rent.

OBLIGATIONS OF TENANT

<u>NRS 118A.310</u>	Basic obligations; exception to term of rental agreement requiring payment of rent at specified time in connection with shutdown.
<u>NRS 118A.315</u>	Petition by landlord for relief from certain requirements relating to shutdown.

MISCELLANEOUS RIGHTS AND OBLIGATIONS OF LANDLORD AND TENANT

<u>NRS 118A.320</u>	Rules or regulations of landlord.
<u>NRS 118A.325</u>	Right of tenant to display flag of the United States in certain areas; conditions and limitations on exercise of right.
<u>NRS 118A.330</u>	Landlord’s access to dwelling unit.

- NRS 118A.335 Landlord prohibited from employing certain persons without work card under certain circumstances; requirements governing issuance and renewal of work card; exceptions.
- NRS 118A.340 Right of tenant or cotenant to terminate lease due to physical or mental disability or death.
- NRS 118A.345 Right of tenant or cotenant to terminate lease due to domestic violence, harassment, sexual assault or stalking.
- NRS 118A.347 Form of affidavit for written notice terminating lease due to domestic violence.

REMEDIES

- NRS 118A.350 Failure of landlord to comply with rental agreement.
- NRS 118A.355 Failure of landlord to maintain dwelling unit in habitable condition.
- NRS 118A.360 Failure of landlord to comply with rental agreement or maintain dwelling unit in habitable condition where cost of compliance less than specified amount.
- NRS 118A.370 Failure of landlord to deliver possession of dwelling unit.
- NRS 118A.380 Failure of landlord to supply essential items or services.
- NRS 118A.390 Unlawful removal or exclusion of tenant or willful interruption of essential items or services; procedure for expedited relief.
- NRS 118A.400 Damage or destruction of dwelling unit by fire or casualty.
- NRS 118A.410 Failure of landlord to disclose required information to tenant.
- NRS 118A.420 Failure of tenant to comply with rental agreement or perform basic obligations: Damages; injunctive relief.
- NRS 118A.430 Failure of tenant to comply with rental agreement or perform basic obligations: Termination of rental agreement.
- NRS 118A.440 Failure of tenant to perform basic obligations: Remedial work by landlord may be charged to tenant.
- NRS 118A.450 Abandonment of dwelling unit by tenant: Remedies; presumption.
- NRS 118A.460 Procedure for disposal of personal property abandoned or left on premises; landlord required to provide tenant reasonable opportunity to retrieve essential personal effects for period following eviction or lockout of tenant.
- NRS 118A.470 Holding over by tenant.
- NRS 118A.480 Landlord's recovery of possession of dwelling unit.
- NRS 118A.490 Actions based upon nonpayment of rent: Counterclaim by tenant; deposit of rent with court; judgment for eviction.
- NRS 118A.500 Tenant's refusal to allow lawful access to dwelling unit; landlord's abuse of access.
- NRS 118A.510 Retaliatory conduct by landlord against tenant prohibited; remedies; exceptions.
- NRS 118A.515 Adverse action by landlord based solely upon request for emergency assistance prohibited; request for emergency assistance may not be deemed nuisance; exceptions; remedies.
- NRS 118A.520 When lien or security interest in tenant's household goods may be enforced; distraint for rent abolished; damages.

SAVING PROVISION

- NRS 118A.530 Effect of chapter upon rental agreements entered into before July 1, 1977.

GENERAL PROVISIONS

- NRS 118A.010 **Short title.** This chapter may be cited as the Residential Landlord and Tenant Act.
(Added to NRS by 1977, 1330)
- NRS 118A.020 **Definitions.** As used in this chapter, unless the context otherwise requires, the terms defined in NRS 118A.030 to 118A.175, inclusive, have the meanings ascribed to them in those sections.
(Added to NRS by 1977, 1330; A 2019, 3188, 3926)
- NRS 118A.030 **"Abandoned property" defined.** "Abandoned property" means property which is left unattended on the premises after the termination of the tenancy, unless the owner of the property has expressed an intent to return for the property.
(Added to NRS by 1977, 1330)
- NRS 118A.040 **"Action" defined.** "Action" includes counterclaim, crossclaim, third-party claim or any other proceeding in which rights are determined.
(Added to NRS by 1977, 1330)
- NRS 118A.050 **"Building, housing and health codes" defined.** "Building, housing and health codes" include any law, ordinance or governmental regulation concerning:
1. Health, safety, sanitation or fitness for habitation; or
 2. The construction, maintenance, operation, occupancy, use or appearance,
- ↳ of any premises or dwelling unit.
(Added to NRS by 1977, 1330)
- NRS 118A.060 **"Cause" defined.** A tenancy is terminate_118_ cause" for:

1. Nonpayment of rent.
2. Nonpayment of utility charges if the landlord customarily pays such charges and submits a separate bill to the tenant.
3. Failure of the tenant to comply with:
 - (a) Basic obligations imposed on the tenant by this chapter;
 - (b) Valid rules or regulations established pursuant to this chapter; or
 - (c) Valid provisions of the rental agreement.
4. Condemnation of the dwelling unit.
(Added to NRS by 1977, 1331)

NRS 118A.070 “Court” defined. “Court” means the district court, Justice Court or other court of competent jurisdiction situated in the county or township wherein the premises are located.
(Added to NRS by 1977, 1331)

NRS 118A.080 “Dwelling” and “dwelling unit” defined. “Dwelling” or “dwelling unit” means a structure or the part of a structure that is occupied as, or designed or intended for occupancy as, a residence or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.
(Added to NRS by 1977, 1331)

NRS 118A.090 “Exclude” defined. “Exclude” means to evict or to prohibit entry by locking doors or by otherwise blocking or attempting to block entry, or to make a dwelling unit uninhabitable by interrupting or causing the interruption of electric, gas, water or other essential services.
(Added to NRS by 1977, 1331)

NRS 118A.095 “Federal worker” defined. “Federal worker” has the meaning ascribed to it in NRS 40.002.
(Added to NRS by 2019, 3188)

NRS 118A.100 “Landlord” defined. “Landlord” means a person who provides a dwelling unit for occupancy by another pursuant to a rental agreement.
(Added to NRS by 1977, 1331)

NRS 118A.110 “Normal wear” defined. “Normal wear” means that deterioration which occurs without negligence, carelessness or abuse of the premises, equipment or chattels by the tenant, a member of the tenant’s household or other person on the premises with the tenant’s consent.
(Added to NRS by 1977, 1331)

NRS 118A.120 “Owner” defined. “Owner” means one or more persons, jointly or severally, in whom is vested:

1. All or part of the legal title to property, except a trustee under a deed of trust who is not in possession of the property; or
2. All or part of the beneficial ownership, and a right to present use and enjoyment of the premises.

(Added to NRS by 1977, 1331)

NRS 118A.125 “Periodic rent” defined. “Periodic rent” means:

1. For a tenancy for a fixed term or a tenancy on a month to month basis, the amount of money payable each month;
2. For a tenancy on a week to week basis, the amount payable each week; and
3. For a tenancy on an annual basis, the amount payable annually divided by 12.

(Added to NRS by 2019, 3926)

NRS 118A.130 “Person” defined. “Person” includes a government, a governmental agency and a political subdivision of a government.
(Added to NRS by 1977, 1331; A 1985, 507)

NRS 118A.140 “Premises” defined. “Premises” means a dwelling unit and the structure of which it is a part, facilities, furniture, utilities and appurtenances therein and grounds, areas and facilities held out for the use of tenants.
(Added to NRS by 1977, 1331)

NRS 118A.150 “Rent” defined. “Rent” means all periodic payments to be made to the landlord for occupancy of a dwelling unit, including, without limitation, all reasonable and actual late fees set forth in the rental agreement.
(Added to NRS by 1977, 1331; A 1999, 984)

NRS 118A.160 “Rental agreement” defined. “Rental agreement” means any oral or written agreement for the use and occupancy of a dwelling unit or premises.
(Added to NRS by 1977, 1331)

NRS 118A.163 “Shutdown” defined. “Shutdown” has the meaning ascribed to it in NRS 40.0035.
(Added to NRS by 2019, 3188)

NRS 118A.167 “State worker” defined. “State worker” has the meaning ascribed to it in NRS 40.004.
(Added to NRS by 2019, 3188)

NRS 118A.170 “Tenant” defined. “Tenant” means a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others.
(Added to NRS by 1977, 1332)

NRS 118A.175 “Tribal worker” defined. “Tribal worker” has the meaning ascribed to it in NRS 40.0045.
(Added to NRS by 2019, 3188)

NRS 118A.180 Applicability.

1. Except as otherwise provided in subsection 2, this chapter applies to, regulates and determines rights, obligations and remedies under a rental agreement, wherever made, for a dwelling unit or premises located within this State.

2. This chapter does not apply to:

- (a) A rental agreement subject to the provisions of chapter 118B of NRS;
- (b) Low-rent housing programs operated by public housing authorities and established pursuant to the United States Housing Act of 1937, 42 U.S.C. §§ 1437 et seq.;
- (c) Residence in an institution, public or private, incident to detention or the provision of medical, geriatric, educational, counseling, religious or similar service;
- (d) Occupancy under a contract of sale of a dwelling unit or the property of which it is a part, if the occupant is the purchaser or his or her successor in interest;
- (e) Occupancy by a member of a fraternal or social organization in the portion of a structure operated for the benefit of the organization;
- (f) Occupancy in a hotel or motel for less than 30 consecutive days unless the occupant clearly manifests an intent to remain for a longer continuous period;
- (g) Occupancy by an employee of a landlord whose right to occupancy is solely conditional upon employment in or about the premises;
- (h) Occupancy by an owner of a condominium unit or by a holder of a proprietary lease in a cooperative apartment;
- (i) Occupancy under a rental agreement covering premises used by the occupant primarily for agricultural purposes; or
- (j) Occupancy by a person who is guilty of a forcible entry, as defined in NRS 40.230, or a forcible detainer, as defined in NRS 40.240.

(Added to NRS by 1977, 1332; A 1985, 1413; 1999, 1228; 2003, 2967; 2005, 1009; 2015, 3133)

NRS 118A.190 Notice: Definition; service.

1. A person has notice of a fact if:

- (a) The person has actual knowledge of it;
- (b) The person has received a notice or notification of it; or
- (c) From all the facts and circumstances the person reasonably should know that it exists.

2. Written notices to the tenant prescribed by this chapter shall be served in the manner provided by NRS 40.280.

3. Written notices to the landlord prescribed by this chapter may be delivered or mailed to the place of business of the landlord designated in the rental agreement or to any place held out by the landlord as the place for the receipt of rental payments from the tenant and are effective from the date of delivery or mailing.

(Added to NRS by 1977, 1332)

NRS 118A.200 Rental agreements: Signing; copies; required provisions; disputable presumptions; use of nonconforming agreement unlawful.

1. Any written agreement for the use and occupancy of a dwelling unit or premises must be signed by the landlord or his or her agent and the tenant or his or her agent.

2. The landlord shall provide one copy of any written agreement described in subsection 1 to the tenant free of cost at the time the agreement is executed and, upon request of the tenant, provide additional copies of any such agreement to the tenant within a reasonable time. The landlord may charge a reasonable fee for providing the additional copies.

3. Any written rental agreement must contain, but is not limited to, provisions relating to the following subjects:

- (a) Duration of the agreement.
- (b) Amount of rent and the manner and time of its payment.
- (c) Occupancy by children or pets.
- (d) Services included with the dwelling rental.
- (e) Fees which are required and the purposes for which they are required.
- (f) Deposits which are required and the conditions for their refund.
- (g) Charges which may be required for late or partial payment of rent or for return of any dishonored check.
- (h) Inspection rights of the landlord.
- (i) A listing of persons or numbers of persons who are to occupy the dwelling.
- (j) Respective responsibilities of the landlord and the tenant as to the payment of utility charges.
- (k) A signed record of the inventory and condition of the pre-120-120 under the exclusive custody and control of the tenant.

(l) A summary of the provisions of NRS 202.470.

(m) Information regarding the procedure pursuant to which a tenant may report to the appropriate authorities:

(1) A nuisance.

(2) A violation of a building, safety or health code or regulation.

(n) Information regarding the right of the tenant to engage in the display of the flag of the United States, as set forth in NRS 118A.325.

4. In addition to the provisions required by subsection 3, any written rental agreement for a single-family residence which is not signed by an authorized agent of the landlord who at the time of signing holds a permit to engage in property management pursuant to chapter 645 of NRS must contain a disclosure at the top of the first page of the agreement, in a font size at least two times larger than any other font size in the agreement, which states that:

(a) There are rebuttable presumptions in NRS 205.0813 and 205.0817 that the tenant does not have lawful occupancy of the dwelling unless the agreement:

(1) Is notarized or is signed by an authorized agent of the landlord who at the time of signing holds a permit to engage in property management pursuant to chapter 645 of NRS; and

(2) Includes the current address and telephone number of the landlord or his or her authorized representative; and

(b) The agreement is valid and enforceable against the landlord and the tenant regardless of whether the agreement:

(1) Is notarized or is signed by an authorized agent of the landlord who at the time of signing holds a permit to engage in property management pursuant to chapter 645 of NRS; or

(2) Includes the current address and telephone number of the landlord or his or her authorized representative.

5. The absence of a written agreement raises a disputable presumption that:

(a) There are no restrictions on occupancy by children or pets.

(b) Maintenance and waste removal services are provided without charge to the tenant.

(c) No charges for partial or late payments of rent or for dishonored checks are paid by the tenant.

(d) Other than normal wear, the premises will be returned in the same condition as when the tenancy began.

6. It is unlawful for a landlord or any person authorized to enter into a rental agreement on his or her behalf to use any written agreement which does not conform to the provisions of this section, and any provision in an agreement which contravenes the provisions of this section is void.

7. As used in this section, "single-family residence" means a structure that is comprised of not more than four units. The term does not include a manufactured home as defined in NRS 118B.015.

(Added to NRS by 1977, 1333; A 2001, 1352; 2003, 2968; 2007, 1282; 2017, 2156)

NRS 118A.210 Rental agreements: Payment of rent; term of tenancy; late fee.

1. Rent is payable without demand or notice at the time and place agreed upon by the parties.

2. Unless the rental agreement establishes a definite term, the tenancy is from week to week in the case of a tenant who pays weekly rent and in all other cases the tenancy is from month to month.

3. In the absence of an agreement, either written or oral:

(a) Rent is payable at the beginning of the tenancy; and

(b) Rent for the use and occupancy of a dwelling is the fair rental value for the use and occupancy.

4. A landlord may charge a reasonable late fee for the late payment of rent as set forth in the rental agreement, but:

(a) In a tenancy that is longer than week to week, no late fee may be charged or imposed until at least 3 calendar days after the date that rent is due;

(b) Such a late fee must not exceed 5 percent of the amount of the periodic rent; and

(c) The maximum amount of the late fee must not be increased based upon a late fee that was previously imposed.

(Added to NRS by 1977, 1333; A 2019, 3926; 2021, 399)

NRS 118A.220 Rental agreements: Prohibited provisions.

1. A rental agreement shall not provide that the tenant:

(a) Agrees to waive or forego rights or remedies afforded by this chapter;

(b) Authorizes any person to confess judgment on any claim arising out of the rental agreement;

(c) Agrees to pay the landlord's attorney's fees, except that the agreement may provide that reasonable attorney's fees may be awarded to the prevailing party in the event of court action;

(d) Agrees to the exculpation or limitation of any liability of the landlord arising under law or to indemnify the landlord for that liability or the costs connected therewith if the liability is based upon an act or omission of the landlord or any agent or employee of the landlord; or

(e) Agrees to give the landlord a different notice of termination than that required to be given by the landlord to the tenant.

2. Any provision prohibited by subsection 1 is void as contrary to public policy and the tenant may recover any actual damages incurred through the inclusion of the prohibited provision.

(Added to NRS by 1977, 1333)

NRS 118A.230 Rental agreements: Unconscionability.

1. If the court as a matter of law finds that a rental agreement or any of its provisions was unconscionable when made, the court may refuse to enforce the agreement, enforce the remainder of the agreement without the unconscionable provision or limit the application of any unconscionable provision to avoid an unconsc- 121 - result.

2. If unconscionability is put in issue by a party or by the court upon its own motion, the parties shall be afforded a reasonable opportunity to present evidence as to the setting, purpose and effect of the rental agreement or settlement to aid the court in making its determination.

(Added to NRS by 1977, 1332)

OBLIGATIONS OF LANDLORD

NRS 118A.240 "Security deposit" defined.

1. Any payment, deposit, fee or charge that is to be used for any of the following purposes is a "security deposit" and is governed by the provisions of this section and NRS 118A.242 and 118A.244:

- (a) Remediating any default of the tenant in the payments of rent.
- (b) Repairing damages to the premises other than normal wear caused by the tenant.
- (c) Cleaning the dwelling unit.

2. "Security deposit" does not include:

- (a) Any payment, deposit or fee to secure an option to purchase the premises; or
- (b) Any payment to a corporation qualified under the laws of this State as a surety, guarantor or obligator for a premium paid to secure a surety bond or a similar bond, guarantee or insurance coverage for purposes of securing a tenant's obligations to a landlord as described in NRS 118A.242.

(Added to NRS by 1977, 1334; A 1981, 1184; 1985, 1414; 2009, 488; 2021, 399)

NRS 118A.242 Security deposit: Limitation on amount or value; surety bond in lieu of security deposit; duties and liability of landlord; damages; disputing itemized accounting of security deposit; prohibited provisions.

1. The landlord may not demand or receive a security deposit or a surety bond, or a combination thereof, including the last month's rent, whose total amount or value exceeds 3 months' periodic rent.

2. In lieu of paying all or part of the security deposit required by the landlord, a tenant may, if the landlord consents, purchase a surety bond to secure the tenant's obligation to the landlord under the rental agreement to:

- (a) Remedy any default of the tenant in the payment of rent.
- (b) Repair damages to the premises other than normal wear and tear.
- (c) Clean the dwelling unit.

3. The landlord:

- (a) Is not required to accept a surety bond purchased by the tenant in lieu of paying all or part of the security deposit; and
- (b) May not require a tenant to purchase a surety bond in lieu of paying all or part of the security deposit.

4. Upon termination of the tenancy by either party for any reason, the landlord may claim of the security deposit or surety bond, or a combination thereof, only such amounts as are reasonably necessary to remedy any default of the tenant in the payment of rent, to repair damages to the premises caused by the tenant other than normal wear and to pay the reasonable costs of cleaning the premises. The landlord shall provide the tenant with an itemized, written accounting of the disposition of the security deposit or surety bond, or a combination thereof, and return any remaining portion of the security deposit to the tenant no later than 30 days after the termination of the tenancy by handing it to the tenant personally at the place where the rent is paid, or by mailing it to the tenant at the tenant's present address or, if that address is unknown, at the tenant's last known address.

5. If a tenant disputes an item contained in an itemized written accounting received from a landlord pursuant to subsection 4, the tenant may send a written response disputing the item to the surety. If the tenant sends the written response within 30 days after receiving the itemized written accounting, the surety shall not report the claim of the landlord to a credit reporting agency unless the surety obtains a judgment against the tenant.

6. If the landlord fails or refuses to return the remainder of a security deposit within 30 days after the end of a tenancy, the landlord is liable to the tenant for damages:

- (a) In an amount equal to the entire security deposit; and
- (b) For a sum to be fixed by the court of not more than the amount of the entire security deposit.

7. In determining the sum, if any, to be awarded under paragraph (b) of subsection 6, the court shall consider:

- (a) Whether the landlord acted in good faith;
- (b) The course of conduct between the landlord and the tenant; and
- (c) The degree of harm to the tenant caused by the landlord's conduct.

8. Except for an agreement which provides for a nonrefundable charge for cleaning, in a reasonable amount, no rental agreement may contain any provision characterizing any security deposit under this section as nonrefundable or any provision waiving or modifying a tenant's rights under this section. Any such provision is void as contrary to public policy.

9. The claim of a tenant to a security deposit to which the tenant is entitled under this chapter takes precedence over the claim of any creditor of the landlord.

(Added to NRS by 1977, 1334; A 1981, 1184; 1985, 1414; 2009, 488; 2021, 400)

NRS 118A.244 Notice or transfer of security deposit or surety bond to tenant and successor in interest required upon transfer of dwelling unit.

1. Upon termination of the landlord's interest in the dwelling unit, whether by sale, assignment, death, appointment of receiver or otherwise, the landlord or his or her agent shall, within a reasonable time, do one of the following, which relieves the landlord of further liability with respect to the security deposit or surety bond, - 122 - n bination thereof:

(a) Notify the tenant in writing of the name, address and telephone number of the landlord's successor in interest, and that the landlord has transferred to his or her successor in interest the portion of the security deposit or surety bond, or combination thereof, remaining after making any deductions allowed under NRS 118A.242.

(b) Return to the tenant the portion of the security deposit remaining after making any deductions allowed under NRS 118A.242.
↪ The successor has the rights, obligations and liabilities of the former landlord as to any portion of the security deposit owed under this section or NRS 118A.242 at the time of transfer.

2. The landlord shall, before he or she records a deed transferring any dwelling unit:

(a) Transfer to his or her successor, in writing, the portion of any tenant's security deposit or other money held by the landlord which remains after making any deductions allowed under NRS 118A.242; or

(b) Notify his or her successor in writing that the landlord has returned all such security deposits or portions thereof to the tenant.

3. Upon the termination of a landlord's interest in the dwelling unit, whether by sale, assignment, death, appointment of receiver or otherwise, the successor in interest:

(a) Shall accept the tenant's security deposit or surety bond, or a combination thereof; and

(b) Shall not require any additional security deposit or surety bond, or a combination thereof, from the tenant during the term of the rental agreement.

(Added to NRS by 1977, 1334; A 1981, 1184; 1985, 1413, 1414; 2009, 489; 2021, 401)

NRS 118A.250 Receipts for security deposit, surety bond, rent and other payments. The landlord shall deliver to the tenant upon the tenant's request a signed written receipt for the security deposit or surety bond, or a combination thereof, and any other payments, deposits or fees, including rent, paid by the tenant and received by the landlord. The tenant may refuse to make rent payments until the landlord tenders the requested receipt.

(Added to NRS by 1977, 1335; A 2009, 490; 2021, 401)

NRS 118A.260 Disclosure of names and addresses of managers and owners; emergency telephone number; service of process.

1. The landlord, or any person authorized to enter into a rental agreement on his or her behalf, shall disclose to the tenant in writing at or before the commencement of the tenancy:

(a) The name and address of:

(1) The persons authorized to manage the premises;

(2) A person within this State authorized to act for and on behalf of the landlord for the purpose of service of process and receiving notices and demands; and

(3) The principal or corporate owner.

(b) A telephone number at which a responsible person who resides in the county or within 60 miles of where the premises are located may be called in case of emergency.

2. The information required to be furnished by this section must be kept current, and this section is enforceable against any successor landlord or manager of the premises.

3. A party who enters into a rental agreement on behalf of the landlord and fails to comply with this section is an agent of the landlord for purposes of:

(a) Service of process and receiving notices and demands; and

(b) Performing the obligations of the landlord under law and under the rental agreement.

4. In any action against a landlord which involves his or her rental property, service of process upon the manager of the property or a person described in paragraph (a) of subsection 1 shall be deemed to be service upon the landlord. The obligations of the landlord devolve upon the persons authorized to enter into a rental agreement on his or her behalf.

5. This section does not limit or remove the liability of an undisclosed landlord.

(Added to NRS by 1977, 1335; A 1981, 1185; 2001, 1353; 2003, 817; 2007, 1283)

NRS 118A.270 Alternative method of disclosure. Instead of the manner of disclosure provided in NRS 118A.260, the landlord may:

1. In each dwelling structure containing an elevator, place a printed or typewritten notice containing the information required by that section in every elevator and in one other conspicuous place; or

2. In each dwelling structure not containing an elevator, place a printed or typewritten notice containing that information in at least two conspicuous places.

↪ The notices shall be kept current and reasonable efforts shall be made to maintain them in a visible position and legible condition.

(Added to NRS by 1977, 1335)

NRS 118A.275 Disclosure of foreclosure proceedings on premises to prospective tenant; willful violation constitutes deceptive trade practice by landlord.

1. A landlord shall disclose in writing to a prospective tenant if the property to be leased or rented is the subject of any foreclosure proceedings.

2. A willful violation of subsection 1 constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

(Added to NRS by 2009, 2791)

NRS 118A.280 Delivery of possession of premises. At the commencement of the rental term the landlord shall deliver possession of the premises to the tenant in compliance with the rental agreement and in a habitable condition as provided in this chapter.

(Added to NRS by 1977, 1336)

NRS 118A.290 Habitability of dwelling unit.

1. The landlord shall at all times during the tenancy maintain the dwelling unit in a habitable condition. A dwelling unit is not habitable if it violates provisions of housing or health codes concerning the health, safety, sanitation or fitness for habitation of the dwelling unit or if it substantially lacks:

- (a) Effective waterproofing and weather protection of the roof and exterior walls, including windows and doors.
- (b) Plumbing facilities which conformed to applicable law when installed and which are maintained in good working order.
- (c) A water supply approved under applicable law, which is:
 - (1) Under the control of the tenant or landlord and is capable of producing hot and cold running water;
 - (2) Furnished to appropriate fixtures; and
 - (3) Connected to a sewage disposal system approved under applicable law and maintained in good working order to the extent that the system can be controlled by the landlord.
- (d) Adequate heating facilities which conformed to applicable law when installed and are maintained in good working order.
- (e) Electrical lighting, outlets, wiring and electrical equipment which conformed to applicable law when installed and are maintained in good working order.
- (f) An adequate number of appropriate receptacles for garbage and rubbish in clean condition and good repair at the commencement of the tenancy. The landlord shall arrange for the removal of garbage and rubbish from the premises unless the parties by written agreement provide otherwise.
- (g) Building, grounds, appurtenances and all other areas under the landlord's control at the time of the commencement of the tenancy in every part clean, sanitary and reasonably free from all accumulations of debris, filth, rubbish, garbage, rodents, insects and vermin.
- (h) Floors, walls, ceilings, stairways and railings maintained in good repair.
- (i) Ventilating, air-conditioning and other facilities and appliances, including elevators, maintained in good repair if supplied or required to be supplied by the landlord.

2. The landlord and tenant may agree that the tenant is to perform specified repairs, maintenance tasks and minor remodeling only if:

- (a) The agreement of the parties is entered into in good faith; and
- (b) The agreement does not diminish the obligations of the landlord to other tenants in the premises.

3. An agreement pursuant to subsection 2 is not entered into in good faith if the landlord has a duty under subsection 1 to perform the specified repairs, maintenance tasks or minor remodeling and the tenant enters into the agreement because the landlord or his or her agent has refused to perform them.

(Added to NRS by 1977, 1336; A 1999, 1229; 2007, 1284)

NRS 118A.300 Advance notice of increase of rent. The landlord may not increase the rent payable by a tenant unless the landlord serves the tenant with a written notice, 60 days or, in the case of any periodic tenancy of less than 1 month, 30 days in advance of the first rental payment to be increased, advising the tenant of the increase.

(Added to NRS by 1977, 1336; A 1983, 1574; 2021, 401)

OBLIGATIONS OF TENANT

NRS 118A.310 Basic obligations; exception to term of rental agreement requiring payment of rent at specified time in connection with shutdown.

1. A tenant shall, as basic obligations under this chapter:

- (a) Except as otherwise provided in subsection 2, comply with the terms of the rental agreement;
- (b) Keep that part of the premises which is occupied and used as clean and safe as the condition of the premises permit;
- (c) Dispose of all ashes, garbage, rubbish and other waste from the dwelling unit in a clean and safe manner;
- (d) Keep all plumbing fixtures in the dwelling unit as clean as their condition permits;
- (e) Use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appliances, including elevators, in the premises;
- (f) Not deliberately or negligently render the premises uninhabitable or destroy, deface, damage, impair or remove any part of the premises or knowingly permit any person to do so; and
- (g) Conduct himself or herself and require other persons on the premises with his or her consent to conduct themselves in a manner that will not disturb a neighbor's peaceful enjoyment of the premises.

2. Except as otherwise provided in NRS 118A.315:

- (a) Any term of a rental agreement requiring the payment of rent at a specified time pursuant to NRS 118A.210 is unenforceable against a tenant who is a federal worker, tribal worker, state worker or household member of such a worker during a shutdown. As used in this paragraph, "household member" has the meaning ascribed to it in NRS 40.0025.

(b) If the terms of a rental agreement require the payment of rent at a specified time, the landlord shall accept payment of rent for the period in which a federal or state agency or tribal government was experiencing a shutdown from such a tenant for a period not to exceed 30 days after the end of the shutdown.

(Added to NRS by 1977, 1336; A 2019, 3189)

NRS 118A.315 Petition by landlord for relief from certain requirements relating to shutdown.

1. If a shutdown continues for a period of 30 days or more, the landlord may petition the court for relief from the requirements prescribed in subsection 4 of NRS 40.251 and subsection 2 of NRS 118A.310 on the basis that the requirements impose an undue hardship on the landlord. In determining whether to grant relief from these requirements, the court may consider, without limitation:

- (a) The mortgage on the property and the risk of foreclosure; and
- (b) Any additional financial responsibilities of the landlord, including, without limitation:
 - (1) Child support or alimony;
 - (2) Educational costs which must be paid by the landlord;
 - (3) Motor vehicle payments, student loans, medical bills and payment plans; and
 - (4) Any costs associated with the continued operation of a business of the landlord.

2. If the court grants relief pursuant to subsection 1:

- (a) The parties may modify the terms of the rental agreement; or
- (b) The landlord may terminate the rental agreement and commence eviction proceedings in accordance with the provisions of chapter 40 of NRS.

(Added to NRS by 2019, 3188)

MISCELLANEOUS RIGHTS AND OBLIGATIONS OF LANDLORD AND TENANT

NRS 118A.320 Rules or regulations of landlord.

1. The landlord, from time to time, may adopt rules or regulations concerning the tenant's use and occupancy of the premises. Such a rule or regulation is enforceable against the tenant only if:

- (a) Its purpose is to promote the convenience, safety or welfare of the landlord or tenants in the premises, preserve the landlord's property from abusive use or make a fair distribution of services and facilities held out for the tenants generally;
- (b) It is reasonably related to the purpose for which it is adopted;
- (c) It applies to all tenants in the premises in a fair manner;
- (d) It is sufficiently explicit in its prohibition, direction or limitation of the tenant's conduct fairly to inform the tenant of what must or must not be done to comply;
- (e) It is in good faith and not for the purpose of evading an obligation of the landlord;
- (f) It does not affect the tenant's obligation to pay rent, utilities or other charges;
- (g) It does not affect, before the end of the duration of the rental agreement, any right the tenant may have under the rental agreement to keep a pet; and
- (h) The tenant has notice of the rule or regulation at the time the tenant enters into the rental agreement or after the rule or regulation is adopted by the landlord.

2. A rule or regulation adopted after the tenant enters into the rental agreement which works a material modification of the bargain is enforceable against a tenant:

- (a) Who expressly consents to the rule or regulation in writing; or
- (b) Who has 30 days' advance written notice of the rule or regulation.

(Added to NRS by 1977, 1337; A 2007, 1285)

NRS 118A.325 Right of tenant to display flag of the United States in certain areas; conditions and limitations on exercise of right.

1. Except as otherwise provided in subsection 2, a landlord or an agent or employee of a landlord shall not prohibit a tenant from engaging in the display of the flag of the United States within such physical portion of the premises as that tenant has a right to occupy and use exclusively.

2. The provisions of this section do not:

- (a) Apply to the display of the flag of the United States for commercial advertising purposes.
- (b) Preclude a landlord or an agent or employee of a landlord from adopting rules that reasonably restrict the placement and manner of the display of the flag of the United States by a tenant.

3. In any action commenced to enforce the provisions of this section, the prevailing party is entitled to recover reasonable attorney's fees and costs.

4. As used in this section, "display of the flag of the United States" means a flag of the United States that is:

- (a) Made of cloth, fabric or paper;
- (b) Displayed from a pole or staff or in a window; and
- (c) Displayed in a manner that is consistent with 4 U.S.C. Chapter 1.

↪ The term does not include a depiction or emblem of the flag of the United States that is made of balloons, flora, lights, paint, paving materials, roofing, siding or any other similar building, decorative or landscaping component.

(Added to NRS by 2003, 2967)

NRS 118A.330 Landlord's access to dwelling unit.

1. A tenant shall not unreasonably withhold consent for the landlord peaceably to enter into the dwelling unit to:
 - (a) Inspect the premises;
 - (b) Make necessary or agreed repairs, decorating, alterations or improvements;
 - (c) Supply necessary or agreed services; or
 - (d) Exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workers, contractors or other persons with a bona fide interest in inspecting the premises.
 2. The landlord may enter the dwelling unit without consent of the tenant in case of emergency.
 3. The landlord shall not abuse the right of access or use it to harass the tenant. Except in case of emergency, the landlord shall give the tenant at least 24 hours' notice of intent to enter and may enter only at reasonable times during normal business hours unless the tenant expressly consents to shorter notice or to entry during nonbusiness hours with respect to the particular entry.
 4. The landlord has no other right of access except:
 - (a) Pursuant to court order;
 - (b) Where the tenant has abandoned or surrendered the premises; or
 - (c) Where permitted under NRS 118A.440.
- (Added to NRS by 1977, 1337)

NRS 118A.335 Landlord prohibited from employing certain persons without work card under certain circumstances; requirements governing issuance and renewal of work card; exceptions.

1. Except as otherwise provided in subsection 6, a landlord of dwelling units intended and operated exclusively for persons 55 years of age and older may not employ any person who will work 36 hours or more per week and who will have access to all dwelling units to perform work on the premises unless the person has obtained a work card issued pursuant to subsection 2 by the sheriff of the county in which the dwelling units are located and renewed that work card as necessary.
2. The sheriff of a county shall issue a work card to each person who is required by this section to obtain a work card and who complies with the requirements established by the sheriff for the issuance of such a card. A work card issued pursuant to this section must be renewed:
 - (a) Every 5 years; and
 - (b) Whenever the person changes his or her employment to perform work for an employer other than the employer for which the person's current work card was issued.
3. Except as otherwise provided in subsection 4, if the sheriff of a county requires an applicant for a work card to be investigated:
 - (a) The applicant must submit with his or her application a complete set of his or her fingerprints and written permission authorizing the sheriff to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.
 - (b) The sheriff shall submit the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation to determine the criminal history of the applicant.
 - (c) The sheriff may issue a temporary work card pending the determination of the criminal history of the applicant by the Federal Bureau of Investigation.
4. The sheriff of a county shall not require an investigation of the criminal history of an employee or independent contractor of an agency or facility governed by NRS 449.122 to 449.125, inclusive, and 449.174 who has had his or her fingerprints submitted to the Central Repository for Nevada Records of Criminal History pursuant to NRS 449.123 for an investigation of his or her criminal history within the immediately preceding 6 months.
5. The sheriff shall not issue a work card to any person who:
 - (a) Has been convicted of a category A, B or C felony or of a crime in another state which would be a category A, B or C felony if committed in this State;
 - (b) Has been convicted of a sexual offense;
 - (c) Has been convicted of a crime against any person who is 60 years of age or older or against a vulnerable person for which an additional term of imprisonment may be imposed pursuant to NRS 193.167 or the laws of any other jurisdiction;
 - (d) Has been convicted of a battery punishable as a gross misdemeanor; or
 - (e) Within the immediately preceding 5 years:
 - (1) Has been convicted of a theft; or
 - (2) Has been convicted of a violation of any state or federal law regulating the possession, distribution or use of a controlled substance.
6. The following persons are not required to obtain a work card pursuant to this section:
 - (a) A person who holds a permit to engage in property management pursuant to chapter 645 of NRS.
 - (b) An independent contractor. As used in this paragraph, "independent contractor" means a person who performs services for a fixed price according to the person's own methods and without subjection to the supervision or control of the landlord, except as to the results of the work, and not as to the means by which the services are accomplished.
 - (c) An offender in the course and scope of his or her employment in a work program directed by the warden, sheriff, administrator or other person responsible for administering a prison, jail or other detention facility.
 - (d) A person performing work through a court-assigned restitution or community-service program.

7. If the sheriff does not issue a work card to a person because the information received from the Central Repository for Nevada Records of Criminal History indicates that the person has been convicted of a crime listed in subsection 5 and the person believes that the information provided by the Central Repository is incorrect, the person may immediately inform the sheriff. If the sheriff is so informed, the sheriff shall give the person at least 30 days in which to correct the information before terminating the temporary work card issued pursuant to subsection 3.

8. As used in this section, unless the context otherwise requires:

(a) "Sexual offense" has the meaning ascribed to it in NRS 179D.097.

(b) "Vulnerable person" has the meaning ascribed to it in NRS 200.5092.

(Added to NRS by 2003, 1250; A 2007, 1264; 2009, 154)

NRS 118A.340 Right of tenant or cotenant to terminate lease due to physical or mental disability or death.

1. Notwithstanding any provision in a lease of a dwelling to the contrary, if a physical or mental condition of a tenant requires the relocation of the tenant from his or her dwelling because of a need for care or treatment that cannot be provided in the dwelling and the tenant is 60 years of age or older or has a physical or mental disability:

(a) That tenant may terminate the lease by giving the landlord 30 days' written notice within 60 days after the tenant relocates; and

(b) A cotenant of that tenant may terminate the lease by giving the landlord 30 days' written notice within 60 days after the tenant relocates if:

(1) The cotenant became a tenant of the dwelling before the date on which the lease was signed by the tenant who is relocating and the cotenant is 60 years of age or older or has a physical or mental disability; or

(2) The cotenant became a tenant of the dwelling on or after the date on which the lease was signed by the tenant who is relocating.

2. Notwithstanding any provision in a lease of a dwelling to the contrary, upon the death of the spouse or cotenant of:

(a) A tenant who is 60 years of age or older; or

(b) A tenant who has a physical or mental disability,

↳ the tenant may terminate the lease by giving the landlord 60 days' written notice within 3 months after the death.

3. The written notice provided to a landlord pursuant to subsection 1 or 2 must set forth the facts which demonstrate that the tenant or cotenant is entitled to terminate the lease. If the tenant or cotenant is terminating the lease pursuant to subsection 1, the tenant or cotenant shall include reasonable verification:

(a) Of the existence of the physical or mental condition of the tenant; and

(b) That the physical or mental condition requires the relocation of the tenant from his or her dwelling because of a need for care or treatment that cannot be provided in the dwelling.

4. This section does not give a landlord the right to terminate a lease solely because of the death of one of the tenants.

5. As used in this section, "cotenant" means a tenant who, pursuant to a lease, is entitled to occupy a dwelling that another tenant who is 60 years of age or older or who has a physical or mental disability is also entitled to occupy pursuant to the same lease.

(Added to NRS by 1977, 1338; A 2005, 314)

NRS 118A.345 Right of tenant or cotenant to terminate lease due to domestic violence, harassment, sexual assault or stalking.

1. Notwithstanding any provision in a rental agreement to the contrary, if a tenant, cotenant or household member is the victim of domestic violence, harassment, sexual assault or stalking, the tenant or any cotenant may terminate the rental agreement by giving the landlord written notice of termination effective at the end of the current rental period or 30 days after the notice is provided to the landlord, whichever occurs sooner.

2. In the case of a termination of a rental agreement pursuant to this section on the grounds that a tenant, cotenant or household member is a victim of domestic violence, the written notice provided to a landlord pursuant to subsection 1 must describe the reason for the termination of the rental agreement and be accompanied by:

(a) A copy of an order for protection against domestic violence issued to the tenant, cotenant or household member who is the victim of domestic violence;

(b) A copy of a written report from a law enforcement agency indicating that the tenant, cotenant or household member notified the law enforcement agency of the domestic violence; or

(c) A copy of a written affidavit in the form prescribed pursuant to NRS 118A.347 and signed by a qualified third party acting in his or her official capacity stating that the tenant, cotenant or household member is a victim of domestic violence and identifying the adverse party.

3. In the case of a termination of a rental agreement pursuant to this section on the grounds that a tenant, cotenant or household member is a victim of harassment, sexual assault or stalking, the written notice provided to a landlord pursuant to subsection 1 must describe the reason for the termination of the rental agreement and be accompanied by:

(a) A copy of a written report from a law enforcement agency indicating that the tenant, cotenant or household member notified the law enforcement agency of the harassment, sexual assault or stalking, as applicable; or

(b) A copy of a temporary or extended order issued pursuant to NRS 200.378 or 200.591, as applicable.

4. A tenant or cotenant may terminate a rental agreement pursuant to this section only if the actions, events or circumstances that resulted in the tenant, cotenant or household member becoming a victim of domestic violence, harassment, sexual assault or stalking occurred within the 90 days immediately preceding the written notice of termination to the landlord.

5. A tenant or cotenant who terminates a rental agreement pursuant to this section is only liable, if solely or jointly liable for purposes of the rental agreement, for any rent owed or required to be paid through the date of termination and any other outstanding obligations. If the tenant or cotenant has prepaid rent that would apply for the rental period in which the rental agreement is terminated, the landlord may retain the prepaid rent and no refund is due to the tenant or cotenant unless the amount of the prepaid rent exceeds what is owed for that rental period. Except as otherwise provided in NRS 118A.242, if the tenant or cotenant has paid a security deposit, the deposit must not be withheld for the early termination of the rental agreement if the rental agreement is terminated pursuant to this section.

6. A person who is named as the adverse party may be civilly liable for all economic losses incurred by a landlord for the early termination of a rental agreement pursuant to this section, including, without limitation, unpaid rent, fees relating to early termination, costs for the repair of any damages to the dwelling and any reductions in or waivers of rent previously extended to the tenant or cotenant who terminates the rental agreement pursuant to this section.

7. A landlord shall not provide to an adverse party any information concerning the whereabouts of a tenant, cotenant or household member if the tenant or cotenant provided notice pursuant to subsection 1.

8. If a tenant or cotenant provided notice pursuant to subsection 1, the tenant, the cotenant or a household member may require the landlord to install a new lock onto the dwelling if the tenant, cotenant or household member pays the cost of installing the new lock. A landlord complies with the requirements of this subsection by:

- (a) Rekeying the lock if the lock is in good working condition; or
- (b) Replacing the entire locking mechanism with a new locking mechanism of equal or superior quality.

9. A landlord who installs a new lock pursuant to subsection 8 may retain a copy of the new key. Notwithstanding any provision in a rental agreement to the contrary, the landlord shall:

(a) Refuse to provide a key which unlocks the new lock to an adverse party.

(b) Refuse to provide to an adverse party, whether or not that party is a tenant, cotenant or household member, access to the dwelling to reclaim property unless a law enforcement officer is present.

10. This section shall not be construed to limit a landlord's right to terminate a rental agreement for reasons unrelated to domestic violence, harassment, sexual assault or stalking.

11. Notwithstanding any other provision of law, the termination of a rental agreement pursuant to this section:

- (a) Must not be disclosed, described or characterized as an early termination by a current landlord to a prospective landlord; and
- (b) Is not required to be disclosed as an early termination by a tenant or cotenant to a prospective landlord.

12. As used in this section:

(a) "Adverse party" means a person who is named in an order for protection against domestic violence, harassment, sexual assault or stalking, a written report from a law enforcement agency or a written statement from a qualified third party and who is alleged to be the cause of the early termination of a rental agreement pursuant to this section.

(b) "Cotenant" means a tenant who, pursuant to a rental agreement, is entitled to occupy a dwelling that another tenant is also entitled to occupy pursuant to the same rental agreement.

(c) "Domestic violence" means the commission of any act described in NRS 33.018.

(d) "Harassment" means a violation of NRS 200.571.

(e) "Household member" means any person who is related by blood or marriage and is actually residing with a tenant or cotenant.

(f) "Qualified third party" means:

(1) A physician licensed to practice in this State;

(2) A psychiatrist licensed to practice medicine in this State and certified by the American Board of Psychiatry and Neurology, Inc. or the American Osteopathic Board of Neurology and Psychiatry of the American Osteopathic Association;

(3) A psychologist licensed to practice in this State;

(4) A social worker licensed to practice in this State;

(5) A registered nurse holding a master's degree in the field of psychiatric nursing and licensed to practice professional nursing in this State;

(6) A marriage and family therapist or clinical professional counselor licensed to practice in this State pursuant to chapter 641A of NRS;

(7) Any person who:

(I) Is employed by an agency or service which advises persons regarding domestic violence or refers them to persons or agencies where their request and needs can be met and who is licensed to provide health care pursuant to the provisions of title 54 of NRS, or is a member of the board of directors or serves as the executive director of an agency or service which advises persons regarding domestic violence or refers them to persons or agencies where their request and needs can be met;

(II) Has received training relating to domestic violence; and

(III) Is a resident of this State; or

(8) Any member of the clergy of a church or religious society or denomination that is recognized as exempt under section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C. § 501 (c)(3), who has been chosen, elected or appointed in conformity with the constitution, canons, rites, regulations or discipline of the church or religious society or denomination and who is a resident of this State.

(g) "Sexual assault" means a violation of NRS 200.366.

(h) "Stalking" means a violation of NRS 200.575.

(Added to NRS by 2013, 1413; A 2017, 476)

NRS 118A.347 Form of affidavit for written notice terminating lease due to domestic violence. An affidavit submitted by a tenant or cotenant pursuant to subsection 2 of NRS 118A.345 must be in substantially the following form:

(Name of the qualified third party, as defined in NRS 118A.345, including, if applicable, the name of the organization with which the qualified third party is affiliated)

I (and/or)
(name of cotenant or household member)

am a victim of domestic violence as defined in NRS 118A.345.

Brief description of incident(s) constituting domestic violence:

The incident(s) that I described above occurred on the following date(s) and time(s), and in the following locations:

The incident(s) that I described above were committed by the following person(s):

I state under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Dated this day of, 20....., at (city), Nevada,

(Signature of tenant, cotenant
or household member)

I verify that the person whose signature appears above was a victim of domestic violence and that the person informed me of the name of the adverse party as defined in NRS 118A.345.

Dated this day of, 20....., at (city), Nevada,

(Signature of qualified third party)

(Added to NRS by 2013, 1415; A 2017, 478)

REMEDIES

NRS 118A.350 Failure of landlord to comply with rental agreement.

1. Except as otherwise provided in this chapter, if the landlord fails to comply with the rental agreement, the tenant shall deliver a written notice to the landlord specifying the acts and omissions constituting the breach and stating that the rental agreement will terminate as provided in this section. If the breach is remediable and the landlord adequately remedies the breach or uses his or her best efforts to remedy the breach within 14 days after receipt of the notice, the rental agreement does not terminate by reason of the breach. If the landlord fails to remedy the breach or make a reasonable effort to do so within the prescribed time, the tenant may:

- (a) Terminate the rental agreement immediately.
- (b) Recover actual damages.
- (c) Apply to the court for such relief as the court deems proper under the circumstances.

2. The tenant may not terminate the rental agreement for a condition caused by the tenant's own deliberate or negligent act or omission or that of a member of his or her household or other person on the premises with his or her consent.

3. If the rental agreement is terminated, the landlord shall return all prepaid rent and any security deposit recoverable by the tenant under this chapter.

4. A tenant may not proceed under this section unless the tenant has given notice as required by subsection 1, except that the tenant may, without giving that notice, recover damages under paragraph (b) of subsection 1 if the landlord:

- (a) Admits to the court that the landlord had knowledge of the condition constituting the breach; or

(b) Has received written notice of that condition from a governmental agency authorized to inspect for violations of building, housing or health codes.

(Added to NRS by 1977, 1338; A 1985, 1415; 2007, 1285; 2021, 401)

NRS 118A.355 Failure of landlord to maintain dwelling unit in habitable condition.

1. Except as otherwise provided in this chapter, if a landlord fails to maintain a dwelling unit in a habitable condition as required by this chapter, the tenant shall deliver a written notice to the landlord specifying each failure by the landlord to maintain the dwelling unit in a habitable condition and requesting that the landlord remedy the failures. If a failure is remediable and the landlord adequately remedies the failure or uses his or her best efforts to remedy the failure within 14 days after receipt of the notice, the tenant may not proceed under this section. If the landlord fails to remedy a material failure to maintain the dwelling unit in a habitable condition or to make a reasonable effort to do so within the prescribed time, the tenant may:

(a) Terminate the rental agreement immediately.

(b) Recover actual damages.

(c) Apply to the court for such relief as the court deems proper under the circumstances.

(d) Withhold any rent that becomes due without incurring late fees, charges for notice or any other charge or fee authorized by this chapter or the rental agreement until the landlord has remedied, or has attempted in good faith to remedy, the failure.

2. The tenant may not proceed under this section:

(a) For a condition caused by the tenant's own deliberate or negligent act or omission or that of a member of his or her household or other person on the premises with his or her consent; or

(b) If the landlord's inability to adequately remedy the failure or use his or her best efforts to remedy the failure within 14 days is due to the tenant's refusal to allow lawful access to the dwelling unit as required by the rental agreement or this chapter.

3. If the rental agreement is terminated, the landlord shall return all prepaid rent and any security deposit recoverable by the tenant under this chapter.

4. A tenant may not proceed under this section unless the tenant has given notice as required by subsection 1, except that the tenant may, without giving that notice:

(a) Recover damages under paragraph (b) of subsection 1 if the landlord:

(1) Admits to the court that the landlord had knowledge of the condition constituting the failure to maintain the dwelling in a habitable condition; or

(2) Has received written notice of that condition from a governmental agency authorized to inspect for violations of building, housing or health codes.

(b) Withhold rent under paragraph (d) of subsection 1 if the landlord:

(1) Has received written notice of the condition constituting the failure to maintain the dwelling in a habitable condition from a governmental agency authorized to inspect for violations of building, housing or health codes; and

(2) Fails to remedy or attempt in good faith to remedy the failure within the time prescribed in the written notice of that condition from the governmental agency.

5. Justice courts shall establish by local rule a mechanism by which tenants may deposit rent withheld under paragraph (d) of subsection 1 into an escrow account maintained or approved by the court. A tenant does not have a defense to an eviction under paragraph (d) of subsection 1 unless the tenant has deposited the withheld rent into an escrow account pursuant to this subsection.

(Added to NRS by 2007, 1281; A 2021, 402)

NRS 118A.360 Failure of landlord to comply with rental agreement or maintain dwelling unit in habitable condition where cost of compliance less than specified amount.

1. If the landlord fails to comply with the rental agreement or his or her obligation to maintain the dwelling unit in a habitable condition as required by this chapter, and the reasonable cost of compliance or repair is less than \$100 or an amount equal to one month's periodic rent, whichever amount is greater, the tenant may recover damages for the breach or notify the landlord of the tenant's intention to correct the condition at the landlord's expense. If the landlord fails to use his or her best efforts to comply within 14 days after being notified by the tenant in writing or more promptly if conditions require in case of emergency, the tenant may cause the work to be done in a workmanlike manner and after submitting to the landlord an itemized statement, the tenant may deduct from his or her rent the actual and reasonable cost or the fair or reasonable value of the work, not exceeding the amount specified in this subsection.

2. The landlord may specify in the rental agreement or otherwise that work done under this section and NRS 118A.380 must be performed by a named person or firm or class of persons or firms qualified to do the work and the tenant must comply with the specifications. If the person qualified to do the work is unavailable or unable to perform the repairs the tenant shall use another qualified person who performs repairs.

3. A tenant may not repair at the landlord's expense if the condition was caused by the deliberate or negligent act or omission of the tenant, a member of the tenant's household or other person on the premises with his or her consent.

4. The landlord's liability under this section is limited to \$100 or an amount equal to one month's periodic rent, whichever amount is greater, within any 12-month period.

5. A tenant may not proceed under this section unless the tenant has given notice to the landlord that the dwelling is not in a habitable condition as required by this chapter.

(Added to NRS by 1977, 1339)

NRS 118A.370 Failure of landlord to deliver possession of dwelling unit. If the landlord fails to deliver possession of the dwelling unit to the tenant as provided in this chapter, rent abates until possession is delivered as required, and the tenant may:

1. Terminate the rental agreement upon at least 5 days' written notice to the landlord and upon termination the landlord shall return all prepaid rent, any security deposit recoverable under this chapter, and any payment, deposit, fee or charge to secure the execution of the rental agreement; or

2. Demand performance of the rental agreement by the landlord and, if the tenant elects, maintain an action for possession of the dwelling unit against the landlord or any person wrongfully in possession and recover the actual damages sustained. If the landlord has exercised due diligence to evict the holdover tenant or remedy the condition keeping the new tenant from taking possession, the landlord is not liable for damages; or

3. Pursue any other remedies to which the tenant is entitled, including the right to recover any actual damages suffered.

(Added to NRS by 1977, 1339; A 2021, 403)

NRS 118A.380 Failure of landlord to supply essential items or services.

1. If the landlord is required by the rental agreement or this chapter to supply heat, air-conditioning, running water, hot water, electricity, gas, a functioning door lock or another essential item or service and the landlord willfully or negligently fails to do so, causing the premises to become unfit for habitation, the tenant shall give written notice to the landlord specifying the breach. If the landlord does not adequately remedy the breach, or use his or her best efforts to remedy the breach within 48 hours, except a Saturday, Sunday or legal holiday, after it is received by the landlord, the tenant may, in addition to any other remedy:

(a) Procure reasonable amounts of such essential items or services during the landlord's noncompliance and deduct their actual and reasonable cost from the rent;

(b) Recover actual damages, including damages based upon the lack of use of the premises or the diminution of the fair rental value of the dwelling unit;

(c) Withhold any rent that becomes due during the landlord's noncompliance without incurring late fees, charges for notice or any other charge or fee authorized by this chapter or the rental agreement, until the landlord has attempted in good faith to restore the essential items or services; or

(d) Procure other housing which is comparable during the landlord's noncompliance, and the rent for the original premises fully abates during this period. The tenant may recover the actual and reasonable cost of that other housing which is in excess of the amount of rent which is abated.

2. If the tenant proceeds under this section, the tenant may not proceed under NRS 118A.350 and 118A.360 as to that breach.

3. The rights of the tenant under this section do not arise until the tenant has given written notice as required by subsection 1, except that the tenant may, without having given that notice:

(a) Recover damages as authorized under paragraph (b) of subsection 1 if the landlord:

(1) Admits to the court that the landlord had knowledge of the lack of such essential items or services; or

(2) Has received written notice of the uninhabitable condition caused by such a lack from a governmental agency authorized to inspect for violations of building, housing or health codes.

(b) Withhold rent under paragraph (c) of subsection 1 if the landlord:

(1) Has received written notice of the condition constituting the breach from a governmental agency authorized to inspect for violations of building, housing or health codes; and

(2) Fails to remedy or attempt in good faith to remedy the breach within the time prescribed in the written notice of that condition from the governmental agency.

4. The rights of the tenant under paragraph (c) of subsection 1 do not arise unless the tenant is current in the payment of rent at the time of giving written notice pursuant to subsection 1.

5. If such a condition was caused by the deliberate or negligent act or omission of the tenant, a member of his or her household or other person on the premises with his or her consent, the tenant has no rights under this section.

(Added to NRS by 1977, 1339; A 1985, 1416; 1987, 314; 1999, 1230; 2007, 1286; 2011, 237)

NRS 118A.390 Unlawful removal or exclusion of tenant or willful interruption of essential items or services; procedure for expedited relief.

1. If the landlord unlawfully removes the tenant from the premises or excludes the tenant by blocking or attempting to block the tenant's entry upon the premises, willfully interrupts or causes or permits the interruption of any essential item or service required by the rental agreement or this chapter or otherwise recovers possession of the dwelling unit in violation of NRS 118A.480, the tenant may recover immediate possession pursuant to subsection 4, proceed under NRS 118A.380 or terminate the rental agreement and, in addition to any other remedy, recover the tenant's actual damages, receive an amount not greater than \$2,500 to be fixed by the court, or both.

2. In determining the amount, if any, to be awarded under subsection 1, the court shall consider:

(a) Whether the landlord acted in good faith;

(b) The course of conduct between the landlord and the tenant; and

(c) The degree of harm to the tenant caused by the landlord's conduct.

3. If the rental agreement is terminated pursuant to subsection 1, the landlord shall return all prepaid rent and any security deposit recoverable under this chapter.

4. Except as otherwise provided in subsection 5, the tenant may recover immediate possession of the premises from the landlord by filing a verified complaint for expedited relief for the unlawful removal or exclusion of the tenant from the premises, the willful interruption of any essential item or service or the recovery of possession of the dwelling unit in violation of NRS 118A.480.

5. A verified complaint for expedited relief:

(a) Must be filed with the court within 5 judicial days after the date of the unlawful act by the landlord, and the verified complaint must be dismissed if it is not timely filed. If the verified complaint for expedited relief is dismissed pursuant to this paragraph, the tenant retains the right to pursue all other available remedies against the landlord.

(b) May be consolidated with any action for summary eviction or unlawful detainer that is already pending between the landlord and tenant.

6. The court shall conduct a hearing on the verified complaint for expedited relief not later than 3 judicial days after the filing of the verified complaint for expedited relief. Before or at the scheduled hearing, the tenant must provide proof that the landlord has been properly served with a copy of the verified complaint for expedited relief. Upon the hearing, if it is determined that the landlord has violated any of the provisions of subsection 1, the court may:

(a) Order the landlord to restore to the tenant the premises or essential items or services, or both;

(b) Award damages pursuant to subsection 1; and

(c) Enjoin the landlord from violating the provisions of subsection 1 and, if the circumstances so warrant, hold the landlord in contempt of court.

7. The payment of all costs and official fees must be deferred for any tenant who files a verified complaint for expedited relief. After any hearing and not later than final disposition of the filing or order, the court shall assess the costs and fees against the party that does not prevail, except that the court may reduce them or waive them, as justice may require.

(Added to NRS by 1977, 1340; A 1985, 1417; 2003, 426; 2011, 238; 2019, 225; 2021, 403)

NRS 118A.400 Damage or destruction of dwelling unit by fire or casualty.

1. If the dwelling unit or premises are damaged or destroyed by fire or casualty to an extent that enjoyment of the dwelling unit is substantially impaired, the landlord may terminate the rental agreement and the tenant may, in addition to any other remedy:

(a) Immediately vacate the premises and notify the landlord within 7 days thereafter of the tenant's intention to terminate the rental agreement, in which case the rental agreement terminates as of the date of vacating.

(b) If continued occupancy is lawful, vacate any part of the dwelling unit rendered unusable by the fire or casualty, in which case the tenant's liability for rent is reduced in proportion to the diminution in the fair rental value of the dwelling unit or lack of use of the dwelling unit.

2. If the rental agreement is terminated, the landlord shall return all prepaid rent and any security deposit recoverable under this chapter. Accounting for rent in the event of termination or such continued occupancy shall be made as of the date the premises were vacated.

3. This section does not apply if it is determined that the fire or casualty were caused by deliberate or negligent acts of the tenant, a member of his or her household or other person on the premises with his or her consent.

(Added to NRS by 1977, 1340; A 2021, 404)

NRS 118A.410 Failure of landlord to disclose required information to tenant. After a demand by the tenant, if a landlord fails to disclose as provided in NRS 118A.260 or NRS 118A.270, the tenant may recover actual damages or \$25, whichever is greater.

(Added to NRS by 1977, 1341)

NRS 118A.420 Failure of tenant to comply with rental agreement or perform basic obligations: Damages; injunctive relief. Except as otherwise provided in this chapter, the landlord may recover damages and obtain injunctive relief for failure of the tenant to comply with the rental agreement or perform his or her basic obligations under this chapter.

(Added to NRS by 1977, 1341)

NRS 118A.430 Failure of tenant to comply with rental agreement or perform basic obligations: Termination of rental agreement.

1. Except as otherwise provided in this chapter, if the tenant fails to comply with the rental agreement or fails to perform his or her basic obligations under this chapter, the landlord may deliver a written notice to the tenant specifying the acts and omissions constituting the breach and that the rental agreement will terminate as provided in this section. If the breach is remediable and the tenant does not adequately remedy the breach or use his or her best efforts to remedy the breach within 5 days after receipt of the notice, or if the breach cannot be remedied, the landlord may terminate the rental agreement.

2. If the tenant is not reasonably able to remedy the breach, the tenant may avoid termination of the rental agreement by authorizing the landlord to enter and remedy the breach and by paying any reasonable expenses or damages resulting from the breach or the remedy thereof.

(Added to NRS by 1977, 1341)

NRS 118A.440 Failure of tenant to perform basic obligations: Remedial work by landlord may be charged to tenant. If the tenant's failure to perform basic obligations under this chapter can be remedied by repair, replacement of a damaged item or cleaning, and the tenant fails to use his or her best efforts to comply within 14 days after written notice by the landlord specifying the breach and requesting that the tenant remedy it within that period of time or more promptly if conditions require in case of emergency, the landlord may enter the dwelling unit and cause the work to ⁻¹³²⁻ in a workmanlike manner and submit the itemized bill for the

actual and reasonable cost, or the fair and reasonable value of the work. The itemized bill must be paid as rent on the next date periodic rent is due, or if the rental agreement has terminated, may be submitted to the tenant for immediate payment or deducted from the security deposit.

(Added to NRS by 1977, 1341; A 2021, 405)

NRS 118A.450 Abandonment of dwelling unit by tenant: Remedies; presumption. If the landlord has notice of the fact of abandonment by the tenant, the landlord may dispose of the tenant's personal property as provided in NRS 118A.460 and recover possession of the premises as provided by NRS 118A.480. In the absence of notice of the fact of abandonment, it is presumed that the tenant has abandoned a dwelling unit if the tenant is absent from the premises for a period of time equal to one-half the time for periodic rental payments, unless the rent is current or the tenant has in writing notified the landlord of an intended absence.

(Added to NRS by 1977, 1341)

NRS 118A.460 Procedure for disposal of personal property abandoned or left on premises; landlord required to provide tenant reasonable opportunity to retrieve essential personal effects for period following eviction or lockout of tenant.

1. The landlord may dispose of personal property abandoned on the premises by a former tenant or left on the premises after eviction of the tenant without incurring civil or criminal liability in the following manner:

(a) The landlord shall reasonably provide for the safe storage of the property for 30 days after the abandonment or eviction or the end of the rental period and may charge and collect the reasonable and actual costs of inventory, moving and storage before releasing the property to the tenant or his or her authorized representative rightfully claiming the property within that period. The landlord is liable to the tenant only for the landlord's negligent or wrongful acts in storing the property.

(b) After the expiration of the 30-day period, the landlord may dispose of the property and recover his or her reasonable costs out of the property or the value thereof if the landlord has made reasonable efforts to locate the tenant, has notified the tenant in writing of his or her intention to dispose of the property and 14 days have elapsed since the notice was given to the tenant. The notice must be mailed to the tenant at the tenant's present address, and if that address is unknown, then at the tenant's last known address.

(c) Vehicles must be disposed of in the manner provided in chapter 487 of NRS for abandoned vehicles.

2. Any dispute relating to the amount of the costs claimed by the landlord pursuant to paragraph (a) of subsection 1 may be resolved using the procedure provided in subsection 7 of NRS 40.253.

3. During the 5-day period following the eviction or lockout of a tenant, the landlord shall provide the former tenant a reasonable opportunity to retrieve essential personal effects, including, without limitation, medication, baby formula, basic clothing and personal care items. Any dispute relating to the reasonableness of the landlord's actions pursuant to this section may be resolved using the procedure provided in subsection 9 of NRS 40.253.

(Added to NRS by 1977, 1341; A 1987, 1240; 1995, 1855; 2019, 3927)

NRS 118A.470 Holding over by tenant. If a tenant remains in possession without the landlord's consent after expiration of the term of the rental agreement or its termination, the landlord may bring an action for possession and for rent and the landlord may also recover his or her actual damages. If the landlord consents to the tenant's continued occupancy, the tenancy is from week to week in the case of a tenant who pays weekly rent, and in all other cases the tenancy is from month to month. Such occupancy is otherwise on the same terms and conditions as were contained in the rental agreement unless specifically agreed otherwise.

(Added to NRS by 1977, 1342)

NRS 118A.480 Landlord's recovery of possession of dwelling unit. The landlord shall not recover or take possession of the dwelling unit by action or otherwise, including willful diminution or interruption or causing or permitting the diminution or interruption of any essential item or service required by the rental agreement or this chapter, except:

1. By an action for possession or other civil action or summary proceeding in which the issue of right of possession is determined;

2. When the tenant has surrendered possession of the dwelling unit to the landlord; or

3. When the tenant has abandoned the dwelling unit as provided in NRS 118A.450.

(Added to NRS by 1977, 1342; A 2011, 239)

NRS 118A.490 Actions based upon nonpayment of rent: Counterclaim by tenant; deposit of rent with court; judgment for eviction.

1. In an action for possession based upon nonpayment of rent or in an action for rent where the tenant is in possession, the tenant may defend and counterclaim for any amount which the tenant may recover under the rental agreement, this chapter, or other applicable law. If it appears that there is money which may be due to the landlord by the tenant after the day of the hearing or if a judgment is delayed for any reason, the court shall require a tenant who remains in possession of the premises to deposit with the court a just and reasonable amount to satisfy the obligation, but not more than 1 day's rent for each day until the new hearing date. The court shall order the tenant to pay the landlord any rent which is not in dispute and shall determine the amount due to each party. Upon the application of either party, the court, after notice and opportunity for a hearing, may for good cause release to either party all or any portion of the rent paid into court by the tenant. The court shall award the prevailing party the amount owed and shall give judgment for any other amount which is due.

2. In any action for rent where the tenant is not in possession, the tenant may counterclaim as provided in subsection 1 but is not required to pay any rent into court.

3. When the court renders a decision on the landlord's claim for possession, it shall distribute any rent paid into court under subsection 1 upon a determination of the amount due to each party.

4. If a tenant fails to deposit with the court within 24 hours after the original hearing the entire amount required pursuant to subsection 1, the tenant relinquishes the right to a hearing and the court shall at that time grant a judgment for eviction without further hearing.

(Added to NRS by 1977, 1342; A 1985, 1419)

NRS 118A.500 Tenant's refusal to allow lawful access to dwelling unit; landlord's abuse of access.

1. If the tenant refuses to allow lawful access as required by the rental agreement or this chapter, the landlord may obtain injunctive relief to compel access or terminate the rental agreement. In either case the landlord may recover actual damages.

2. If the landlord makes an unlawful entry or a lawful entry in an unreasonable manner or makes repeated demands for entry otherwise lawful but which have the effect of unreasonably harassing the tenant, the tenant may obtain injunctive relief to prevent the recurrence of the conduct or terminate the rental agreement. In either case the tenant may recover actual damages.

(Added to NRS by 1977, 1343)

NRS 118A.510 Retaliatory conduct by landlord against tenant prohibited; remedies; exceptions.

1. Except as otherwise provided in subsection 3, the landlord may not, in retaliation, terminate a tenancy, refuse to renew a tenancy, increase rent or decrease essential items or services required by the rental agreement or this chapter, or bring or threaten to bring an action for possession if:

(a) The tenant has complained in good faith of a violation of a building, housing or health code applicable to the premises and affecting health or safety to a governmental agency charged with the responsibility for the enforcement of that code;

(b) The tenant has complained in good faith to the landlord or a law enforcement agency of a violation of this chapter or of a specific statute that imposes a criminal penalty;

(c) The tenant has organized or become a member of a tenant's union or similar organization;

(d) A citation has been issued resulting from a complaint described in paragraph (a);

(e) The tenant has instituted or defended against a judicial or administrative proceeding or arbitration in which the tenant raised an issue of compliance with the requirements of this chapter respecting the habitability of dwelling units;

(f) The tenant has failed or refused to give written consent to a regulation adopted by the landlord, after the tenant enters into the rental agreement, which requires the landlord to wait until the appropriate time has elapsed before it is enforceable against the tenant;

(g) The tenant has complained in good faith to the landlord, a government agency, an attorney, a fair housing agency or any other appropriate body of a violation of NRS 118.010 to 118.120, inclusive, or the Fair Housing Act of 1968, 42 U.S.C. §§ 3601 et seq., or has otherwise exercised rights which are guaranteed or protected under those laws;

(h) The tenant or, if applicable, a cotenant or household member, is a victim of domestic violence, harassment, sexual assault or stalking or terminates a rental agreement pursuant to NRS 118A.345; or

(i) Except as otherwise provided in NRS 118A.315, the tenant is a federal worker, tribal worker, state worker or household member of such a worker and the tenant pays rent during the time specified in subsection 2 of NRS 118A.310. As used in this paragraph, "household member" has the meaning ascribed to it in NRS 40.0025.

2. If the landlord violates any provision of subsection 1, the tenant is entitled to the remedies provided in NRS 118A.390 and has a defense in any retaliatory action by the landlord for possession.

3. A landlord who acts under the circumstances described in subsection 1 does not violate that subsection if:

(a) The violation of the applicable building, housing or health code of which the tenant complained was caused primarily by the lack of reasonable care by the tenant, a member of his or her household or other person on the premises with his or her consent;

(b) The tenancy is terminated with cause;

(c) A citation has been issued and compliance with the applicable building, housing or health code requires alteration, remodeling or demolition and cannot be accomplished unless the tenant's dwelling unit is vacant; or

(d) The increase in rent applies in a uniform manner to all tenants.

↪ The maintenance of an action under this subsection does not prevent the tenant from seeking damages or injunctive relief for the landlord's failure to comply with the rental agreement or maintain the dwelling unit in a habitable condition as required by this chapter.

4. As used in this section:

(a) "Cotenant" has the meaning ascribed to it in NRS 118A.345.

(b) "Domestic violence" has the meaning ascribed to it in NRS 118A.345.

(c) "Harassment" means a violation of NRS 200.571.

(d) "Household member" has the meaning ascribed to it in NRS 118A.345.

(e) "Sexual assault" means a violation of NRS 200.366.

(f) "Stalking" means a violation of NRS 200.575.

(Added to NRS by 1977, 1343; A 1985, 1417; 1999, 1230; 2011, 240, 869; 2013, 1416; 2017, 479; 2019, 3189)

NRS 118A.515 Adverse action by landlord based solely upon request for emergency assistance prohibited; request for emergency assistance may not be deemed nuisance; exceptions; remedies.

1. A landlord shall not take any adverse action against a tenant, including, without limitation, evicting, imposing a fine or taking any other punitive action against the tenant, based solely upon the tenant or another person in the dwelling of the tenant requesting

emergency assistance if the tenant or other person had a reasonable belief that an emergency response was necessary or that criminal activity may have occurred, regardless of any other previous requests for emergency assistance by the tenant or other person.

2. A local government or other political subdivision of this State shall not deem there to be a nuisance or take any other adverse action against the landlord of a dwelling based solely upon the tenant or another person in the dwelling of the tenant requesting emergency assistance in accordance with subsection 1.

3. Any local charter, code, ordinance, regulation or other law that conflicts with this section is void and unenforceable.

4. This section does not:

(a) Prohibit a landlord from taking any action necessary to abate a nuisance on the property pursuant to NRS 40.140 or 202.450 or taking any other action which is not in conflict with the provisions of this section, including, without limitation, commencing eviction proceedings in accordance with the provisions of chapter 40 of NRS for any nuisance discovered by or reported to the landlord by a peace officer as a result of a request for emergency assistance pursuant to subsection 1;

(b) Authorize a tenant to breach any provision of a rental agreement that is not in conflict with this section or to violate any other provision of law;

(c) Prohibit a landlord from taking any action necessary to cure a breach of any provision of a rental agreement or any other provision of law by a tenant which is discovered by or reported to the landlord by a peace officer as a result of a request for emergency assistance pursuant to subsection 1; or

(d) Prohibit a local government or other political subdivision of this State from taking any action against a landlord or a tenant to abate a nuisance or a violation of any local law, ordinance or regulation which is discovered by a peace officer while responding to a request for emergency assistance pursuant to subsection 1.

5. In addition to any other remedies, a tenant, landlord or district attorney may bring a civil action in a court of competent jurisdiction for a violation of this section to seek any or all of the following relief:

(a) Declaratory and injunctive relief.

(b) Actual damages.

(c) Reasonable attorney's fees and costs.

(d) Any other legal or equitable relief that the court deems appropriate.

6. As used in this section:

(a) "Emergency assistance" means assistance provided by an agency of the State of Nevada or a political subdivision of this State that provides police, fire-fighting, rescue, emergency medical services or any other services related to public safety.

(b) "Peace officer" means any person upon whom some or all of the powers of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive.

(Added to NRS by 2017, 282)

NRS 118A.520 When lien or security interest in tenant's household goods may be enforced; distraint for rent abolished; damages.

1. Any lien or security interest in the tenant's household goods created in favor of the landlord to ensure the payment of rent is unenforceable unless created by attachment or garnishment.

2. Distraint for rent is abolished.

3. A landlord who retains the household goods or other personal property of a tenant in violation of this section is liable to the tenant for damages as provided in NRS 118A.390.

(Added to NRS by 1977, 1344; A 1985, 1418)

SAVING PROVISION

NRS 118A.530 Effect of chapter upon rental agreements entered into before July 1, 1977. Rental agreements entered into before July 1, 1977, and not extended or renewed after that date, and the rights, duties and interests flowing from them remain valid and may be terminated or enforced as required or permitted by any statute or other law amended or repealed in conjunction with the enactment of this chapter as though the repeal or amendment had not occurred. For purposes of this section, tenancies from month to month shall be considered to be renewed each month.

(Added to NRS by 1977, 1344)

CHAPTER 118C - LANDLORD AND TENANT: COMMERCIAL PREMISES

GENERAL PROVISIONS

<u>NRS 118C.010</u>	Definitions.
<u>NRS 118C.020</u>	“Abandoned personal property” defined.
<u>NRS 118C.030</u>	“Action” defined.
<u>NRS 118C.040</u>	“Commercial premises” defined.
<u>NRS 118C.050</u>	“Court” defined.
<u>NRS 118C.060</u>	“Landlord” defined.
<u>NRS 118C.070</u>	“Owner” defined.
<u>NRS 118C.080</u>	“Person” defined.
<u>NRS 118C.090</u>	“Rent” defined.
<u>NRS 118C.100</u>	“Rental agreement” defined.
<u>NRS 118C.110</u>	“Tenant” defined.
<u>NRS 118C.150</u>	Applicability.

RIGHTS AND OBLIGATIONS OF LANDLORDS AND TENANTS

<u>NRS 118C.200</u>	Basic obligations of landlords; right to exclude tenant; remedies of tenant for violation by landlord or landlord’s agent.
<u>NRS 118C.210</u>	Right of tenant to recover possession; filing of complaint; restitution.
<u>NRS 118C.220</u>	Jurisdiction of courts; applicability of judicial doctrines.
<u>NRS 118C.230</u>	Disposal of abandoned property.

GENERAL PROVISIONS

NRS 118C.010 Definitions. As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 118C.020 to 118C.110, inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 2011, 1485)

NRS 118C.020 “Abandoned personal property” defined. “Abandoned personal property” means any personal property which is left unattended on commercial premises after the termination of the tenancy and which is not removed by the tenant or a person who has an ownership interest in the personal property within 14 days after the date on which the landlord mailed, by certified mail, return receipt requested, notice of the landlord’s intention to dispose of the personal property, as required by paragraph (a) of subsection 1 of NRS 118C.230.

(Added to NRS by 2011, 1486)

NRS 118C.030 “Action” defined. “Action” includes a counterclaim, crossclaim, third-party claim or any other proceeding in which rights are determined.

(Added to NRS by 2011, 1486)

NRS 118C.040 “Commercial premises” defined. “Commercial premises” means any real property other than premises as defined in NRS 118A.140.

(Added to NRS by 2011, 1486)

NRS 118C.050 “Court” defined. “Court” means the district court, justice court or other court of competent jurisdiction situated in the county or township wherein the commercial premises are located.

(Added to NRS by 2011, 1486)

NRS 118C.060 “Landlord” defined. “Landlord” means a person who provides commercial premises for use by another person pursuant to a rental agreement.

(Added to NRS by 2011, 1486)

NRS 118C.070 “Owner” defined. “Owner” means one or more persons, jointly or severally, in whom is vested:

1. All or part of the legal title to a commercial premises, except a trustee under a deed of trust who is not in possession of the commercial premises; or
2. All or part of the beneficial ownership, and a right to present use and enjoyment of the commercial premises.

(Added to NRS by 2011, 1486)

NRS 118C.080 "Person" defined. "Person" includes a government, a governmental agency and a political subdivision of a government.

(Added to NRS by 2011, 1486)

NRS 118C.090 "Rent" defined. "Rent" means all periodic payments to be made to the landlord for occupancy of commercial premises, including, without limitation, all reasonable and actual late fees set forth in the rental agreement.

(Added to NRS by 2011, 1486)

NRS 118C.100 "Rental agreement" defined. "Rental agreement" means an agreement to lease or sublease commercial premises for a term less than life which provides for the periodic payment of rent.

(Added to NRS by 2011, 1486)

NRS 118C.110 "Tenant" defined. "Tenant" means a person who has the right to possess commercial premises pursuant to a rental agreement.

(Added to NRS by 2011, 1486)

NRS 118C.150 Applicability. The provisions of this chapter apply only to the relationship between landlords and tenants of commercial premises.

(Added to NRS by 2011, 1486)

RIGHTS AND OBLIGATIONS OF LANDLORDS AND TENANTS

NRS 118C.200 Basic obligations of landlords; right to exclude tenant; remedies of tenant for violation by landlord or landlord's agent.

1. A landlord or a landlord's agent may not interrupt or cause the interruption of utility service paid for directly to the utility company by a tenant unless the interruption results from construction, bona fide repairs or an emergency.

2. A landlord may not remove:

(a) A door, window or attic hatchway cover;

(b) A lock, latch, hinge, hinge pin, doorknob or other mechanism connected to a door, window or attic hatchway cover; or

(c) Furniture, fixtures or appliances furnished by the landlord,

↳ from commercial premises unless the landlord removes the item for a bona fide repair or replacement. If a landlord removes any of the items listed in this subsection for a bona fide repair or replacement, the repair or replacement must be promptly performed.

3. A landlord may not intentionally prevent a tenant from entering the commercial premises except by judicial process unless the exclusion results from:

(a) Construction, bona fide repairs or an emergency;

(b) Removing the contents of commercial premises abandoned by a tenant; or

(c) Changing the door locks of a tenant who is delinquent in paying at least part of the rent if the landlord has provided the tenant with written notice of the delinquency and of the landlord's intent to change the door locks by certified mail, return receipt requested, at least 3 days before changing the door locks.

4. If a landlord or a landlord's agent changes the door lock of commercial premises leased to a tenant who is delinquent in paying rent, the landlord or agent must place a written notice on the front door of the commercial premises stating the name and the address or telephone number of the person or company from which the new key may be obtained. The new key is required to be provided only during the regular business hours of the tenant and only if the tenant pays the delinquent rent.

5. If a landlord or a landlord's agent violates this section, the tenant may:

(a) Recover possession of the commercial premises or terminate the lease; and

(b) Recover from the landlord an amount equal to the sum of the tenant's actual damages, 1 month's rent or \$500, whichever is greater, reasonable attorney's fees and court costs, less any delinquent rents or other sums for which the tenant is liable to the landlord.

6. A lease supersedes this section to the extent of any conflict.

(Added to NRS by 2011, 1486; A 2015, 1015)

NRS 118C.210 Right of tenant to recover possession; filing of complaint; restitution.

1. If a landlord locks a tenant out of commercial premises that are subject to a rental agreement in violation of NRS 118C.200, the tenant may recover possession of the commercial premises as provided by this section.

2. A tenant must file with the justice court of the township in which the commercial premises are located a verified complaint for reentry, specifying the facts of the alleged unlawful lockout by the landlord or the landlord's agent. The tenant must also state orally under oath to the court the facts of the alleged unlawful lockout.

3. If a tenant has complied with subsection 2 and if the court reasonably believes an unlawful lockout may have occurred, the court:

(a) Shall issue an order requiring the tenant to post a bond in an amount equal to 1 month of rent; and

(b) Upon the posting of the bond, may issue, ex parte, a temporary writ of restitution that entitles the tenant to immediate and temporary possession of the commercial premises, pending a final hearing on the tenant's verified complaint for reentry.

4. A temporary writ of restitution must be served on the landlord or the landlord's agent in the same manner as a writ of restitution in a forcible detainer action. A sheriff or constable may use reasonable force in executing a temporary writ of restitution under this subsection.

5. The court shall hold a hearing on a tenant's verified complaint for reentry. A temporary writ of restitution must notify the landlord of the pendency of the matter and the date of the hearing. The hearing must be held not earlier than the first judicial day and not later than the fifth judicial day after the date on which the court issues the temporary writ of restitution.

6. A party may appeal from the court's judgment at the hearing on the verified complaint for reentry in the same manner as a party may appeal a judgment in an action for forcible detainer.

7. If a writ of restitution is issued, the writ supersedes a temporary writ of restitution.

8. If the landlord or the person on whom a writ of restitution is served fails to immediately comply with the writ or later disobeys the writ, the failure is grounds for contempt of court against the landlord or the person on whom the writ was served, under chapter 22 of NRS.

9. This section does not affect a tenant's right to pursue a separate cause of action under NRS 118C.200.

10. If a tenant in bad faith files a sworn complaint for reentry resulting in a writ of restitution being served on the landlord or landlord's agent, the landlord may in a separate cause of action recover from the tenant an amount equal to actual damages, 1 month's rent or \$500, whichever is greater, reasonable attorney's fees, and costs of court, less any sums for which the landlord is liable to the tenant.

11. This section does not affect the rights of a landlord or tenant in a forcible detainer, unlawful detainer or forcible entry and detainer action.

(Added to NRS by 2011, 1487)

NRS 118C.220 Jurisdiction of courts; applicability of judicial doctrines.

1. Except as otherwise provided in subsection 2, the justice court has jurisdiction over any civil action or proceeding concerning the exclusion of a tenant from commercial premises or the summary eviction of a tenant from commercial premises in which no party is seeking damages.

2. If a landlord combines an action for summary eviction of a tenant from commercial premises with a claim to recover contractual damages, jurisdiction over the claims rests with the court which has jurisdiction over the amount in controversy.

3. The provisions of NRS 40.430 and the doctrines of res judicata and collateral estoppel do not apply to:

(a) A claim by a landlord for contractual damages which is brought subsequent to an action by the landlord for the summary eviction of a tenant from commercial premises; or

(b) An action by a landlord for the summary eviction of a tenant from commercial premises which is brought subsequent to a claim by the landlord for contractual damages.

(Added to NRS by 2011, 1488)

NRS 118C.230 Disposal of abandoned property.

1. Except as otherwise provided in subsection 3, 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 or her reasonable costs out of the abandoned personal property or the value thereof if the landlord has notified the tenant in writing of the landlord's intention to dispose of the abandoned personal property and 14 days have elapsed since the notice was 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.

(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 or her 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. A tenant of commercial premises is presumed to have abandoned the premises if:

(a) Goods, equipment or other property, in an amount substantial enough to indicate a probable intent to abandon the commercial premises, is being or has been removed from the commercial premises; and

(b) The removal is not within the normal course of business of the tenant.

3. If a written agreement between a landlord and a person who has an ownership 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 person with respect to the removal and disposal of the abandoned personal property.

4. 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 40.2542.

(Added to NRS by 2011, 1488; A 2019, 3927)

CHAPTER 40 - ACTIONS AND PROCEEDINGS IN PARTICULAR CASES CONCERNING PROPERTY

GENERAL PROVISIONS

<u>NRS 40.001</u>	Definitions.
<u>NRS 40.002</u>	“Federal worker” defined.
<u>NRS 40.0025</u>	“Household member” defined.
<u>NRS 40.003</u>	“Qualified Indian tribe” defined.
<u>NRS 40.0035</u>	“Shutdown” defined.
<u>NRS 40.004</u>	“State worker” defined.
<u>NRS 40.0045</u>	“Tribal worker” defined.
<u>NRS 40.005</u>	Zoning requirements to be considered by court.

ACTIONS TO DETERMINE CONFLICTING CLAIMS TO REAL PROPERTY

<u>NRS 40.010</u>	Actions may be brought against adverse claimants.
<u>NRS 40.020</u>	Plaintiff not entitled to costs on default judgment or disclaimer.
<u>NRS 40.030</u>	Plaintiff may recover damages for property withheld where plaintiff’s right terminated during pendency of action.
<u>NRS 40.040</u>	Value of permanent improvements to be allowed as setoff.
<u>NRS 40.050</u>	Mortgage not deemed conveyance.
<u>NRS 40.060</u>	Court may enjoin injury to property during foreclosure.
<u>NRS 40.070</u>	Damages may be recovered for injury to possession after sale and before delivery.
<u>NRS 40.080</u>	Action not to be prejudiced by alienation pending suit.
<u>NRS 40.090</u>	Action by person in adverse possession: Verified complaint; defendants; notice of pending litigation.
<u>NRS 40.100</u>	Action by person in adverse possession: Issuance, service and posting of summons; rights of unknown persons.
<u>NRS 40.110</u>	Court to hear case; must not enter judgment by default; effect of final judgment.
<u>NRS 40.120</u>	Remedy is cumulative.
<u>NRS 40.130</u>	Adverse action on mining claim.

ACTIONS FOR NUISANCE, WASTE AND WILLFUL TRESPASS ON REAL PROPERTY

<u>NRS 40.140</u>	Nuisance defined; action for abatement and damages; exceptions.
<u>NRS 40.150</u>	Action for waste; judgment may be for treble damages.
<u>NRS 40.160</u>	Action for trespass for cutting or carrying away trees or wood; treble damages.
<u>NRS 40.180</u>	Manner of working mine or mining claim; assessment of damages.
<u>NRS 40.190</u>	Continuation of judgment lien.
<u>NRS 40.200</u>	Application for order of survey; notice and order; report of survey; costs of and damages caused by survey.
<u>NRS 40.210</u>	Order allowing party to survey and measure land in dispute; contents and service of order; liability for unnecessary injury.

SUMMARY PROCEEDINGS FOR OBTAINING POSSESSION OF REAL PROPERTY, RECREATIONAL VEHICLE OR MOBILE HOME

<u>NRS 40.215</u>	Definitions.
<u>NRS 40.220</u>	Entry to be made only when legal and in peaceable manner.
<u>NRS 40.230</u>	Forcible entry defined; recovery of possession following forcible entry; treble damages.
<u>NRS 40.240</u>	Forcible detainer defined; recovery of possession following forcible detainer; treble damages.
<u>NRS 40.250</u>	Unlawful detainer: Possession after expiration of term.
<u>NRS 40.251</u>	Unlawful detainer: Possession of property leased for indefinite time after notice to surrender; older person or person with a disability entitled to extension of period of possession upon request; federal worker, tribal worker, state worker or household member of such worker may request extension of period of possession.
<u>NRS 40.2512</u>	Unlawful detainer: Possession after default in payment of rent; exception.
<u>NRS 40.2514</u>	Unlawful detainer: Assignment or subletting contrary to lease; waste; unlawful business; nuisance; violations of controlled substances laws.
<u>NRS 40.2516</u>	Unlawful detainer: Possession after failure to perform conditions of lease; saving lease from forfeiture; recovery of possession following unlawful detainer.
<u>NRS 40.252</u>	Unlawful detainer: Contractual provisions void if contrary to specified periods of notice; notice to surrender by colessor is valid unless showing other colessors did not authorize notice.
<u>NRS 40.253</u>	Unlawful detainer: Supplemental remedy of su - 139 - vicition and exclusion of tenant for default in payment of rent.

<u>NRS 40.254</u>	Unlawful detainer: Supplemental remedy of summary eviction and exclusion of tenant from certain types of property.
<u>NRS 40.2542</u>	Unlawful detainer: Supplemental remedy of summary eviction and exclusion of tenant of commercial premises.
<u>NRS 40.2544</u>	Unlawful detainer: Stay of eviction proceeding to facilitate program of alternative dispute resolution. [Repealed.]
<u>NRS 40.2545</u>	Unlawful detainer: Sealing of eviction case court file under certain circumstances; notice to surrender must not be made available for public inspection.
<u>NRS 40.255</u>	Removal of person holding over after 3-day notice to surrender; circumstances authorizing removal; exception and additional notice required for occupying tenants and subtenants of property sold as residential foreclosure.
<u>NRS 40.260</u>	Tenant of agricultural lands may hold over if not notified.
<u>NRS 40.270</u>	Tenant has similar remedies against subtenant.
<u>NRS 40.280</u>	Service of notices to surrender; proof required before issuance of order to remove or writ of restitution.
<u>NRS 40.290</u>	Parties defendant; persons bound by judgment.
<u>NRS 40.300</u>	Contents of complaint; issuance and service of summons; temporary writ of restitution; notice, hearing and bond.
<u>NRS 40.310</u>	Issue of fact to be tried by jury if proper demand made.
<u>NRS 40.320</u>	Proof required of plaintiff and defendant on trial.
<u>NRS 40.330</u>	Amendment of complaint to conform to proof; continuance.
<u>NRS 40.340</u>	Adjournments.
<u>NRS 40.350</u>	Trial not to be adjourned when plaintiff admits evidence in affidavit would be given.
<u>NRS 40.360</u>	Judgment; damages; execution and enforcement.
<u>NRS 40.370</u>	Verification of complaint and answer.
<u>NRS 40.380</u>	Provisions governing appeals.
<u>NRS 40.385</u>	Stay of execution upon appeal; duty of tenant who retains possession of premises to pay rent during stay.
<u>NRS 40.390</u>	Appellate court not to dismiss or quash proceedings for want of form.
<u>NRS 40.400</u>	Rules of practice.
<u>NRS 40.412</u>	Housebreaking and unlawful occupancy: When owner may retake possession and change locks; notice required.
<u>NRS 40.414</u>	Forcible entry or forcible detainer: When owner or occupant may recover possession; notice required; response by unlawful or unauthorized occupant; complaint for eviction; actions by court; disposal of abandoned personal property.
<u>NRS 40.416</u>	Recovery of possession by occupant who has been locked out of dwelling: Filing of verified complaint for reentry; trial; issuance of writ of restitution if lockout was unjustified; appeal; failure to comply constitutes contempt.
<u>NRS 40.420</u>	Form of writ of restitution; execution.
<u>NRS 40.425</u>	Notice of execution on writ of restitution.

DEBT SECURED BY MORTGAGE OR OTHER LIEN

GENERAL PROVISIONS

<u>NRS 40.426</u>	Definitions.
<u>NRS 40.427</u>	"Foreclosure sale" defined.
<u>NRS 40.428</u>	"Mortgage or other lien" defined.
<u>NRS 40.429</u>	"Sale in lieu of a foreclosure sale" defined.

ACTIONS FOR FORECLOSURE OF REAL MORTGAGES

<u>NRS 40.430</u>	Action for recovery of debt secured by mortgage or other lien; "action" defined.
<u>NRS 40.435</u>	Judicial proceedings in violation of <u>NRS 40.430</u> ; provisions of <u>NRS 40.430</u> as an affirmative defense.
<u>NRS 40.437</u>	Additional requirements for action affecting owner-occupied housing: Notice; form; election or waiver of mediation; rules concerning mediation; applicability.
<u>NRS 40.439</u>	Limitations on foreclosure sales involving certain members of military or dependents.
<u>NRS 40.4395</u>	Limitations on foreclosure sales involving shutdown.
<u>NRS 40.440</u>	Disposition of proceeds of foreclosure sale.
<u>NRS 40.450</u>	Proceedings when debt secured falls due at different times.

FORECLOSURE SALES AND DEFICIENCY JUDGMENTS

<u>NRS 40.451</u>	"Indebtedness" defined.
<u>NRS 40.453</u>	Waiver of rights in documents relating to sale of real property against public policy and unenforceable; exception.
<u>NRS 40.455</u>	Deficiency judgment: Award to judgment creditor or beneficiary of deed of trust; exceptions.
<u>NRS 40.457</u>	Hearing before award of deficiency judgment; appraisal of property sold.
<u>NRS 40.458</u>	Deficiency judgment: Award to judgment creditor or beneficiary of deed of trust prohibited under certain circumstances.
<u>NRS 40.459</u>	Limitations on amount of money judgment.
<u>NRS 40.462</u>	Distribution of proceeds of foreclosure sale.
<u>NRS 40.463</u>	Agreement for assistance in recovering proceeds of foreclosure sale due to debtor or successor in interest; requirements for enforceable agreement; fee must be reasonable.

ACTIONS BY HOLDERS OF JUNIOR REAL MORTGAGES AFTER FORECLOSURE SALES

<u>NRS 40.4636</u>	Limitations on amount of money judgment.
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NRS 40.4638 Circumstances under which action to enforce obligation is prohibited.
NRS 40.4639 Period of limitation on commencement of civil action.

MAINTENANCE OF PROPERTY ACQUIRED AT FORECLOSURE SALE

NRS 40.464 Duty to maintain vacant residential property acquired at foreclosure sale; notice of violation; proceedings for enforcement; civil penalties.

RIGHTS OF GUARANTOR, SURETY OR OBLIGOR IN REAL PROPERTY

NRS 40.465 "Indebtedness" defined.
NRS 40.475 Remedy against mortgagor or grantor; assignment of creditor's rights to guarantor, surety or obligor.
NRS 40.485 Interest in proceeds of secured indebtedness upon partial satisfaction of indebtedness.
NRS 40.495 Waiver of rights; separate action to enforce obligation; limitation on amount of judgment; available defenses.

ENVIRONMENTAL IMPAIRMENT OF REAL COLLATERAL OF SECURED LENDER

NRS 40.501 Definitions.
NRS 40.502 "Environmental provision" defined.
NRS 40.503 "Environmentally impaired" defined.
NRS 40.504 "Hazardous substance" defined.
NRS 40.505 "Release" defined.
NRS 40.506 "Secured lender" defined.
NRS 40.507 Right of entry and inspection of real collateral.
NRS 40.508 Action by secured lender concerning environmental provision.
NRS 40.509 Limitation on amount of damages recoverable in action concerning environmental provision; recovery of interest.
NRS 40.511 Exceptions to applicability of NRS 40.507 and 40.508.
NRS 40.512 Environmental impairment of real collateral: Waiver of lien; notice of waiver; exception; recording of waiver.

PROCEEDINGS TO ESTABLISH TERMINATION OF LIFE ESTATES

NRS 40.515 Petition, notice, hearing and order; alternative method of terminating interest.

METHODS OF TERMINATION OF INTERESTS OF DECEASED PERSONS IN PROPERTY

NRS 40.525 Petition; notice; hearing and order; alternative method.
NRS 40.535 Affidavit or petition may be filed in probate proceeding.

ACTIONS RESULTING FROM CONSTRUCTIONAL DEFECT

GENERAL PROVISIONS

NRS 40.600 Definitions.
NRS 40.603 "Amend a complaint to add a cause of action for a constructional defect" defined.
NRS 40.605 "Appurtenance" defined.
NRS 40.607 "Builder's warranty" defined.
NRS 40.610 "Claimant" defined.
NRS 40.615 "Constructional defect" defined.
NRS 40.620 "Contractor" defined.
NRS 40.623 "Design professional" defined.
NRS 40.630 "Residence" defined.
NRS 40.632 "Subcontractor" defined.
NRS 40.634 "Supplier" defined.
NRS 40.635 Applicability; effect on other defenses.

CONDITIONS AND LIMITATIONS ON ACTIONS

NRS 40.640 Liability of contractor.
NRS 40.645 Notice of defect: Required before commencement of or addition to certain actions; content; persons authorized to provide notice; exceptions.
NRS 40.646 Notice of defect to be forwarded by contractor to subcontractor, supplier or design professional; effect of failure to forward notice; inspection of alleged defect; election to repair.
NRS 40.6462 Access to residence or appurtenance with alleged defect after notice of defect is given.
NRS 40.647 Claimant required to allow inspection of and reasonable opportunity to repair defect; claimant or claimant's expert required to be present at inspection; effect on compliance.

<u>NRS 40.6472</u>	Response to notice of defect: Time for sending; content; effect of election to repair or not to repair.
<u>NRS 40.648</u>	Election to repair defect: Who may repair; manner for performing repairs; deadline for repair; extension of deadline; written statement of repairs performed.
<u>NRS 40.649</u>	Notice of defect may be presented to insurer; duties of insurer.
<u>NRS 40.650</u>	Effect of rejecting reasonable offer of settlement; effect of failing to take certain actions concerning defect; effect of coverage available under homeowner's warranty.
<u>NRS 40.652</u>	Offer of judgment.
<u>NRS 40.655</u>	Limitation on recovery.
<u>NRS 40.660</u>	Nonacceptance of offer of settlement deemed rejection.
<u>NRS 40.665</u>	Settlement by repurchase; certain offers of settlement deemed reasonable.
<u>NRS 40.667</u>	Effect of written waiver or settlement agreement when contractor fails to correct or repair defect properly; conditions to bringing action; effect of failure to prevail in action.
<u>NRS 40.668</u>	Action against subdivider or master developer for defect in appurtenance in planned unit development: Conditions and limitations; tolling of statutes of limitation or repose; applicability.

REPAIRS

<u>NRS 40.670</u>	Defect which creates imminent threat to health or safety: Duty to cure; effect of failure to cure; exceptions.
<u>NRS 40.672</u>	Defect in new residence: Duty to repair; deadline for repair; extensions; disciplinary action for failure to comply.
<u>NRS 40.675</u>	Inspection of repairs.

SPECIAL PROCEDURES

<u>NRS 40.680</u>	Mediation of certain claims required before action commenced or complaint amended; procedure; appointment of special master; effect of failure to mediate in good faith.
<u>NRS 40.681</u>	Premediation discovery.
<u>NRS 40.684</u>	Duties of insurer with respect to settlement conference.

DISCLOSURES

<u>NRS 40.687</u>	Disclosure of information concerning insurance agreements; compelled production of information.
<u>NRS 40.688</u>	Disclosure of defects by claimant to prospective purchaser of residence required; timing and contents of disclosure; duty of attorney to inform claimant of disclosure requirement.

ADDITIONAL REQUIREMENT FOR ACTIONS AGAINST DESIGN PROFESSIONALS

<u>NRS 40.6882</u>	"Complainant" defined.
<u>NRS 40.6884</u>	Attorney required to consult expert; required affidavit of attorney; required report of expert.
<u>NRS 40.6885</u>	Effect of compliance with or failure to comply with <u>NRS 40.6884</u> .

MISCELLANEOUS PROVISIONS

<u>NRS 40.6887</u>	Submission of questions or disputes concerning defects to State Contractors' Board; regulations.
<u>NRS 40.689</u>	Preference given to action; action may be assigned to senior judge; assessment of additional expenses.
<u>NRS 40.690</u>	Limitation on bringing claim against governmental entity during period for resolution; effect of settlement; contractor or claimant may require party to appear and participate.
<u>NRS 40.692</u>	Notice not required to be given to intervener in action.
<u>NRS 40.693</u>	Contractual provisions requiring subcontractor to indemnify controlling party; wrap-up insurance policies.
<u>NRS 40.695</u>	Tolling of statutes of limitation or repose; applicability.

MISCELLANEOUS PROVISIONS

<u>NRS 40.750</u>	Fraud against financial institution or other lender for purpose of obtaining loan secured by lien on real property.
<u>NRS 40.770</u>	Limitation on liability of seller, seller's agent and buyer's agent for failure to disclose certain facts concerning property.

GENERAL PROVISIONS

NRS 40.001 Definitions. As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 40.002 to 40.0045, inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 2019, 3175)

NRS 40.002 "Federal worker" defined. "Federal worker" means an employee of a federal agency or an employee of a contractor who has entered into a contract with a federal agency.

(Added to NRS by 2019, 3175)

NRS 40.0025 “Household member” defined. “Household member” means any person who is related by blood, marriage, adoption or other legal process and is currently residing with a federal worker, tribal worker or state worker affected by a shutdown.
(Added to NRS by 2019, 3175)

NRS 40.003 “Qualified Indian tribe” defined. “Qualified Indian tribe” means a federally recognized Nevada Indian tribe that receives at least a majority of its funding from the Federal Government.
(Added to NRS by 2019, 3176)

NRS 40.0035 “Shutdown” defined. “Shutdown” means any period in which there is a lapse in appropriations for a federal or state agency or tribal government that continues through any unpaid payday for a federal worker, state worker or tribal worker employed by that agency or tribal government.
(Added to NRS by 2019, 3176)

NRS 40.004 “State worker” defined. “State worker” means an employee of a state agency or an employee of a contractor who has entered into a contract with a state agency.
(Added to NRS by 2019, 3176)

NRS 40.0045 “Tribal worker” defined. “Tribal worker” means an employee of a qualified Indian tribe or an employee of a contractor who has entered into a contract with a qualified Indian tribe.
(Added to NRS by 2019, 3176)

NRS 40.005 Zoning requirements to be considered by court. In any proceeding involving disposition of land the court shall consider lot size and other applicable zoning requirements before ordering a physical division of the land.
(Added to NRS by 1977, 1512)

ACTIONS TO DETERMINE CONFLICTING CLAIMS TO REAL PROPERTY

NRS 40.010 Actions may be brought against adverse claimants. An action may be brought by any person against another who claims an estate or interest in real property, adverse to the person bringing the action, for the purpose of determining such adverse claim.
[1911 CPA § 572; RL § 5514; NCL § 9061]

NRS 40.020 Plaintiff not entitled to costs on default judgment or disclaimer. If the defendant in such action disclaim in the defendant’s answer any interest or estate in the property, or suffer judgment to be taken against the defendant without answer, the plaintiff shall not recover costs.
[1911 CPA § 573; RL § 5515; NCL § 9062]

NRS 40.030 Plaintiff may recover damages for property withheld where plaintiff’s right terminated during pendency of action. In an action for the recovery of real property, where the plaintiff shows a right to recover at the time the action was commenced but it appears that the plaintiff’s right has terminated during the pendency of the action, the verdict and judgment shall be according to the fact, and the plaintiff may recover damages for withholding the property.
[1911 CPA § 574; RL § 5516; NCL § 9063]

NRS 40.040 Value of permanent improvements to be allowed as setoff. When damages are claimed for withholding the property recovered, upon which permanent improvements have been made by a defendant or those under whom the defendant claims, holding under color of title adversely to the claims of the plaintiff, in good faith, the value of such improvements shall be allowed as a setoff against such damages.
[1911 CPA § 575; RL § 5517; NCL § 9064]

NRS 40.050 Mortgage not deemed conveyance. A mortgage of real property shall not be deemed a conveyance, whatever its terms, so as to enable the owner of the mortgage to take possession of the real property in the absence of a foreclosure sale or in accordance with NRS 32.100 to 32.370, inclusive, NRS 107.100 or chapter 107A of NRS.
[1911 CPA § 576; RL § 5518; NCL § 9065]—(NRS A 2019, 1372)

NRS 40.060 Court may enjoin injury to property during foreclosure. The court may by injunction, on good cause shown, restrain the party in possession from doing any act to the injury of real property during the foreclosure of a mortgage thereon; or after a sale on execution, before a conveyance.
[1911 CPA § 577; RL § 5519; NCL § 9066]

NRS 40.070 Damages may be recovered for injury to possession after sale and before delivery. When real property shall have been sold on execution, the purchaser thereof, or any person who may have succeeded to the purchaser’s interest, may, after the purchaser’s estate becomes absolute, recover damages for injury to the property by the tenant in possession, after sale and before possession is delivered under the conveyance.
[1911 CPA § 578; RL § 5520; NCL § 9067]

NRS 40.080 Action not to be prejudiced by alienation pending suit. An action for the recovery of real property against a person in possession cannot be prejudiced by an alienation made by such person, either before or after the commencement of the action.

[1911 CPA § 579; RL § 5521; NCL § 9068]

NRS 40.090 Action by person in adverse possession: Verified complaint; defendants; notice of pending litigation.

1. An action may be brought to determine the adverse claims to and clouds upon title to real property by a person who, personally or in combination with the person's predecessors in interest, has been in the actual, exclusive and adverse possession of such property continuously for more than 15 years prior to the filing of the complaint, claiming to own the same in fee, or by any other freehold estate, against the whole world, and who has, personally or through the person's predecessors in interest, paid all taxes of every kind levied or assessed and due against the property during the period of 5 years next preceding the filing of the complaint, except that where clouds upon title to real property have been created by such person, and the action is brought to remove such clouds, or any of them, such period of actual, exclusive and adverse possession of such property shall be for more than 10 years. The action shall be commenced by the filing of a verified complaint averring the matters above enumerated.

2. The complaint must include as defendants in such action, in addition to such persons as appear of record to have some claim, all other persons who are known, or by the exercise of reasonable diligence could be known, to plaintiff to have some claim to an estate, interest, right, title, lien or cloud in or on the land described in the complaint adverse to plaintiff's ownership; and the complaint may also include as defendants any and all other persons, unknown, claiming any estate, right, title, interest or lien in such lands, or cloud upon the title of plaintiff thereto; and the plaintiff may describe such unknown defendants in the complaint as follows: "Also all other persons unknown claiming any right, title, estate, lien or interest in the real property described in the complaint adverse to plaintiff's ownership, or any cloud upon plaintiff's title thereto."

3. Within 10 days after the filing of the complaint, plaintiff shall file or cause to be filed in the office of the county recorder of the county where the property is situated, a notice of the pendency of the action containing the matters required by NRS 14.010.

[1911 CPA § 580; RL § 5522; NCL § 9069]—(NRS A 1965.613)

NRS 40.100 Action by person in adverse possession: Issuance, service and posting of summons; rights of unknown persons.

1. Within 1 year after the filing of the complaint, as required by NRS 40.090, a summons must be issued in the manner and form prescribed in the Nevada Rules of Civil Procedure. In addition to other requirements, the summons shall contain a description of the property described in the complaint. In the summons the unknown defendants shall be designated as in the complaint. Service of summons, whether personal or otherwise, shall be effected in the manner prescribed in the Nevada Rules of Civil Procedure; and the times for completion of service and appearance by the defendant shall be as prescribed therein.

2. Within 30 days after the issuance of the summons, the plaintiff shall post or cause to be posted a copy thereof in a conspicuous place, on each separate parcel of the property described in the complaint, and each parcel of the land upon which a copy of the summons is posted shall be deemed to be in the possession of the court for all the purposes of and pending the determination of the action. All such unknown persons so served shall have the same rights as are provided by law in cases of all other defendants named, upon whom service is made by publication or personally, and the action shall proceed against such unknown persons in the same manner as against the defendants who are named, upon whom service is made by publication or personally, and with like effect; and any such unknown person who has or claims to have any right, title, estate, lien or interest in the property, or cloud on the title thereto, adverse to plaintiff, at the time of the commencement of the action, who has been duly served as aforesaid, and anyone claiming title under the unknown person shall be concluded by the judgment in such action as effectually as if the action had been brought against the person by his or her name and personal service of process obtained, notwithstanding any such unknown person may be under legal disability.

[1911 CPA § 581; A 1937.23; 1955.466]

NRS 40.110 Court to hear case; must not enter judgment by default; effect of final judgment.

1. When the summons has been served as provided in NRS 40.100 and the time for answering has expired, the court shall proceed to hear the case as in other cases and shall have jurisdiction to examine into and determine the legality of plaintiff's title and of the title and claim of all the defendants and of all unknown persons, and to that end must not enter any judgment by default, but must in all cases require evidence of plaintiff's title and possession and receive such legal evidence as may be offered respecting the claims and title of any of the defendants and must thereafter direct judgment to be entered in accordance with the evidence and the law. The court, before proceeding to hear the case, must require proof to be made that the summons has been served and posted as hereinbefore directed and that the required notice of pendency of action has been filed.

2. The judgment after it has become final shall be conclusive against all the persons named in the summons and complaint who have been served personally, or by publication, and against all unknown persons as stated in the complaint and summons who have been served by publication, but shall not be conclusive against the State of Nevada or the United States. The judgment shall have the effect of a judgment in rem except as against the State of Nevada and the United States; and the judgment shall not bind or be conclusive against any person claiming any recorded estate, title, right, possession or lien in or to the property under the plaintiff or the plaintiff's predecessors in interest, which claim, lien, estate, title, right or possession has arisen or been created by the plaintiff or the plaintiff's predecessor in interest within 10 years prior to the filing of the complaint.

[1911 CPA § 582; RL § 5524; NCL § 9071]

NRS 40.120 Remedy is cumulative. The remedy provided in NRS 40.090, 40.100 and 40.110 shall be construed as cumulative and not exclusive of any other remedy, form or right of action or proceeding now allowed by law.

[1911 CPA § 583; RL § 5525; NCL § 9072]

NRS 40.130 Adverse action on mining claim. In all actions brought to determine the right of possession of a mining claim, or metalliferous vein or lode, where an application has been made to the proper officers of the Government of the United States by either of the parties to such action for a patent for the mining claim, vein or lode, it shall only be necessary to confer jurisdiction on the court to try the action, and render a proper judgment therein, that it appear that an application for a patent for such mining claim, vein or lode has been made, and that the parties to the action are claiming such mining claim, vein or lode, or some part thereof, or the right of possession thereof.

[1911 CPA § 584; RL § 5526; NCL § 9073]

ACTIONS FOR NUISANCE, WASTE AND WILLFUL TRESPASS ON REAL PROPERTY

NRS 40.140 Nuisance defined; action for abatement and damages; exceptions.

1. Except as otherwise provided in this section:

(a) Anything which is injurious to health, or indecent and offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property;

(b) A building or place used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor or controlled substance analog;

(c) A building or place which was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog and:

(1) Which has not been deemed safe for habitation by the board of health; or

(2) From which all materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed or remediated by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog; or

(d) A building or place regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang,

↪ is a nuisance, and the subject of an action. The action may be brought by any person whose property is injuriously affected, or whose personal enjoyment is lessened by the nuisance, and by the judgment the nuisance may be enjoined or abated, as well as damages recovered.

2. It is presumed:

(a) That an agricultural activity conducted on farmland, consistent with good agricultural practice and established before surrounding nonagricultural activities is reasonable. Such activity does not constitute a nuisance unless the activity has a substantial adverse effect on the public health or safety.

(b) That an agricultural activity which does not violate a federal, state or local law, ordinance or regulation constitutes good agricultural practice.

3. A shooting range does not constitute a nuisance with respect to any noise attributable to the shooting range if the shooting range is in compliance with the provisions of all applicable statutes, ordinances and regulations concerning noise:

(a) As those provisions existed on October 1, 1997, for a shooting range in operation on or before October 1, 1997; or

(b) As those provisions exist on the date that the shooting range begins operation, for a shooting range that begins operation after October 1, 1997.

↪ A shooting range is not subject to any state or local law related to the control of noise that is adopted or amended after the date set forth in paragraph (a) or (b), as applicable, and does not constitute a nuisance for failure to comply with any such law.

4. A request for emergency assistance by a tenant as described in NRS 118A.515 and 118B.152 does not constitute a nuisance.

5. As used in this section:

(a) "Board of health" has the meaning ascribed to it in NRS 439.4797.

(b) "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

(c) "Criminal gang" has the meaning ascribed to it in NRS 193.168.

(d) "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

(e) "Shooting range" means an area designed and used for archery or sport shooting, including, but not limited to, sport shooting that involves the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder or other similar items.

[1911 CPA § 562; RL § 5504; NCL § 9051]—(NRS A 1985, 873; 1997, 951, 1471, 1472; 2007, 3128; 2009, 825, 1309; 2017, 284)

NRS 40.150 Action for waste; judgment may be for treble damages. If a guardian, tenant for life or years, joint tenant or tenant in common of real property commit waste thereon, any person aggrieved by the waste may bring an action against the guardian or tenant who committed the waste, in which action there may be judgment for treble damages.

[1911 CPA § 563; RL § 5505; NCL § 9052]

NRS 40.160 Action for trespass for cutting or carrying away trees or wood; treble damages.

1. Any person who cuts down or carries off any wood or underwood, tree or timber, or girdles or otherwise injures any tree or timber on the land of another person, or on the street or highway in front of any person's house, city or town lot, or cultivated grounds, or on the commons or public grounds of any city or town, or on the street or highway in front thereof, without lawful authority, is liable to the owner of such land, or to such city or town, for treble the amount of damages which may be assessed therefor, in a civil action in any court having jurisdiction.

2. Nothing in subsection 1 of this section authorizes the recovery of more than the just value of the timber taken from uncultivated woodland for the repair of a public highway or bridge upon the land, or adjoining it.

[1911 CPA § 564; RL § 5506; NCL § 9053] + [1911 CPA § 565; RL § 5507; NCL § 9054]—(NRS A 1983, 111)

NRS 40.180 Manner of working mine or mining claim; assessment of damages.

1. Any person being the owner of, or in possession under any lease or contract for the working of any mine or mines within this state, shall have the right to institute and maintain an action for the recovery of any damages that may accrue by reason of the manner in which any mine or mines have been or are being worked and managed by any person who may be the owner, or in possession of and working such mine or mines under a lease or contract, and to prevent the continuance of working and managing such mine or mines in such manner as to hinder, injure, or in anywise endanger the safety of any mine or mines adjacent or adjoining thereto.

2. Any such owner of, or person in the possession of, any mine or mining claim, who shall enter upon or into, in any manner, any mine or mining claim, the property of another, and mine, extract, excavate or carry away any valuable mineral therefrom shall be liable to the owner of any such mine or mines trespassed upon in the amount of the value of all such mineral mined, extracted, excavated or carried away, and for all other damages, and in the absence of a showing to the contrary, the value of all such mineral mined, extracted, excavated or carried away shall be presumed to be twice the amount of the gross value of the same ascertained by an average assay of the excavated material or the ledge from which it was taken. If such trespass was made in bad faith, such damages may be trebled.

[1911 CPA § 567; RL § 5509; NCL § 9056]

NRS 40.190 Continuation of judgment lien. Any judgment obtained for damages under the provisions of NRS 40.180 shall become a lien upon all the property of the judgment debtor not exempt from execution in the State of Nevada, owned by the judgment debtor, or which may afterwards be acquired, as is now provided for by law, which lien shall continue 2 years, unless the judgment be sooner satisfied.

[1911 CPA § 568; RL § 5510; NCL § 9057]

NRS 40.200 Application for order of survey; notice and order; report of survey; costs of and damages caused by survey.

1. Any person named in NRS 40.180 and 40.190 shall have the right to apply for and obtain from any district court, or the judge thereof, an order of survey in the following manner: An application shall be made by filing the affidavit of the person making the application, which affidavit shall state, as near as can be described, the location of the mine or mines of the parties complained of, and as far as known, the names of such parties; also, the location of the mine or mines of the party making such application, and that the party has reason to believe, and does believe, that the parties complained of, their agent, or employees, are or have been trespassing upon the mine or mines of the party complaining, or are working their mine in such manner as to damage or endanger the property of the affiant.

2. Upon the filing of the affidavit as prescribed in subsection 1, the court or judge shall cause a notice to be given to the party complained of, or the agent thereof, which notice shall state the time, place, and before whom the application will be heard, and shall cite the party to appear in not less than 5 nor more than 10 days from the date thereof, to show cause why an order of survey should not be granted; and upon good cause shown, the court or judge shall grant such order, directed to some competent surveyor or surveyors, or to some competent mechanics, or miners, or both, as the case may be, who shall proceed to make the necessary examination as directed by the court and report the result and conclusions to the court, which report shall be filed with the clerk of the court.

3. The costs of the order and survey shall be paid by the persons making the application, unless such parties shall subsequently maintain an action and recover damages, as provided for in NRS 40.180, by reason of a trespass or damage done or threatened prior to such survey or examination having been made, and in that case, such costs shall be taxed against the defendant as other costs in the suit.

4. The parties obtaining such survey shall be liable for any unnecessary injury done to the property in the making of such survey.

[1911 CPA § 569; RL § 5511; NCL § 9058]

NRS 40.210 Order allowing party to survey and measure land in dispute; contents and service of order; liability for unnecessary injury.

1. The court in which an action is pending for the recovery of real property or for damages for an injury thereto, or a judge thereof, may, on motion, upon notice by either party for good cause shown, grant an order allowing to such party the right to enter upon the property and make survey and measurement thereof, for the purpose of the action, even though entry for such purpose has to be made through other lands belonging to parties to the action.

2. The order shall describe the property; a copy thereof shall be served on the owner or occupant, and thereupon such party may enter upon the property with necessary surveyors and assistants, and may make such survey and measurements; but if any unnecessary injury be done to the property the party shall be liable therefor.

[1911 CPA § 570; RL § 5512; NCL § 9059] + [1911 CPA § 571; RL § 5513; NCL § 9060]

SUMMARY PROCEEDINGS FOR OBTAINING POSSESSION OF REAL PROPERTY, RECREATIONAL VEHICLE OR MOBILE HOME

NRS 40.215 Definitions. As used in NRS 40.215 to 40.425, inclusive, unless the context requires otherwise:

1. "Dwelling" or "dwelling unit" means a structure or part thereof that is occupied, or designed or intended for occupancy, as a residence or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.
2. "Landlord's agent" means a person who is hired or authorized by the landlord or owner of real property to manage the property or dwelling unit, to enter into a rental agreement on behalf of the landlord or owner of the property or who serves as a person within this State who is authorized to act for and on behalf of the landlord or owner for the purposes of service of process or receiving notices and demands. A landlord's agent may also include a successor landlord or a property manager as defined in NRS 645.0195.
3. "Mobile home" means every vehicle, including equipment, which is constructed, reconstructed or added to in such a way as to have an enclosed room or addition occupied by one or more persons as a residence or sleeping place and which has no foundation other than wheels, jacks, skirting or other temporary support.
4. "Mobile home lot" means a portion of land within a mobile home park which is rented or held out for rent to accommodate a mobile home.
5. "Mobile home park" or "park" means an area or tract of land where two or more mobile homes or mobile home lots are rented or held out for rent. "Mobile home park" or "park" does not include those areas or tracts of land, whether within or outside of a park, where the lots are held out for rent on a nightly basis.
6. "Premises" includes a mobile home.
7. "Recreational vehicle" means a vehicular structure primarily designed as temporary living quarters for travel, recreational or camping use, which may be self-propelled or mounted upon or drawn by a motor vehicle.
8. "Recreational vehicle lot" means a portion of land within a recreational vehicle park, or a portion of land so designated within a mobile home park, which is rented or held out for rent to accommodate a recreational vehicle overnight or for less than 3 months.
9. "Recreational vehicle park" means an area or tract of land where lots are rented or held out for rent to accommodate a recreational vehicle overnight or for less than 3 months.
10. "Short-term tenancy" means a tenancy in which rent is reserved by a period of 1 week and the tenancy has not continued for more than 45 days.

(Added to NRS by 1969, 264; A 1979, 1877; 1981, 2037; 1989, 1081; 1997, 3510; 2015, 3117; 2017, 208; 2019, 3912; 2020, 32nd Special Session, 74)

NRS 40.220 Entry to be made only when legal and in peaceable manner. No entry shall be made upon or into any real property or other possessions but in cases where entry is given by law; and in such cases, only in a peaceable manner, not with strong hand nor with multitude of people.

[1911 CPA § 643; RL § 5585; NCL § 9132]—(NRS A 2015, 3118)

NRS 40.230 Forcible entry defined; recovery of possession following forcible entry; treble damages.

1. Every person is guilty of a forcible entry who unlawfully enters any real property:
 - (a) By means of physical force resulting in damage to a structure on the real property;
 - (b) By any kind of violence or circumstance of terror; or
 - (c) Peaceably or otherwise and:
 - (1) Thereafter prevents the owner of the real property from access or occupancy of the property by changing a lock; or
 - (2) Turns out by force, threats of violence or menacing conduct, the owner of the real property or an occupant who is authorized by the owner to be in possession of the real property.
2. The owner of the real property, an authorized representative of the owner or the occupant who is authorized by the owner to be in possession of the real property may seek to recover possession of the property pursuant to NRS 40.290 to 40.420, inclusive, after the expiration of the notice to surrender served by the owner, authorized representative of the owner or authorized occupant upon the person who committed the forcible entry. The notice must:
 - (a) Inform the person who committed the forcible entry that he or she is guilty of forcible entry; and
 - (b) Afford the person who committed the forcible entry 4 judicial days to surrender the property.
3. If an owner of real property or an authorized representative of the owner recovers damages for a forcible entry, judgment may be entered for three times the amount at which the actual damages are assessed. As used in this section, "actual damages" means damages to real property and personal property.

[1911 CPA § 644; RL § 5586; NCL § 9133]—(NRS A 2015, 3118)

NRS 40.240 Forcible detainer defined; recovery of possession following forcible detainer; treble damages.

1. Every person is guilty of a forcible detainer who either:
 - (a) Unlawfully holds and keeps the possession of any real property by force or threats of violence, or whether the possession was acquired peaceably or otherwise; or
 - (b) Enters any real property without the authority of the owner of the property, an authorized representative of the owner or an occupant who is authorized by the owner to be in possession of the real property and who, after receiving written notice to surrender pursuant to subsection 2, fails to surrender the property.
2. The owner of the real property, an authorized representative of the owner or the occupant who is authorized by the owner to be in possession of the real property may seek to recover possession of the property pursuant to NRS 40.290 to 40.420, inclusive, after

the expiration of the notice to surrender served by the owner or authorized occupant upon the person who committed the forcible detainer. The notice must:

- (a) Inform the person who committed the forcible detainer that he or she is guilty of a forcible detainer; and
- (b) Afford the person who committed the forcible detainer 4 judicial days to surrender the property.

3. If an owner of real property or an authorized representative of the owner recovers damages for a forcible detainer, judgment may be entered for three times the amount at which the actual damages are assessed. As used in this section, "actual damages" means damages to real property and personal property.

[1911 CPA § 645; RL § 5587; NCL § 9134]—(NRS A 2015, 3119)

NRS 40.250 Unlawful detainer: Possession after expiration of term. A tenant of real property or a mobile home for a term less than life is guilty of an unlawful detainer when the tenant continues in possession, in person or by subtenant, of the property or mobile home or any part thereof, after the expiration of the term for which it is let to the tenant. In all cases where real property is leased for a specified term or period, or by express or implied contract, whether written or parol, the tenancy terminates without notice at the expiration of the specified term or period.

[1911 CPA § 646; A 1917, 31; 1919 RL § 5588; NCL § 9135]—(NRS A 1969, 262, 574; 1973, 1084; 1977, 1344; 1979, 1877; 1985, 227)

NRS 40.251 Unlawful detainer: Possession of property leased for indefinite time after notice to surrender; older person or person with a disability entitled to extension of period of possession upon request; federal worker, tribal worker, state worker or household member of such worker may request extension of period of possession.

1. A tenant of real property, a recreational vehicle or a mobile home for a term less than life is guilty of an unlawful detainer when having leased:

(a) Real property, except as otherwise provided in this section, or a mobile home for an indefinite time, with monthly or other periodic rent reserved, the tenant continues in possession thereof, in person or by subtenant, without the landlord's consent after the expiration of a notice of:

- (1) For tenancies from week to week, at least 7 days;
- (2) Except as otherwise provided in subsection 2, for all other periodic tenancies, at least 30 days; or
- (3) For tenancies at will, at least 5 days.

(b) A dwelling unit subject to the provisions of chapter 118A of NRS, the tenant continues in possession, in person or by subtenant, without the landlord's consent after expiration of:

(1) The term of the rental agreement or its termination and, except as otherwise provided in subparagraph (2), the expiration of a notice of:

- (I) At least 7 days for tenancies from week to week; and
- (II) Except as otherwise provided in subsection 2, at least 30 days for all other periodic tenancies; or

(2) A notice of at least 5 days where the tenant has failed to perform the tenant's basic or contractual obligations under chapter 118A of NRS.

(c) A mobile home lot subject to the provisions of chapter 118B of NRS, or a lot for a recreational vehicle in an area of a mobile home park other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection 8 of NRS 40.215, the tenant continues in possession, in person or by subtenant, without the landlord's consent:

(1) After notice has been given pursuant to NRS 118B.115, 118B.170 or 118B.190 and the period of the notice has expired;

or

(2) If the person is not a natural person and has received three notices for nonpayment of rent within a 12-month period, immediately upon failure to pay timely rent.

(d) A recreational vehicle lot, the tenant continues in possession, in person or by subtenant, without the landlord's consent, after the expiration of a notice of at least 5 days.

2. Except as otherwise provided in this section, if a tenant with a periodic tenancy pursuant to paragraph (a) or (b) of subsection 1, other than a tenancy from week to week, is 60 years of age or older or has a physical or mental disability, the tenant may request to be allowed to continue in possession for an additional 30 days beyond the time specified in subsection 1 by submitting a written request for an extended period and providing proof of the tenant's age or disability. A landlord may not be required to allow a tenant to continue in possession if a shorter notice is provided pursuant to subparagraph (2) of paragraph (b) of subsection 1.

3. Except as otherwise provided in this section, if a tenant with a periodic tenancy pursuant to paragraph (a) or (b) of subsection 1 is a federal worker, tribal worker, state worker or household member of such a worker, the tenant may request to be allowed to continue in possession during the period commencing on the date on which a shutdown begins and ending on the date that is 30 days after the date on which the shutdown ends by submitting a written request for the extended period and providing proof that he or she is a federal worker, tribal worker, state worker or household member of such a worker during the shutdown.

4. Except as otherwise provided in NRS 118A.315, a landlord who receives a request from a tenant pursuant to subsection 3 shall allow a tenant to continue in possession for the period requested.

5. Any notice provided pursuant to paragraph (a) or (b) of subsection 1 must include a statement advising the tenant of the provisions of subsections 2, 3 and 4.

6. If a landlord rejects a request to allow a tenant to continue in possession for an additional 30 days pursuant to subsection 2, the tenant may petition the court for an order to continue in possession for the additional 30 days. If the tenant submits proof to the court that the tenant is entitled to request such an extension, the court may grant the petition and enter an order allowing the tenant to

continue in possession for the additional 30 days. If the court denies the petition, the tenant must be allowed to continue in possession for 5 calendar days following the date of entry of the order denying the petition.

(Added to NRS by 1985, 226; A 1989, 1081; 1999, 3195; 2001, 1946; 2003, 2480; 2019, 3177)

NRS 40.2512 Unlawful detainer: Possession after default in payment of rent; exception.

1. Except as otherwise provided in subsection 2, a tenant of real property or a mobile home for a term less than life is guilty of an unlawful detainer when the tenant continues in possession, in person or by subtenant, after default in the payment of any rent and after a notice in writing, requiring in the alternative the payment of the rent or the surrender of the detained premises, remains uncomplished with for a period of:

- (a) Five days for a commercial premises;
- (b) Seven judicial days for real property other than a commercial premises;
- (c) Ten days for a mobile home lot,

↳ after service thereof. The notice may be served at any time after the rent becomes due.

2. Except as otherwise provided in NRS 118A.315, the provisions of subsection 1 do not apply to a person who provides to the landlord proof that he or she is a federal worker, tribal worker, state worker or household member of such a worker during a shutdown.

(Added to NRS by 1985, 226; A 2019, 3178, 3912; 2020, 32nd Special Session, 5)

NRS 40.2514 Unlawful detainer: Assignment or subletting contrary to lease; waste; unlawful business; nuisance; violations of controlled substances laws. A tenant of real property or a mobile home for a term less than life is guilty of an unlawful detainer when the tenant:

1. Assigns or sublets the leased premises contrary to the covenants of the lease;
2. Commits or permits waste thereon;
3. Sets up or carries on therein or thereon any unlawful business;
4. Suffers, permits or maintains on or about the premises any nuisance that consists of conduct or an ongoing condition which constitutes an unreasonable obstruction to the free use of property and causes injury and damage to other tenants or occupants of that property or adjacent buildings or structures; or

5. Violates any of the provisions of NRS 453.011 to 453.552, inclusive, except NRS 453.336, therein or thereon,

↳ and remains in possession after service upon the tenant of 3 days' notice to surrender.

(Added to NRS by 1985, 226; A 1989, 1232; 2001, 1065; 2003, 561; 2007, 1287)

NRS 40.2516 Unlawful detainer: Possession after failure to perform conditions of lease; saving lease from forfeiture; recovery of possession following unlawful detainer.

1. A tenant of real property, a dwelling unit, a recreational vehicle or a mobile home other than a mobile home lot or a recreational vehicle lot for a term less than life is guilty of an unlawful detainer when the tenant continues in possession, in person or by subtenant, after a neglect or failure to perform any condition or covenant of the lease or agreement under which the real property, dwelling unit, recreational vehicle or mobile home is held, other than those mentioned in NRS 40.250 to 40.254, inclusive, and after notice in writing, requiring in the alternative the performance of the condition or covenant or the surrender of the real property, dwelling unit, recreational vehicle or mobile home, served upon the tenant, and, if there is a subtenant in actual occupation of the premises or property, also upon the subtenant, remains uncomplished with for 5 days after the service thereof. Within 5 days after the service, the tenant, or any subtenant in actual occupation of the premises or property, or any mortgagee of the term, or other person, interested in its continuance, may perform the condition or covenant and thereby save the lease from forfeiture; but if the covenants and conditions of the lease, violated by the lessee, cannot afterwards be performed, then no notice need be given.

2. If a tenant is guilty of an unlawful detainer pursuant to this section, the landlord may seek to recover possession of the real property, dwelling unit, recreational vehicle or mobile home pursuant to the provisions of NRS 40.254 or 40.290 to 40.420, inclusive.

(Added to NRS by 1985, 226; A 2015, 3119)

NRS 40.252 Unlawful detainer: Contractual provisions void if contrary to specified periods of notice; notice to surrender by colessor is valid unless showing other colessors did not authorize notice. For the purposes of NRS 40.250 to 40.252, inclusive, and NRS 40.254:

1. It is unlawful for a landlord to attempt by contract or other agreement to shorten the specified periods of notice and any such contract or agreement is void.

2. Notice to surrender the premises which was given by one colessor of real property or a mobile home is valid unless it is affirmatively shown that one or more of the other colessors did not authorize the giving of the notice.

(Added to NRS by 1985, 227)

NRS 40.253 Unlawful detainer: Supplemental remedy of summary eviction and exclusion of tenant for default in payment of rent.

1. Except as otherwise provided in subsection 12, 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 or recreational vehicle with periodic rent reserved by the month or any shorter period is in default in payment of the rent, the landlord or the landlord's agent may cause to be served a notice in writing, requiring in the alternative the payment of the rent or the surrender of the premises:

- (a) Before the close of business on the seventh judicial day f -149- ; 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 the landlord’s 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 the landlord’s 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 subsection 2 of NRS 40.2542. If the notice cannot be delivered in person, the landlord or the landlord’s 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 the tenant took possession of the premises, that the landlord or the landlord’s 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 the landlord’s 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:

(1) Of the tenant’s 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 the tenant has tendered payment or is not in default in the payment of the rent;

(2) That if the court determines that 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, directing the sheriff or constable of the county to post the order in a conspicuous place on the premises not later than 24 hours after the order is received by the sheriff or constable. The sheriff or constable shall remove the tenant not earlier than 24 hours but not later than 36 hours after the posting of the order; and

(3) That, pursuant to NRS 118A.390, a tenant may seek relief if a landlord unlawfully removes the tenant from the premises or excludes the tenant by blocking or attempting to block the tenant’s entry upon the premises or willfully interrupts or causes or permits the interruption of an essential service required by the rental agreement or chapter 118A of NRS.

4. If the tenant files such an affidavit at or before the time stated in the notice, the landlord or the landlord’s 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 the landlord’s agent may apply by affidavit of complaint for eviction to the justice court of the township in which the dwelling, apartment, mobile home or recreational vehicle are located or to the district court of the county in which the dwelling, apartment, mobile home or recreational vehicle are located, whichever has jurisdiction over the matter. The court may thereupon issue an order directing the sheriff or constable of the county to post the order in a conspicuous place on the premises not later than 24 hours after the order is received by the sheriff or constable. The sheriff or constable shall remove the tenant not earlier than 24 hours but not later than 36 hours after the posting 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 the landlord’s agent, and except when the landlord is prohibited pursuant to NRS 118A.480, the landlord or the landlord’s 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 the tenant 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 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 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. 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 court to dispute the reasonableness of the actions of a landlord pursuant to subsection 3 of NRS 118A.460. The motion must be filed within 5 days after the tenant has vacated or been removed from the premises. Upon the filing of a motion pursuant to this subsection, the court shall schedule a hearing on the motion. The hearing must be held within 5 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) Order the landlord to allow the retrieval of the tenant's essential personal effects at the date and time and for a period necessary for the retrieval, as determined by the court; and

- (b) Award damages in an amount not greater than \$2,500.

10. In determining the amount of damages, if any, to be awarded under paragraph (b) of subsection 9, the court shall consider:

- (a) Whether the landlord acted in good faith;
- (b) The course of conduct between the landlord and the tenant; and
- (c) The degree of harm to the tenant caused by the landlord's conduct.

11. A landlord shall not refuse to accept rent from a tenant that is submitted after the landlord or the landlord's 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 deposit. As used in this subsection, "security deposit" has the meaning ascribed to it in NRS 118A.240.

12. Except as otherwise provided in NRS 118A.315, this section does not apply to:

(a) 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 8 of NRS 40.215.

(b) A tenant who provides proof to the landlord that he or she is a federal worker, tribal worker, state worker or household member of such a worker during a shutdown.

13. As used in this section, "close of business" means the close of business of the court that has jurisdiction over the matter.

(Added to NRS by 1967, 195; A 1969, 263, 575; 1973, 1085; 1975, 1202; 1977, 418, 1346; 1979, 1398, 1879; 1985, 229; 1987, 1239; 1989, 1082, 1232; 1991, 113; 1995, 1851; 1997, 3511; 1999, 981; 2009, 1966; 2011, 235, 1489; 2013, 2941; 2019, 3179, 3912; 2021, 405)

NRS 40.254 Unlawful detainer: Supplemental remedy of summary eviction and exclusion of tenant from certain types of property.

1. Except as otherwise provided by specific statute, in addition to the remedy provided in NRS 40.290 to 40.420, inclusive, when the tenant of a dwelling unit, part of a low-rent housing program operated by a public housing authority, a mobile home or a recreational vehicle is guilty of an unlawful detainer pursuant to NRS 40.250, 40.251, 40.2514 or 40.2516, the landlord or the landlord's agent may utilize the summary procedures for eviction as provided in NRS 40.253 except that written notice to surrender the premises must:

- (a) Be given to the tenant in accordance with the provisions of NRS 40.280;
- (b) Advise the tenant of the court that has jurisdiction over the matter; and
- (c) Advise the tenant of the tenant's right to:

(1) Contest the notice by filing before the court's close of business on the fifth judicial day after the day of service of the notice an affidavit with the court that has jurisdiction over the matter stating the reasons why the tenant is not guilty of an unlawful detainer; or

(2) Request that the court stay the execution of the order for removal of the tenant or order providing for nonadmittance of the tenant for a period not exceeding 10 days pursuant to subsection 2 of NRS 70.010, stating the reasons why such a stay is warranted.

2. The affidavit of the landlord or the landlord's agent submitted to the justice court or the district court must state or contain:

(a) The date when the tenancy commenced, the term of the tenancy and, if any, a copy of the rental agreement. If the rental agreement has been lost or destroyed, the landlord or the landlord's agent may attach an affidavit or declaration, signed under penalty of perjury, stating such loss or destruction.

(b) The date when the tenancy or rental agreement allegedly terminated.

(c) The date when written notice to surrender was given to the tenant pursuant to the provisions of NRS 40.251, 40.2514 or 40.2516, together with any facts supporting the notice.

(d) The date when the written notice was given, a copy of the notice and a statement that notice was served in accordance with NRS 40.280 and, if applicable, a copy of the notice of change of ownership served on the tenant pursuant to NRS 40.255 if the property has been purchased as a residential foreclosure.

(e) A statement that the claim for relief was authorized by law.

3. If the tenant is found guilty of unlawful detainer as a result of the tenant's violation of any of the provisions of NRS 453.011 to 453.552, inclusive, except NRS 453.336, the landlord is entitled to be awarded any reasonable attorney's fees incurred by the landlord or the landlord's agent as a result of a hearing, if any, held pursuant to subsection 6 of NRS 40.253 wherein the tenant contested the eviction.

(Added to NRS by 1985, 227; A 1989, 1084, 1234; 1991, 115; 1995, 1853; 2001, 1065; 2003, 561; 2015, 3120)

NRS 40.2542 Unlawful detainer: Supplemental remedy of summary eviction and exclusion of tenant of commercial premises.

1. In addition to the remedy provided in NRS 40.2512 and 40.290 to 40.420, inclusive, when the tenant of any commercial premises with periodic rent reserved by the month or any shorter period is in default in payment of the rent, the landlord or the landlord's 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 the landlord's 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 the landlord's agent who serves a notice to a tenant pursuant to paragraph (b) of subsection 1 shall attempt to deliver a copy of the notice to the tenant personally, in the presence of a witness. If service is accomplished by the sheriff, constable or a person who is licensed as a process server pursuant to chapter 648 of NRS, the presence of a witness is not required. If the notice cannot be delivered in person, the landlord or the landlord's 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 the tenant took possession of the premises, that the landlord or the landlord's 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 the landlord's 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:

(1) Of the tenant's 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 the tenant has tendered payment or is not in default in the payment of the rent; and

(2) That if the court determines that 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, directing the sheriff or constable of the county to remove the tenant within 24 hours after receipt of the order.

4. If the tenant files an affidavit pursuant to paragraph (b) of subsection 3 at or before the time stated in the notice, the landlord or the landlord's agent, after receipt of a file-stamped copy of the affidavit, shall not provide for the nonadmittance of the tenant to the premises by locking or otherwise.

5. Upon noncompliance of the tenant with a notice served pursuant to subsection 1 or 2:

(a) The landlord or the landlord's agent may apply by affidavit of complaint for eviction to the justice court of the township in which the commercial premises is located or to the district court of the county in which the commercial premises is 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 pursuant to subsection 1 or 2 or 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 an affidavit described in paragraph (b) of subsection 3 and a file-stamped copy of the affidavit has been received by the landlord or the landlord's agent, the landlord or the landlord's 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 an affidavit pursuant to paragraph (b) of subsection 3, regardless of the information contained in the affidavit and the filing by the landlord of an affidavit pursuant to paragraph (a) of 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 the tenant 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. A 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 118C.230 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 due, if any, claimed by the landlord pursuant to 118C.230 and any accumulating daily costs; and

(b) Order the release of the tenant's property upon the payment of the costs 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 the landlord's 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.

(Added to NRS by 2019, 3909)

NRS 40.2544 Unlawful detainer: Stay of eviction proceeding to facilitate program of alternative dispute resolution.
Repealed. (See chapter 354, Statutes of Nevada 2021, at page 2125.)

NRS 40.2545 Unlawful detainer: Sealing of eviction case court file under certain circumstances; notice to surrender must not be made available for public inspection.

1. If a court grants an action for summary eviction pursuant to NRS 40.253 during the COVID-19 emergency, the court shall automatically seal the eviction case court file.

2. In addition to the provisions for the automatic sealing of an eviction case court file pursuant to subsection 1, in any action for summary eviction pursuant to NRS 40.253, 40.254 or 40.2542, the eviction case court file is sealed automatically and not open to inspection:

(a) Upon the entry of a court order which dismisses the action for summary eviction;

(b) Ten judicial days after the entry of a court order which denies the action for summary eviction; or

(c) Thirty-one days after the tenant has filed an affidavit described in subsection 3 of NRS 40.253 or subsection 3 of NRS 40.2542, if the landlord has failed to file an affidavit of complaint pursuant to subsection 5 of NRS 40.253 or subsection 5 of NRS 40.2542 within 30 days after the tenant filed the affidavit.

3. In addition to the provisions for the automatic sealing of an eviction case court file pursuant to subsections 1 and 2, the court may order the sealing of an eviction case court file for an action for summary eviction pursuant to NRS 40.253, 40.254 or 40.2542:

(a) Upon the filing of a written stipulation by the landlord and the tenant to set aside the order of eviction and seal the eviction case court file; or

(b) Upon motion of the tenant and decision by the court if the court finds that:

(1) The eviction should be set aside pursuant to Rule 60 of the Justice Court Rules of Civil Procedure; or

(2) Sealing the eviction case court file is in the interests of justice and those interests are not outweighed by the public's interest in knowing about the contents of the eviction case court file, after considering, without limitation, the following factors:

(I) Circumstances beyond the control of the tenant that led to the eviction;

(II) Other extenuating circumstances under which the order of eviction was granted; and

(III) The amount of time that has elapsed between the granting of the order of eviction and the filing of the motion to seal the eviction case court file.

4. If the court orders the eviction case court file sealed pursuant to this section, all proceedings recounted in the eviction case court file shall be deemed never to have occurred.

5. Except as otherwise provided in this subsection, a notice to surrender must not be made available for public inspection by any person or governmental entity, including, without limitation, by a sheriff or constable. This subsection does not:

(a) Apply to a notice to surrender which has been filed with a court and which is part of an eviction case court file that has not been sealed pursuant to this section.

(b) Prohibit the service of a notice to surrender pursuant to NRS 40.280, and such service of a notice to surrender shall be deemed not to constitute making the notice to surrender available for public inspection as described in this subsection.

6. As used in this section:

(a) "COVID-19 emergency" means the period of time:

(1) Beginning on March 12, 2020, the date on which the Governor issued the Declaration of Emergency for COVID-19; and

(2) Ending on the date on which the Governor terminates the emergency described in the Declaration [May 20, 2022].

(b) "Eviction case court file" means all records relating to an action for summary eviction which are maintained by the court, including, without limitation, the affidavit of complaint and any other pleadings, proof of service, findings of the court, any order made on motion as provided in Nevada Rules of Civil Procedure, Justice Court Rules of Civil Procedure and local rules of practice and all other papers, records, proceedings and evidence, including exhibits and transcript of the testimony.

(Added to NRS by 2017, 207; A 2019, 268, 3916; 2021, 507)

NRS 40.255 Removal of person holding over after 3-day notice to surrender; circumstances authorizing removal; exception and additional notice required for occupying tenants and subtenants of property sold as residential foreclosure.

1. Except as otherwise provided in subsections 2, 4 and 9, in any of the following cases, a person who holds over and continues in possession of real property or a mobile home after a 3-day written notice to surrender has been served upon the person may be removed as prescribed in NRS 40.290 to 40.420, inclusive:

(a) Where the property or mobile home has been sold under an execution against the person, or against another person under whom the person claims, and the title under the sale has been perfected;

(b) Where the property or mobile home has been sold upon the foreclosure of a mortgage, or under an express power of sale contained therein, executed by the person, or by another person under whom the person claims, and the title under the sale has been perfected;

(c) Where the property or mobile home has been sold under a power of sale granted by NRS 107.080 to the trustee of a deed of trust executed by the person, or by another person under whom the person claims, and the title under such sale has been perfected; or

(d) Where the property or mobile home has been sold by the person, or by another person under whom the person claims, and the title under the sale has been perfected.

2. Except as otherwise provided in subsection 4, if the property has been transferred or sold as a residential sale, absent an agreement between the new owner and the tenant to modify or terminate an existing lease:

(a) The new owner has the rights, obligations and liabilities of the previous owner or landlord pursuant to chapter 118A of NRS under the lease or rental agreement which the previous owner or landlord entered into with the tenant or subtenant regarding the property;

(b) The tenant or subtenant continues to have the rights, obligations and liabilities that the tenant or subtenant had pursuant to chapter 118A of NRS under the lease or rental agreement which the tenant or subtenant entered into with the previous owner or landlord regarding the property; and

(c) Upon termination of the previous owner's interest in the property by residential transfer or sale, the previous owner shall transfer the security deposit in the manner set forth in paragraph (a) of subsection 1 of NRS 118A.244. The successor has the rights, obligations and liabilities of the former landlord as to any securities which are owed under this section or NRS 118A.242 at the time of transfer.

3. The new owner pursuant to subsection 2 must provide a notice to the tenant or subtenant within 30 days after the date of the transfer or sale:

(a) Providing the contact information of the new owner to whom rent should be remitted;

(b) Notifying the tenant or subtenant that the lease or rental agreement the tenant or subtenant entered into with the previous owner or landlord of the property continues in effect through the period of the lease term and states the amount held by the new owner for the security deposit; and

(c) Notifying the tenant or subtenant that failure to pay rent to the new owner or comply with any other term of the agreement or applicable law constitutes a breach of the lease or rental agreement and may result in eviction proceedings, including, without limitation, proceedings conducted pursuant to NRS 40.253 and 40.254.

4. If the property has been sold as a residential foreclosure, a tenant or subtenant in actual occupation of the premises, other than a person whose name appears on the mortgage or deed, who holds over and continues in possession of real property or a mobile home in any of the cases described in paragraph (b) or (c) of subsection 1 may be removed as prescribed in NRS 40.290 to 40.420, inclusive, after receiving a notice of the change of ownership of the real property or mobile home and after the expiration of a notice period beginning on the date the notice was received by the tenant or subtenant and expiring:

(a) For all periodic tenancies with a period of less than 1 month, after not less than the number of days in the period; and

(b) For all other periodic tenancies or tenancies at will, after not less than 60 days.

5. During the notice period described in subsection 4:

(a) The new owner has the rights, obligations and liabilities of the previous owner or landlord pursuant to chapter 118A of NRS under the lease or rental agreement which the previous owner or landlord entered into with the tenant or subtenant regarding the property; and

(b) The tenant or subtenant continues to have the rights, obligations and liabilities that the tenant or subtenant had pursuant to chapter 118A of NRS under the lease or rental agreement which the tenant or subtenant entered into with the previous owner or landlord regarding the property.

6. The notice described in subsection 4 must contain a statement:

(a) Providing the contact information of the new owner to whom rent should be remitted;

(b) Notifying the tenant or subtenant that the lease or rental agreement the tenant or subtenant entered into with the previous owner or landlord of the property continues in effect through the notice period described in subsection 4; and

(c) Notifying the tenant or subtenant that failure to pay rent to the new owner or comply with any other term of the agreement or applicable law constitutes a breach of the lease or rental agreement and may result in eviction proceedings, including, without limitation, proceedings conducted pursuant to NRS 40.253 and 40.254.

7. If the property has been sold as a residential foreclosure in any of the cases described in paragraph (b) or (c) of subsection 1, no person may enter a record of eviction for a tenant or subtenant who vacates a property during the notice period described in subsection 4.

8. If the property has been sold as a residential foreclosure in any of the cases described in paragraphs (b) or (c) of subsection 1, nothing in this section shall be deemed to prohibit:

(a) The tenant from vacating the property at any time before the expiration of the notice period described in subsection 4 without any obligation to the new owner of a property purchased pursuant to a foreclosure sale or trustee's sale; or

(b) The new owner of a property purchased pursuant to a foreclosure sale or trustee's sale from:

(1) Negotiating a new purchase, lease or rental agreement with the tenant or subtenant; or

(2) Offering a payment to the tenant or subtenant in exchange for vacating the premises on a date earlier than the expiration of the notice period described in subsection 4.

9. This section does not apply to the tenant of a mobile home lot in a mobile home park.

10. As used in this section, "residential foreclosure" means the sale of a single family residence pursuant to NRS 40.430 or under a power of sale granted by NRS 107.080. As used in this subsection, "single family residence" means a structure that is comprised of not more than four units.

(Added to NRS by 1961, 412; A 1969, 263; 1979, 1880; 2009, 2784; 2015, 3121; 2019, 3916)

NRS 40.260 Tenant of agricultural lands may hold over if not notified. In all cases of tenancy upon agricultural land where the tenant has held over and retained possession for more than 60 days after the expiration of the tenant's term, without any demand of possession or notice to surrender by the landlord, or the successor in estate of the landlord, if any there be, the tenant shall be deemed to be holding by permission of the landlord, or the successor in the estate of the landlord, if any there be, and shall be entitled to hold under the terms of the lease for another full year, and shall not be guilty of an unlawful detainer during the year, and such holding over for the period aforesaid shall be taken and construed as a consent on the part of the tenant to hold for another year.

[1911 CPA § 647; RL § 5589; NCL § 9136]—(NRS A 2015, 3122)

NRS 40.270 Tenant has similar remedies against subtenant. A tenant may take proceedings similar to those prescribed in this chapter to obtain possession of the premises let to any subtenant in case of the subtenant's unlawful detention of the premises let by the tenant to the subtenant.

[1911 CPA § 648; RL § 5590; NCL § 9137]

NRS 40.280 Service of notices to surrender; proof required before issuance of order to remove or writ of restitution.

1. Except as otherwise provided in NRS 40.253 and 40.2542, the notices required by NRS 40.251 to 40.260, inclusive, must be served by the sheriff, a constable, a person who is licensed as a process server pursuant to chapter 648 of NRS or the agent of an attorney licensed to practice in this State:

(a) By delivering a copy to the tenant personally.

(b) If the tenant is absent from the tenant's place of residence or from the tenant's usual place of business, by leaving a copy with a person of suitable age and discretion at either place and mailing a copy to the tenant at the tenant's place of residence or place of business.

(c) If the place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, by posting a copy in a conspicuous place on the leased property, delivering a copy to a person there residing, if the person can be found, and mailing a copy to the tenant at the place where the leased property is situated.

2. The notices required by NRS 40.230, 40.240 and 40.414 must be served upon an unlawful or unauthorized occupant:

(a) Except as otherwise provided in this paragraph and paragraph (b), by delivering a copy to the unlawful or unauthorized occupant personally, in the presence of a witness. If service is accomplished by the sheriff, constable or a person who is licensed as a process server pursuant to chapter 648 of NRS, the presence of a witness is not required.

(b) If the unlawful or unauthorized occupant is absent from the real property, by leaving a copy with a person of suitable age and discretion at the property and mailing a copy to the unlawful or unauthorized occupant at the place where the property is situated. If the occupant is unknown, the notice must be addressed to "Current Occupant."

(c) If a person of suitable age or discretion cannot be found at the real property, by posting a copy in a conspicuous place on the property and mailing a copy to the unlawful or unauthorized occupant at the place where the property is situated. If the occupant is unknown, the notice must be addressed to "Current Occupant."

3. Service upon a subtenant may be made in the same manner as provided in subsection 1.

4. Proof of service of any notice required by NRS 40.230 to 40.260, inclusive, must be filed with the court before:

(a) An order for removal of a tenant is issued pursuant to NRS 40.253 or 40.254;

(b) An order for removal of an unlawful or unauthorized occupant is issued pursuant to NRS 40.414;

(c) A writ of restitution is issued pursuant to NRS 40.290 to 40.420, inclusive; or

(d) An order for removal of a commercial tenant pursuant to NRS 40.2542.

5. Proof of service of notice pursuant to NRS 40.230 to 40.260, inclusive, that must be filed before the court may issue an order or writ filed pursuant to paragraph (a), (b) or (c) of subsection 4 must consist of:

(a) Except as otherwise provided in paragraph (b):

(1) If the notice was served pursuant to subsection 1, a written statement, endorsed by the person who served the notice, stating the date and manner of service. The statement must also include the number of the badge or license of the person who served the notice. If the notice was served by the agent of an attorney licensed in this State, the statement must be accompanied by a declaration, signed by the attorney and bearing the license number of the attorney, stating that the attorney:

(I) Was retained by the landlord in an action pursuant to NRS 40.230 to 40.420, inclusive;

(II) Reviewed the date and manner of service by the agent; and

(III) Believes to the best of his or her knowledge that such service complies with the requirements of this section.

(2) If the notice was served pursuant to paragraph (a) of subsection 2, an affidavit or declaration signed by the tenant or the unlawful or unauthorized occupant, as applicable, and a witness, signed under penalty of perjury by the server, acknowledging that the tenant or occupant received the notice on a specified date.

(3) If the notice was served pursuant to paragraph (b) or (c) of subsection 2, an affidavit or declaration signed under penalty of perjury by the person who served the notice, stating the date and manner of service and accompanied by a confirmation of delivery or certificate of mailing issued by the United States Postal Service or confirmation of actual delivery by a private postal service.

(b) For a short-term tenancy, if service of the notice was not delivered in person:

(1) A certificate of mailing issued by the United States Postal Service or by a private postal service to the landlord or the landlord's agent; or

(2) The endorsement of a sheriff or constable stating the:

(I) Time and date the request for service was made by the landlord or the landlord's agent;

(II) Time, date and manner of the service; and

(III) Fees paid for the service.

6. Proof of service of notice pursuant to NRS 40.230 to 40.260, inclusive, that must be filed before the court may issue an order filed pursuant to paragraph (d) of subsection 4 must consist of:

(a) Except as otherwise provided in paragraphs (b) and (c):

(1) If the notice was served pursuant to subsection 2 of NRS 40.2542, an affidavit or declaration signed by the tenant or the unlawful or unauthorized occupant, and a witness, as applicable, signed under penalty of perjury by the server, acknowledging that the tenant or occupant received the notice on a specified date.

(2) If the notice was served pursuant to paragraph (b) or (c) of subsection 1, an affidavit or declaration signed under penalty of perjury by the person who served the notice, stating the date and manner of service and accompanied by a confirmation of delivery or certificate of mailing issued by the United States Postal Service or confirmation of actual delivery by a private postal service.

(b) If the notice was served by a sheriff, a constable or a person who is licensed as a process server pursuant to chapter 648 of NRS, a written statement, endorsed by the person who served the notice, stating the date and manner of service. The statement must also include the number of the badge or license of the person who served the notice.

(c) For a short-term tenancy, if service of the notice was not delivered in person:

(1) A certificate of mailing issued by the United States Postal Service or by a private postal service to the landlord or the landlord's agent; or

(2) The endorsement of a sheriff or constable stating the:

(I) Time and date the request for service was made by the landlord or the landlord's agent;

(II) Time, date and manner of the service; and

(III) Fees paid for the service.

7. For the purpose of this section, an agent of an attorney licensed in this State shall only serve notice pursuant to subsection 1 if:

(a) The landlord has retained the attorney in an action pursuant to NRS 40.230 to 40.420, inclusive; and

(b) The agent is acting at the direction of and under the direct supervision of the attorney.

[1911 CPA § 649; RL § 5591; NCL § 9138]—(NRS A 1961, 413; 1967, 196; 1985, 231, 1418; 1987, 701; 1995, 1854; 2007, 1287; 2009, 2786; 2015, 3123; 2019, 3919)

NRS 40.290 Parties defendant; persons bound by judgment. No person other than the tenant of the premises and the subtenant, if there be one, in actual occupation of the premises when the action is commenced, need be made parties defendant in the proceeding, nor shall any proceeding abate nor the plaintiff be nonsuited for the nonjoinder of any person who might have been made a party defendant; but when it appears that any of the parties served with process or appearing in the proceeding is guilty of the offense charged, judgment must be rendered against the party. If person has become subtenant of the premises in controversy

after the service of any notice in this chapter provided for, the fact that such notice was not served on such subtenant shall constitute no defense to the action. All persons who enter under the tenant, after the commencement of the action hereunder, shall be bound by the judgment the same as if they had been made parties to the action.

[1911 CPA § 650; RL § 5592; NCL § 9139]

NRS 40.300 Contents of complaint; issuance and service of summons; temporary writ of restitution; notice, hearing and bond.

1. The plaintiff in his or her complaint, which shall be in writing, must set forth the facts on which the plaintiff seeks to recover, and describe the premises with reasonable certainty and may set forth therein any circumstances of fraud, force or violence which may have accompanied the alleged forcible entry, or forcible or unlawful detainer, and claim damages therefor, or compensation for the occupation of the premises or both. In case the unlawful detainer charged be after default in the payment of rent, the complaint must state the amount of such rent.

2. The summons shall be issued and served as in other cases, but the court, judge or justice of the peace may shorten the time within which the defendant shall be required to appear and defend the action, in which case the officer or person serving the summons shall change the prescribed form thereof to conform to the time of service as ordered; but where publication is necessary the court shall direct publication for a period of not less than 1 week.

3. At any time after the filing of the complaint and issuance of summons, the court, upon application therefor, may issue a temporary writ of restitution; provided:

(a) That the temporary writ of restitution shall not issue ex parte but only after the issuance and service of an order to show cause why a temporary writ of restitution shall not be issued and after the defendant has been given an opportunity to oppose the issuance of the temporary writ of restitution.

(b) That the temporary writ of restitution shall not issue until the court has had an opportunity to ascertain the facts sufficiently to enable it to estimate the probable loss to the defendant and fix the amount of a bond to indemnify the party or parties against whom the temporary writ may be issued.

(c) That the temporary writ of restitution shall not issue until there has been filed with the approval of the court a good and sufficient bond of indemnification in the amount fixed by the court.

[1911 CPA § 651; A 1939, 171; 1951, 251]

NRS 40.310 Issue of fact to be tried by jury if proper demand made. Whenever an issue of fact is presented by the pleadings, it shall be tried by a jury, if proper demand is made pursuant to the Nevada Rules of Civil Procedure or the Justice Court Rules of Civil Procedure.

[1911 CPA § 652; RL § 5594; NCL § 9141]—(NRS A 1975, 1203)

NRS 40.320 Proof required of plaintiff and defendant on trial.

1. On the trial of any proceeding for any forcible entry or forcible detainer, the plaintiff shall only be required to show, in addition to the forcible entry or forcible detainer complained of, that the plaintiff was peaceably in the actual possession at the time of the forcible entry, or was entitled to possession at the time of the forcible detainer.

2. The defendant may show in defense that the defendant or the defendant's ancestors, or those whose interest in such premises the defendant claims, have been in the quiet possession thereof for the space of 1 whole year together next before the commencement of the proceedings, and that the defendant's interest therein is not then ended or determined, and such showing is a bar to the proceedings.

[1911 CPA § 653; RL § 5595; NCL § 9142]

NRS 40.330 Amendment of complaint to conform to proof; continuance. When, upon the trial of any proceeding under NRS 40.220 to 40.420, inclusive, it appears from the evidence that the defendant has been guilty of either a forcible entry or forcible or unlawful detainer, and other than the offense charged in the complaint, the judge must order that such complaint be forthwith amended to conform to such proofs. Such amendment must be without any imposition of terms. No continuance must be permitted upon account of such amendment, unless the defendant, by affidavit filed, shows to the satisfaction of the court good cause therefor.

[1911 CPA § 654; RL § 5596; NCL § 9143]—(NRS A 2015, 3124)

NRS 40.340 Adjournments. The court or justice of the peace may for good cause shown adjourn the trial of any cause under NRS 40.220 to 40.420, inclusive, not exceeding 5 days; and when the defendant, or the defendant's agent or attorney, shall make oath that the defendant cannot safely proceed to trial for want of some material witness, naming that witness, stating the evidence that the defendant expects to obtain, showing that the defendant has used due diligence to obtain such witness and believes that if an adjournment be allowed the defendant will be able to procure the attendance of such witness, or the witness's deposition, in time to produce the same upon the trial, in which case, if such person or persons will give bond, with one or more sufficient sureties, conditioned to pay the plaintiff for all rent that may accrue during the pending of such suit, and all costs and damages consequent upon such adjournment, the court or justice of the peace shall adjourn the cause for such reasonable time as may appear necessary, not exceeding 30 days.

[1911 CPA § 655; RL § 5597; NCL § 9144]—(NRS A 2015, 3125)

NRS 40.350 Trial not to be adjourned when plaintiff admits evidence in affidavit would be given. If the plaintiff admits that the evidence stated in the affidavit mentioned in NRS 40.340 would be given by such witness, and agrees that it be considered as actually given on the trial, or offered and overruled as improper, the trial shall not be adjourned.

[1911 CPA § 656; RL § 5598; NCL § 9145]—(NRS A 2015, 3125)

NRS 40.360 Judgment; damages; execution and enforcement.

1. Judgment. If, upon the trial, the verdict of the jury, or, if the case be tried without a jury, the finding of the court, be in favor of the plaintiff and against the defendant, judgment shall be entered for the restitution of the premises; and, if the proceeding be for unlawful detainer after neglect or failure to perform any condition or covenant of the lease or agreement under which the property is held, or after default in the payment of rent, the judgment shall also declare the forfeiture of such lease or agreement.

2. Damages. The jury or the court, if the proceeding be tried without a jury, shall also assess the damages occasioned to the plaintiff by any forcible entry, or by any forcible or unlawful detainer, and any amount found due the plaintiff by reason of waste of the premises by the defendant during the tenancy, alleged in the complaint and proved on the trial, and find the amount of any rent due, if the alleged unlawful detainer be after default in the payment of rent; and the judgment shall be rendered against the defendant guilty of the forcible entry, or forcible or unlawful detainer, for the rent and for three times the amount of the damages thus assessed.

3. Execution and enforcement. When the proceeding is for an unlawful detainer after default in the payment of the rent, and the lease or agreement under which the rent is payable has not by its terms expired, execution upon the judgment shall not be issued until the expiration of 5 days after the entry of the judgment, within which time the tenant, or any subtenant, or any mortgagee of the term, or other party interested in its continuance, may pay into court for the landlord the amount of the judgment and costs, and thereupon the judgment shall be satisfied and the tenant be restored to the tenant's estate; but, if payment, as herein provided, be not made within the 5 days, the judgment may be enforced for its full amount and for the possession of the premises. In all other cases the judgment may be enforced immediately.

[1911 CPA § 657; RL § 5599; NCL § 9146]

NRS 40.370 Verification of complaint and answer. The complaint and answer must be verified.

[1911 CPA § 658; RL § 5600; NCL § 9147]

NRS 40.380 Provisions governing appeals. Either party may, within 10 days, appeal from the judgment rendered. But an appeal by the defendant shall not stay the execution of the judgment, unless, within the 10 days, the defendant shall execute and file with the court or justice the defendant's undertaking to the plaintiff, with two or more sureties, in an amount to be fixed by the court or justice, but which shall not be less than twice the amount of the judgment and costs, to the effect that, if the judgment appealed from be affirmed or the appeal be dismissed, the appellant will pay the judgment and the cost of appeal, the value of the use and occupation of the property, and damages justly accruing to the plaintiff during the pendency of the appeal. Upon taking the appeal and filing the undertaking, all further proceedings in the case shall be stayed.

[1911 CPA § 659; RL § 5601; NCL § 9148]

NRS 40.385 Stay of execution upon appeal; duty of tenant who retains possession of premises to pay rent during stay.

1. Either party may appeal an order entered pursuant to NRS 40.253, 40.254 or 40.2542 by filing a notice of appeal within 10 judicial days after the date of entry of the order.

2. Except as otherwise provided in this section, a stay of execution may be obtained by filing with the trial court a bond in the amount of \$250 to cover the expected costs on appeal. A surety upon the bond submits to the jurisdiction of the appellate court and irrevocably appoints the clerk of that court as the surety's agent upon whom papers affecting the surety's liability upon the bond may be served. Liability of a surety may be enforced, or the bond may be released, on motion in the appellate court without independent action. A tenant of commercial property may obtain a stay of execution only upon the issuance of a stay pursuant to Rule 8 of the Nevada Rules of Appellate Procedure and the posting of a supersedeas bond in the amount of 100 percent of any unpaid rent claim of the landlord.

3. A tenant who retains possession of the premises that are the subject of the appeal during the pendency of the appeal shall pay to the landlord rent in the amount provided in the underlying contract between the tenant and the landlord as it becomes due. If the tenant fails to pay such rent, the landlord may initiate new proceedings for a summary eviction by serving the tenant with a new notice pursuant to NRS 40.253, 40.254 or 40.2542.

(Added to NRS by 1997, 3510; A 2011, 1492; 2019, 224, 3921)

NRS 40.390 Appellate court not to dismiss or quash proceedings for want of form. In all cases of appeal under NRS 40.220 to 40.420, inclusive, the appellate court shall not dismiss or quash the proceedings for want of form, provided the proceedings have been conducted substantially according to the provisions of NRS 40.220 to 40.420, inclusive; and amendments to the complaint, answer or summons, in matters of form only, may be allowed by the court at any time before final judgment upon such terms as may be just; and all matters of excuse, justification or avoidance of the allegations in the complaint may be given in evidence under the answer.

[1911 CPA § 660; RL § 5602; NCL § 9149]—(NRS A 2015, 3125)

NRS 40.400 Rules of practice. The provisions of NRS, Nevada Rules of Civil Procedure, Justice Court Rules of Civil Procedure and Nevada Rules of Appellate Procedure relative to civil actions, appeals and new trials, so far as they are not inconsistent with the provisions of NRS 40.220 to 40.420, inclusive, apply to proceedings mentioned in those sections.

NRS 40.412 Housebreaking and unlawful occupancy: When owner may retake possession and change locks; notice required.

1. Except as otherwise provided in subsection 4, in addition to the remedy provided in NRS 40.290 to 40.420, inclusive, when all known unlawful or unauthorized adult occupants of a dwelling have been arrested for housebreaking or unlawful occupancy and all minor occupants are taken into the custody of the State, the owner of the dwelling may retake possession and change the locks on the dwelling.

2. At the time an owner of a dwelling retakes possession or changes the locks of a dwelling pursuant to subsection 1, the owner or an authorized representative of the owner shall post a written notice on the dwelling. The notice must:

- (a) Identify the address of the dwelling;
- (b) Identify the court that has jurisdiction over any matter relating to the dwelling;
- (c) Identify the date on which the owner took possession of the dwelling pursuant to subsection 1 or changed the locks; and
- (d) Advise the unlawful or unauthorized occupant that:

(1) One or more locks on the dwelling have been changed as the result of an arrest for housebreaking or unlawful occupancy.

(2) The unlawful or unauthorized occupant has the right to contest the matter by filing a verified complaint for reentry with the court within 21 calendar days after the date indicated in paragraph (c). The complaint must be served upon the owner of the dwelling or the authorized representative of the owner at the address provided to the court with the filing of the written notice pursuant to subsection 3.

(3) Reentry of the property without a court order is a criminal offense, punishable by up to 4 years in prison.

(4) Except as otherwise provided in this subparagraph, the owner of the dwelling shall provide safe storage of any personal property which remains on the property. The owner may dispose of any personal property which remains on the property after 21 calendar days from the date indicated in paragraph (c) unless within that time the owner receives an affidavit or notice of hearing pursuant to NRS 40.414. The unlawful or unauthorized occupant may recover his or her personal property by filing an affidavit with the court pursuant to NRS 40.414 within 21 calendar days after the date indicated in paragraph (c). The owner is entitled to payment of the reasonable and actual costs of inventory, moving and storage before releasing the personal property to the occupant.

3. The notice posted pursuant to subsection 2 must remain posted on the dwelling for not less than 21 calendar days. A copy of the notice must be filed with the court not later than 1 day after any locks are changed on the dwelling and must be accompanied by a statement which includes an address for service of any documents on the owner of the dwelling or an authorized representative of the owner.

4. This section does not apply if one or more unlawful or unauthorized occupants is occupying the dwelling.

5. As used in this section:

(a) "Housebreaking" has the meaning ascribed to it in NRS 205.0813.

(b) "Unlawful occupancy" has the meaning ascribed to it in NRS 205.0817.

(Added to NRS by 2015, 3112)

NRS 40.414 Forcible entry or forcible detainer: When owner or occupant may recover possession; notice required; response by unlawful or unauthorized occupant; complaint for eviction; actions by court; disposal of abandoned personal property.

1. In addition to the remedy provided in NRS 40.290 to 40.420, inclusive, when a person who is guilty of forcible entry or forcible detainer fails, after the expiration of a written notice to surrender which was served pursuant to NRS 40.230 or 40.240, to surrender the real property to the owner of the real property or the occupant who is authorized by the owner to be in possession of the real property, the owner or occupant who is authorized by the owner may seek to recover possession of the real property pursuant to this section.

2. The owner of the real property, an authorized representative of the owner or the occupant who is authorized by the owner to be in possession of the real property shall serve the notice to surrender on the unlawful or unauthorized occupant in accordance with the provisions of NRS 40.280.

3. In addition to the requirements set forth in subsection 2 of NRS 40.230 and subsection 2 of NRS 40.240, a written notice to surrender must:

(a) Identify the court that has jurisdiction over the matter.

(b) Advise the unlawful or unauthorized occupant:

(1) Of his or her right to contest the matter by filing, before the court's close of business on the fourth judicial day following service of the notice to surrender, an affidavit with the court that has jurisdiction over the matter stating the reasons why the unlawful or unauthorized occupant is not guilty of a forcible entry or forcible detainer.

(2) That if the court determines that the unlawful or unauthorized occupant is guilty of a forcible entry or forcible detainer, the court may issue a summary order for removal of the unlawful or unauthorized occupant or an order providing for the nonadmittance of the unlawful or unauthorized occupant, directing the sheriff or constable of the county to remove the unlawful or unauthorized occupant within 24 hours after the sheriff's or constable's receipt of the order from the court.

(3) That, except as otherwise provided in this subparagraph, the owner of the real property, an authorized representative of the owner or the occupant who is authorized by the owner of the real property to be in possession of the real property shall provide safe storage of any personal property of the unlawful or unauthorized occupant which remains on the property. The owner, an authorized representative of the owner or the occupant may dispose of any personal property of the unlawful or unauthorized occupant remaining

on the real property after 14 calendar days from the execution of an order for removal of the unlawful or unauthorized occupant or the compliance of the unlawful or unauthorized occupant with the notice to surrender, whichever comes first. The unlawful or unauthorized occupant must pay the owner, authorized representative of the owner or occupant for the reasonable and actual costs of inventory, moving and storage of the personal property before the personal property will be released to the unlawful or unauthorized occupant.

4. Upon service of the written notice to surrender pursuant to subsection 3, the unlawful or unauthorized occupant shall:

(a) Before the expiration of the notice, surrender the real property to the owner of the real property, an authorized representative of the owner or the occupant who is authorized by the owner to be in possession of the real property, in which case an affidavit of complaint may not be filed pursuant to subsection 5 and a summary order for removal may not be issued pursuant to subsection 6;

(b) Request that the court stay the execution of a summary order for removal, stating the reasons why such a stay is warranted; or

(c) Contest the matter by filing, before the court's close of business on the fourth judicial day following service of the notice to surrender, an affidavit with the court that has jurisdiction over the matter stating the reasons that the unlawful or unauthorized occupant is not guilty of a forcible entry or forcible detainer. A file-stamped copy of the affidavit must be served by mail upon the issuer of the notice to surrender.

5. Upon expiration of the written notice to surrender, the owner of the real property, an authorized representative of the owner or the occupant who is authorized by the owner to be in possession of the real property may apply by affidavit of complaint for eviction to the justice court of the township in which the real property is located or the district court of the county in which the real property is located, whichever has jurisdiction over the matter. The affidavit of complaint for eviction must state or contain:

(a) The date on which the unlawful or unauthorized occupant forcibly entered or detained the real property or the date on which the applicant first became aware of the forcible entry or forcible detainer.

(b) A summary of the specific facts detailing how the alleged forcible entry or forcible detainer was or is being committed.

(c) A copy of the written notice to surrender that was served on the unlawful or unauthorized occupant.

(d) Proof of service of the written notice to surrender in compliance with NRS 40.280.

6. Upon the filing of the affidavit of complaint by the owner of the real property, an authorized representative of the owner or the occupant who is authorized by the owner to be in possession of the real property pursuant to subsection 5, the justice court or the district court, as applicable, shall determine the truthfulness and sufficiency of any affidavit or notice provided for in this section. If:

(a) The unlawful or unauthorized occupant has failed to timely file an affidavit contesting the matter pursuant to paragraph (c) of subsection 4 and the court determines that sufficient evidence has been set forth in the affidavit of complaint to demonstrate that a forcible entry or forcible detainer has been committed by the unlawful or unauthorized occupant, the court must issue an order directing the sheriff or constable of the county to remove the unlawful or unauthorized occupant within 24 hours after the sheriff's or constable's receipt of the order from the court.

(b) The unlawful or unauthorized occupant has timely filed an affidavit contesting the matter pursuant to paragraph (c) of subsection 4 and the court determines that the affidavit fails to raise an element of a legal defense regarding the alleged forcible entry or forcible detainer, the court may rule on the matter without a hearing. If the court determines that sufficient evidence has been set forth in the affidavit of complaint to demonstrate that a forcible entry or forcible detainer has been committed by the unlawful or unauthorized occupant, the court must issue an order directing the sheriff or constable of the county to remove the unlawful or unauthorized occupant within 24 hours after the sheriff's or constable's receipt of the order from the court, unless the court has stayed the execution of the order pursuant to a request pursuant to paragraph (b) of subsection 4.

(c) The unlawful or unauthorized occupant has timely filed an affidavit contesting the matter pursuant to paragraph (c) of subsection 4 and the court determines that the affidavit raises an element of a legal defense regarding the alleged forcible entry or forcible detainer, the court must require the parties to appear at a hearing to determine the truthfulness and sufficiency of the evidence set forth in any affidavit. Such a hearing must be held within 7 judicial days after the filing of the affidavit of complaint.

(d) Upon review of the affidavits of any party or upon hearing, the court determines that:

(1) There is a legal defense as to the alleged forcible entry or forcible detainer, the court must refuse to grant either party any relief and, except as otherwise provided in this subsection, must require that any further proceedings be conducted pursuant to NRS 40.290 to 40.420, inclusive.

(2) The unlawful or unauthorized occupant gained entry or possession of the real property peaceably and as a result of an invalid lease, fraudulent act or misrepresentation by a person without the authority of the owner of the real property, the court may issue a summary order for the removal of the unlawful or unauthorized occupant but also may, within the discretion of the court, stay such order for a period sufficient to allow the unlawful or unauthorized occupant to vacate and remove his or her personal property. This period may not exceed 20 days.

7. The owner of the real property, an authorized representative of the owner or the occupant who is authorized by the owner to be in possession of the real property may, without incurring any civil or criminal liability, dispose of personal property abandoned on the real property by an unlawful or unauthorized occupant who is ordered removed by this section in the following manner:

(a) The owner of the real property, an authorized representative of the owner or the occupant who is authorized by the owner to be in possession of the real property shall reasonably provide for the safe storage of the abandoned personal property for 21 calendar days after the removal of the unlawful or unauthorized occupant or the surrender of the real property in compliance with a written notice to surrender, whichever comes first, and may charge and collect the reasonable and actual costs of inventory, moving and storage before releasing the abandoned personal property to the unlawful or unauthorized occupant or his or her authorized representative rightfully claiming the property within that period. The owner or the occupant is liable to the unlawful or unauthorized occupant only for negligent or wrongful acts in storing the abandoned personal property.

(b) After the expiration of the 21-day period, the owner of the real property, an authorized representative of the owner or the occupant who is authorized by the owner to be in possession of the real property may dispose of the abandoned personal property and recover his or her reasonable costs out of the personal property or the value thereof.

(c) Vehicles must be disposed of in the manner provided in chapter 487 of NRS for abandoned vehicles.

(d) Any dispute relating to the amount of the costs claimed by the owner of the real property, an authorized representative of the owner or the occupant who is authorized by the owner to be in possession of the real property pursuant to paragraph (a) may be resolved by the court pursuant to a motion filed by the unlawful or unauthorized occupant and the payment of the appropriate fees relating to the filing and service of the motion. The motion must be filed within 14 calendar days after the removal of the unlawful or unauthorized occupant or the surrender of the real property in compliance with a written notice to surrender, whichever comes first. Upon the filing of a motion by the unlawful or unauthorized occupant pursuant to this paragraph, the court shall schedule a hearing on the motion. The hearing must be held within 10 judicial days after the filing of the motion. The court shall affix the date of the hearing to the motion and mail a copy to the owner, an authorized representative of the owner or the occupant at the address on file with the court.

(Added to NRS by 2015, 3113)

NRS 40.416 Recovery of possession by occupant who has been locked out of dwelling: Filing of verified complaint for reentry; trial; issuance of writ of restitution if lockout was unjustified; appeal; failure to comply constitutes contempt.

1. If the owner of a dwelling or an authorized representative of the owner locks an occupant out of the dwelling pursuant to NRS 40.412, the occupant may recover possession of the dwelling as provided in this section.

2. The occupant must file with the justice court of the township in which the dwelling is located a verified complaint for reentry, specifying:

(a) The facts of the lockout by the owner of the dwelling or the authorized representative of the owner; and

(b) The legal basis upon which reentry into the dwelling is warranted.

3. The court shall, after notice to both parties, hold a trial on the occupant's verified complaint for reentry not later than 10 judicial days after the date on which the occupant files the verified complaint for reentry.

4. If the court finds that an unjustified lockout has occurred, the court must issue a writ of restitution, restoring possession of the dwelling to the occupant.

5. A party may appeal from the court's judgment at the trial on the verified complaint for reentry in the same manner as a party may appeal a judgment in an action for forcible detainer.

6. If the owner of the dwelling or the person on whom a writ of restitution is served fails to immediately comply with the writ or later disobeys the writ, the failure is grounds for contempt of court against the owner or the person on whom the writ was served, under chapter 22 of NRS.

7. This section does not affect:

(a) The right of any party to pursue a separate cause of action under this chapter or chapter 118A of NRS if the court finds that a landlord and tenant relationship exists between the parties; or

(b) The rights of an owner or occupant in a forcible detainer, unlawful detainer or forcible entry and detainer action.

(Added to NRS by 2015, 3117)

NRS 40.420 Form of writ of restitution; execution.

1. The writ of restitution issued by a justice of the peace must be substantially in the following form:

The State of Nevada to the sheriff or constable of the county of, greeting: Whereas, A.B., of the county of, at a court of inquiry of an unlawful holding over of (lands) (tenements) (a mobile home), and other possessions, held at my office (stating the place), in the county aforesaid, on the day of, A.D., before me, a justice of the peace for the county aforesaid, by the consideration of the court, has recovered judgment against C.D., to have restitution of (here describe the premises as in the complaint). You are therefore commanded, that taking with you the force of the county, if necessary, you cause C.D. to be immediately removed from the premises, and A.B. to have peaceable restitution of the premises. You are also commanded that of the goods and chattels of C.D., within said county, which are not exempt from execution, you cause to be made the sum of dollars for the plaintiff, together with the costs of suit endorsed hereon, and make return of this writ within 30 days after this date. Given under my hand, this day of, A.D. E.F., justice of the peace.

2. The sheriff or constable shall execute the writ in the same manner as required by the provisions of chapter 21 of NRS for writs of execution.

[1911 CPA § 663; RL § 5605; NCL § 9152]—(NRS A 1969, 264; 1989, 1144)

NRS 40.425 Notice of execution on writ of restitution.

1. Execution on the writ of restitution may occur only if the sheriff serves the judgment debtor with notice of the execution and a copy of the writ in the manner described in NRS 21.076. The notice must describe the types of property exempt from execution and explain the procedure for claiming those exemptions. The clerk of the court shall attach the notice to the writ at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be in the form and served in the manner provided for execution on judgments pursuant to NRS 21.075 and 21.076.

(Added to NRS by 1989, 1144)

DEBT SECURED BY MORTGAGE OR OTHER LIEN

General Provisions

NRS 40.426 Definitions. As used in NRS 40.426 to 40.495, inclusive, unless the context otherwise requires, the words and terms defined in NRS 40.427, 40.428 and 40.429 have the meanings ascribed to them in those sections.

(Added to NRS by 2015, 3336; A 2017, 1115; 2019, 3181)

NRS 40.427 “Foreclosure sale” defined. “Foreclosure sale” means the sale of real property to enforce an obligation secured by a mortgage or lien on the property, including the exercise of a trustee’s power of sale pursuant to NRS 107.080.

(Added to NRS by 2015, 3336)

NRS 40.428 “Mortgage or other lien” defined. “Mortgage or other lien” includes a deed of trust, but does not include a lien which arises pursuant to chapter 108 of NRS, pursuant to an assessment under chapter 116, 116B, 117, 119A or 278A of NRS or pursuant to a judgment or decree of any court of competent jurisdiction.

(Added to NRS by 2015, 3336)

NRS 40.429 “Sale in lieu of a foreclosure sale” defined. “Sale in lieu of a foreclosure sale” means a sale of real property pursuant to an agreement between a person to whom an obligation secured by a mortgage or other lien on real property is owed and the debtor of that obligation in which the sales price of the real property is insufficient to pay the full outstanding balance of the obligation and the costs of the sale. The term includes, without limitation, a deed in lieu of a foreclosure sale.

(Added to NRS by 2015, 3336)

Actions for Foreclosure of Real Mortgages

NRS 40.430 Action for recovery of debt secured by mortgage or other lien; “action” defined.

1. Except in cases where a person proceeds under subsection 2 of NRS 40.495 or subsection 1 of NRS 40.512, and except as otherwise provided in NRS 118C.220, there may be but one action for the recovery of any debt, or for the enforcement of any right secured by a mortgage or other lien upon real estate. That action must be in accordance with the provisions of NRS 40.426 to 40.459, inclusive. In that action, the judgment must be rendered for the amount found due the plaintiff, and the court, by its decree or judgment, may direct a sale of the encumbered property, or such part thereof as is necessary, and apply the proceeds of the sale as provided in NRS 40.462.

2. This section must be construed to permit a secured creditor to realize upon the collateral for a debt or other obligation agreed upon by the debtor and creditor when the debt or other obligation was incurred.

3. At any time not later than 5 business days before the date of sale directed by the court, if the deficiency resulting in the action for the recovery of the debt has arisen by failure to make a payment required by the mortgage or other lien, the deficiency may be made good by payment of the deficient sum and by payment of any costs, fees and expenses incident to making the deficiency good. If a deficiency is made good pursuant to this subsection, the sale may not occur.

4. A sale directed by the court pursuant to subsection 1 must be conducted in the same manner as the sale of real property upon execution, by the sheriff of the county in which the encumbered land is situated, and if the encumbered land is situated in two or more counties, the court shall direct the sheriff of one of the counties to conduct the sale with like proceedings and effect as if the whole of the encumbered land were situated in that county.

5. Within 30 days after a sale of property is conducted pursuant to this section, the sheriff who conducted the sale shall record the sale of the property in the office of the county recorder of the county in which the property is located.

6. As used in this section, an “action” does not include any act or proceeding:

(a) To appoint a receiver for, or obtain possession of, any real or personal collateral for the debt or as provided in NRS 32.015.

(b) To enforce a security interest in, or the assignment of, any rents, issues, profits or other income of any real or personal property.

(c) To enforce a mortgage or other lien upon any real or personal collateral located outside of the State which does not, except as required under the laws of that jurisdiction, result in a personal judgment against the debtor.

(d) For the recovery of damages arising from the commission of a tort, including a recovery under NRS 40.750, or the recovery of any declaratory or equitable relief.

(e) For the exercise of a power of sale pursuant to NRS 107.080.

(f) For the exercise of any right or remedy authorized by chapter 104 or 104A of NRS or by the Uniform Commercial Code as enacted in any other state, including, without limitation, an action for declaratory relief pursuant to chapter 30 of NRS to ascertain the identity of the person who is entitled to enforce an instrument pursuant to NRS 104.3309.

(g) For the exercise of any right to set off, or to enforce a pledge in, a deposit account pursuant to a written agreement or pledge.

(h) To draw under a letter of credit.

(i) To enforce an agreement with a surety or guarantor if enforcement of the mortgage or other lien has been automatically stayed pursuant to 11 U.S.C. § 362 or pursuant to an order of a federal bankruptcy court under any other provision of the United States

Bankruptcy Code for not less than 120 days following the mailing of notice to the surety or guarantor pursuant to subsection 1 of NRS 107.095.

(j) To collect any debt, or enforce any right, secured by a mortgage or other lien on real property if the property has been sold to a person other than the creditor to satisfy, in whole or in part, a debt or other right secured by a senior mortgage or other senior lien on the property.

(k) Relating to any proceeding in bankruptcy, including the filing of a proof of claim, seeking relief from an automatic stay and any other action to determine the amount or validity of a debt.

(l) For filing a claim pursuant to chapter 147 of NRS or to enforce such a claim which has been disallowed.

(m) Which does not include the collection of the debt or realization of the collateral securing the debt.

(n) Pursuant to NRS 40.507 or 40.508.

(o) Pursuant to an agreement entered into pursuant to NRS 361.7311 between an owner of the property and the assignee of a tax lien against the property, or an action which is authorized by NRS 361.733.

(p) Which is exempted from the provisions of this section by specific statute.

(q) To recover costs of suit, costs and expenses of sale, attorneys' fees and other incidental relief in connection with any action authorized by this subsection.

[1911 CPA § 559; RL § 5501; NCL § 9048]—(NRS A 1965, 915; 1969, 572; 1987, 1345; 1989, 888, 1768; 1993, 151; 2009, 1005, 1329; 2011, 1492; 2013, 1566, 2201; 2015, 3336; 2017, 1115; 2021, 1414)

NRS 40.435 Judicial proceedings in violation of NRS 40.430; provisions of NRS 40.430 as an affirmative defense.

1. The commencement of or participation in a judicial proceeding in violation of NRS 40.430 does not forfeit any of the rights of a secured creditor in any real or personal collateral, or impair the ability of the creditor to realize upon any real or personal collateral, if the judicial proceeding is:

(a) Stayed or dismissed before entry of a final judgment; or

(b) Converted into an action which does not violate NRS 40.430.

2. If the provisions of NRS 40.430 are timely interposed as an affirmative defense in such a judicial proceeding, upon the motion of any party to the proceeding the court shall:

(a) Dismiss the proceeding without prejudice; or

(b) Grant a continuance and order the amendment of the pleadings to convert the proceeding into an action which does not violate NRS 40.430.

3. The failure to interpose, before the entry of a final judgment, the provisions of NRS 40.430 as an affirmative defense in such a proceeding waives the defense in that proceeding. Such a failure does not affect the validity of the final judgment, but entry of the final judgment releases and discharges the mortgage or other lien.

4. As used in this section, "final judgment" means a judgment which imposes personal liability on the debtor for the payment of money and which may be appealed under the Nevada Rules of Appellate Procedure.

(Added to NRS by 1989, 1767)

NRS 40.437 Additional requirements for action affecting owner-occupied housing: Notice; form; election or waiver of mediation; rules concerning mediation; applicability.

1. An action pursuant to NRS 40.430 affecting owner-occupied housing that is commenced in a court of competent jurisdiction is subject to the provisions of this section.

2. In an action described in subsection 1:

(a) The copy of the complaint served on the mortgagor must include a separate document containing:

(1) Contact information which the mortgagor may use to reach a person with authority to negotiate a loan modification on behalf of the plaintiff;

(2) Contact information for at least one local housing counseling agency approved by the United States Department of Housing and Urban Development;

(3) A notice provided by Home Means Nevada, Inc., or its successor organization, indicating that the mortgagor may petition the court to participate in mediation pursuant to this section if he or she pays to the court his or her share of the fee established pursuant to subsection 12 of NRS 107.086; and

(4) A form upon which the mortgagor may indicate an election to enter into mediation or to waive mediation pursuant to this section and one envelope addressed to the plaintiff and one envelope addressed to Home Means Nevada, Inc., or its successor organization, which the mortgagor may use to comply with the provisions of subsection 3; and

(b) The plaintiff must submit a copy of the complaint to Home Means Nevada, Inc., or its successor organization.

3. If the mortgagor elects to waive mediation, he or she shall, not later than the date on which an answer to the complaint is due, complete the form required by subparagraph (4) of paragraph (a) of subsection 2 and file the form with the court and return a copy of the form to the plaintiff by certified mail, return receipt requested or, if authorized by the parties, by electronic transmission. If the mortgagor does not elect to waive mediation, he or she shall, not later than the date on which an answer to the complaint is due, pay to the court his or her share of the fee established pursuant to subsection 12 of NRS 107.086. Upon receipt of the share of the fee established pursuant to subsection 12 of NRS 107.086 owed by the mortgagor, the court shall notify the plaintiff, by certified mail, return receipt requested or, if authorized by the parties, by electronic transmission, of the grant of the petition of the mortgagor to participate in mediation pursuant to this section and shall assign the matter to a senior justice, judge, hearing master or other designee and schedule the matter for mediation. Upon the plaintiff's receipt of such notice, the plaintiff shall notify any person with an interest

as defined in NRS 107.015, by certified mail, return receipt requested or, if authorized by the parties, by electronic transmission, of the election of the mortgagor to participate in mediation. The judicial foreclosure action must be stayed until the completion of the mediation. If the mortgagor indicates on the form required by subparagraph (4) of paragraph (a) of subsection 2 of his or her election to waive mediation or fails to pay the court his or her share of the fee established pursuant to subsection 12 of NRS 107.086, as required by this subsection, no mediation is required in the action and the action pursuant to NRS 40.430 must proceed.

4. Each mediation required by this section must be conducted by a senior justice, judge, hearing master or other designee pursuant to the rules adopted pursuant to subsection 12 of NRS 107.086. The plaintiff or a representative, and the mortgagor or his or her representative, shall attend the mediation. If the plaintiff is represented at the mediation by another person, that person must have authority to negotiate a loan modification on behalf of the plaintiff or have access at all times during the mediation to a person with such authority.

5. If the plaintiff or the representative fails to attend the mediation, fails to participate in the mediation in good faith or does not have the authority or access to a person with the authority required by subsection 4, the mediator shall prepare and submit to the court a petition and recommendation concerning the imposition of sanctions against the plaintiff or the representative. The court may issue an order imposing such sanctions against the plaintiff or the representative as the court determines appropriate, including, without limitation, requiring a loan modification in the manner determined proper by the court.

6. If the mortgagor is enrolled to participate in mediation pursuant to this section but fails to attend the mediation, no mediation is required and the judicial foreclosure action must proceed as if the mortgagor had elected to waive mediation.

7. If the mediator determines that the parties, while acting in good faith, are not able to agree to a loan modification, the mediator shall prepare and submit to the court a recommendation that the mediation be terminated. The court may terminate the mediation and proceed with the judicial foreclosure action.

8. The rules adopted by the Supreme Court pursuant to subsection 12 of NRS 107.086 apply to a mediation conducted pursuant to this section, and the Supreme Court may adopt any additional rules necessary to carry out the provisions of this section.

9. Except as otherwise provided in subsection 11, the provisions of this section do not apply if:

(a) The mortgagor has surrendered the property, as evidenced by a letter confirming the surrender or delivery of the keys to the property to the trustee, the beneficiary of the deed of trust or the mortgagee, or an authorized agent thereof; or

(b) A petition in bankruptcy has been filed with respect to the defendant under 11 U.S.C. Chapter 7, 11, 12 or 13 and the bankruptcy court has not entered an order closing or dismissing the case or granting relief from a stay of foreclosure.

10. A noncommercial lender is not excluded from the application of this section.

11. Each mediator who acts pursuant to this section in good faith and without gross negligence is immune from civil liability for those acts.

12. As used in this section:

(a) "Mortgagor" includes the grantor of a deed of trust or the person who holds the title of record to the real property.

(b) "Noncommercial lender" has the meaning ascribed to it in NRS 107.015.

(c) "Owner-occupied housing" has the meaning ascribed to it in NRS 107.015.

(Added to NRS by 2013, 2199; A 2015, 3329, 3338; R 2015, 3334; A 2017, 4099, 4105, 4106; 2019, 1372)

NRS 40.439 Limitations on foreclosure sales involving certain members of military or dependents.

1. Notwithstanding any other provision of law and except as otherwise ordered by a court of competent jurisdiction, if a borrower is a servicemember or, in accordance with subsection 5, a dependent of a servicemember, a person shall not initiate or direct or authorize another person to initiate a foreclosure sale during any period that the servicemember is on active duty or deployment or for a period of 1 year immediately following the end of such active duty or deployment.

2. Except as otherwise provided in subsection 3, in any civil action for a foreclosure sale pursuant to NRS 40.430 involving a failure to make a payment required by a residential mortgage loan that is filed against a servicemember or, in accordance with subsection 5, a dependent of a servicemember, while the servicemember is on active duty or deployment or during the 1-year period immediately following the end of such active duty or deployment, the court may, on its own motion after a hearing, or shall, on a motion or on behalf of the servicemember or dependent of the servicemember, as applicable, do one or both of the following:

(a) Stay the proceedings in the action until at least 1 year after the end of the servicemember's active duty or deployment; or

(b) Adjust the obligation to preserve the interests of the parties.

3. The provisions of subsection 2 do not apply if the court determines that the ability of the servicemember or dependent of the servicemember to comply with the terms of the obligation secured by the residential mortgage loan is not materially affected by the servicemember's active duty or deployment.

4. The provisions of this section apply only to a residential mortgage loan that was secured by a servicemember or, in accordance with subsection 5, a dependent of a servicemember, before the servicemember was called to active duty or deployment.

5. Upon application to the court, a dependent of a servicemember is entitled to the protections provided to a servicemember pursuant to this section if the ability of the dependent to make payments required by a residential mortgage loan is materially affected by the servicemember's active duty or deployment.

6. Except as otherwise provided in subsection 7, any person who knowingly initiates or directs or authorizes another person to initiate a foreclosure sale in violation of this section:

(a) Is guilty of a misdemeanor; and

(b) May be liable for actual damages, reasonable attorney's fees and costs incurred by the injured party.

7. The provisions of subsection 6 do not apply to a trustee who initiates a foreclosure sale pursuant to the direction or authorization of another person.

8. In imposing liability pursuant to paragraph (b) of subsection 6, a court shall, when determining whether to reduce such liability, take into consideration any due diligence used by the person before he or she initiated or directed or authorized another person to initiate the foreclosure sale.

9. Notwithstanding any other provision of law, any applicable statute of limitations or period within which a servicemember is required to submit proof of service that is prescribed by state law is tolled during the period of protection provided to a servicemember or dependent of a servicemember pursuant to this section.

10. As used in this section:

(a) "Active duty" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. §§ 1209 and 1211.

(b) "Borrower" has the meaning ascribed to it in NRS 107.410.

(c) "Dependent" has the meaning ascribed to it in 50 U.S.C. § 3911.

(d) "Deployment" means the movement or mobilization of a servicemember from his or her home station to another location for more than 90 days pursuant to military orders.

(e) "Initiate a foreclosure sale" means to commence a civil action for a foreclosure sale pursuant to NRS 40.430 or, in the case of the exercise of a trustee's power of sale pursuant to NRS 107.080 and 107.0805, to execute and cause to be recorded in the office of the county recorder a notice of the breach and of the election to sell or cause to be sold the property pursuant to paragraph (b) of subsection 2 of NRS 107.080 and paragraph (b) of subsection 1 of NRS 107.0805.

(f) "Military" means the Armed Forces of the United States, a reserve component thereof or the National Guard.

(g) "Residential mortgage loan" has the meaning ascribed to it in NRS 107.450.

(h) "Servicemember" means a member of the military.

(i) "Trustee" means a person described in NRS 107.028.

(Added to NRS by 2017, 1113)

NRS 40.4395 Limitations on foreclosure sales involving shutdown.

1. Notwithstanding any other provision of law and except as otherwise ordered by a court of competent jurisdiction, if a borrower provides proof that he or she is a federal worker, tribal worker or state worker or, in accordance with subsection 5, a household member or landlord of such a worker, a person shall not initiate or direct or authorize another person to initiate a foreclosure sale during the period commencing on the date on which a shutdown begins and ending on the date that is 90 days after the date on which the shutdown ends.

2. Except as otherwise provided in subsection 3, in any civil action for a foreclosure sale pursuant to NRS 40.430 involving a failure to make a payment required by a residential mortgage loan that is filed against a federal worker, tribal worker or state worker or, in accordance with subsection 5, a household member or landlord of such a worker, during a shutdown or during the 90-day period immediately after the end of a shutdown, the court may, on its own motion after a hearing, or shall, on a motion or on behalf of the federal worker, tribal worker, state worker or household member or landlord of such a worker, as applicable, do one or both of the following:

(a) Stay the proceedings in the action until at least 90 days after the end of the shutdown; or

(b) Adjust the obligation to preserve the interests of the parties.

3. The provisions of subsection 2 do not apply if the court determines that the ability of the federal worker, tribal worker, state worker or household member or landlord of such a worker to comply with the terms of the obligation secured by the residential mortgage loan is not materially affected by the shutdown.

4. The provisions of this section apply only to a residential mortgage loan that was secured by a federal worker, tribal worker or state worker or, in accordance with subsection 5, a household member or landlord of such a worker, before the shutdown.

5. Upon application to the court, a household member or landlord of such a worker is entitled to the protections provided to a federal worker, tribal worker or state worker pursuant to this section if the ability of the household member or landlord of such a worker to make payments required by a residential mortgage loan is materially affected by the shutdown.

6. Except as otherwise provided in subsection 7, any person who knowingly initiates or directs or authorizes another person to initiate a foreclosure sale in violation of this section:

(a) Is guilty of a misdemeanor; and

(b) May be liable for actual damages, reasonable attorney's fees and costs incurred by the injured party.

7. The provisions of subsection 6 do not apply to a trustee who initiates a foreclosure sale pursuant to the direction or authorization of another person.

8. In imposing liability pursuant to paragraph (b) of subsection 6, a court shall, when determining whether to reduce such liability, take into consideration any due diligence used by the person before he or she initiated or directed or authorized another person to initiate the foreclosure sale.

9. As used in this section:

(a) "Borrower" has the meaning ascribed to it in NRS 107.410.

(b) "Initiate a foreclosure sale" means to commence a civil action for a foreclosure sale pursuant to NRS 40.430 or, in the case of the exercise of a trustee's power of sale pursuant to NRS 107.080 and 107.0805, to execute and cause to be recorded in the office of the county recorder a notice of the breach and of the election to sell or cause to be sold the property pursuant to paragraph (b) of subsection 2 of NRS 107.080 and paragraph (b) of subsection 1 of NRS 107.0805.

(c) "Residential mortgage loan" has the meaning ascribed to it in NRS 107.450.

(d) "Trustee" means a person described in NRS 107.028.

(Added to NRS by 2019, 3176)

NRS 40.440 Disposition of proceeds of foreclosure sale. Following a foreclosure sale, the court may cause the proceeds of the foreclosure sale to be paid to the persons entitled to it pursuant to NRS 40.462, and in the meantime may direct it to be deposited in court.

[1911 CPA § 560; RL § 5502; NCL § 9049]—(NRS A 1989, 888, 1769; 2015, 3340)

NRS 40.450 Proceedings when debt secured falls due at different times. If the debt for which the mortgage or other lien on real property is held is not all due, as soon as a sufficient amount of the property has been sold to pay the amount due, with costs, the sale shall cease. Afterwards, as often as more becomes due for principal or interest, the court may, on motion, order more to be sold. However, if the property cannot be sold in portions without injury to the parties, the whole may be ordered to be sold in the first instance, and the entire debt and costs paid, with a rebate of interest where such a rebate is proper.

[1911 CPA § 561; RL § 5503; NCL § 9050]—(NRS A 1989, 1769)

Foreclosure Sales and Deficiency Judgments

NRS 40.451 “Indebtedness” defined. As used in NRS 40.451 to 40.463, inclusive, “indebtedness” means the principal balance of the obligation secured by a mortgage or other lien on real property, together with all interest accrued and unpaid prior to the time of foreclosure sale, all costs and fees of such a sale, all advances made with respect to the property by the beneficiary, and all other amounts secured by the mortgage or other lien on the real property in favor of the person seeking the deficiency judgment. Such amount constituting a lien is limited to the amount of the consideration paid by the lienholder.

(Added to NRS by 1969, 572; A 1989, 1769)

NRS 40.453 Waiver of rights in documents relating to sale of real property against public policy and unenforceable; exception. Except as otherwise provided in NRS 40.495:

1. It is hereby declared by the Legislature to be against public policy for any document relating to the sale of real property to contain any provision whereby a mortgagor or the grantor of a deed of trust or a guarantor or surety of the indebtedness secured thereby, waives any right secured to the person by the laws of this state.

2. A court shall not enforce any such provision.

(Added to NRS by 1969, 573; A 1973, 911; 1985, 371; 1987, 1643; 1993, 152)

NRS 40.455 Deficiency judgment: Award to judgment creditor or beneficiary of deed of trust; exceptions.

1. Except as otherwise provided in subsection 3, upon application of the judgment creditor or the beneficiary of the deed of trust within 6 months after the date of the foreclosure sale and after the required hearing, the court shall award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust if it appears from the sheriff’s return or the recital of consideration in the trustee’s deed that there is a deficiency of the proceeds of the sale and a balance remaining due to the judgment creditor or the beneficiary of the deed of trust, respectively.

2. If the indebtedness is secured by more than one parcel of real property, more than one interest in the real property or more than one mortgage or deed of trust, the 6-month period begins to run after the date of the foreclosure sale of the last parcel or other interest in the real property securing the indebtedness, but in no event may the application be filed more than 2 years after the initial foreclosure sale.

3. If the judgment creditor or the beneficiary of the deed of trust is a financial institution, the court may not award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust, even if there is a deficiency of the proceeds of the sale and a balance remaining due the judgment creditor or beneficiary of the deed of trust, if:

(a) The real property is a single-family dwelling and the debtor or grantor was the owner of the real property at the time of the foreclosure sale;

(b) The debtor or grantor used the amount for which the real property was secured by the mortgage or deed of trust to purchase the real property;

(c) The debtor or grantor continuously occupied the real property as the debtor’s or grantor’s principal residence after securing the mortgage or deed of trust; and

(d) The debtor or grantor did not refinance the mortgage or deed of trust after securing it.

4. For purposes of an action against a guarantor, surety or other obligor of an indebtedness or obligation secured by a mortgage or lien upon real property pursuant to NRS 40.495, the term “application” includes, without limitation, a complaint or other pleading to collect the indebtedness or obligation which is filed before the date and time of the foreclosure sale unless a judgment has been entered in such action as provided in paragraph (b) of subsection 4 of NRS 40.495.

5. As used in this section, “financial institution” has the meaning ascribed to it in NRS 363A.050.

(Added to NRS by 1969, 573; A 1979, 450; 1985, 371; 1987, 1345; 2009, 1330; 2015, 3340)

NRS 40.457 Hearing before award of deficiency judgment; appraisal of property sold.

1. Before awarding a deficiency judgment under NRS 40.455, the court shall hold a hearing and shall take evidence presented by either party concerning the fair market value of the property sold as of the date of foreclosure sale. Notice of such hearing shall be served upon all defendants who have appeared in the action and against whom a deficiency judgment is sought, or upon their attorneys of record, at least 15 days before the date set for hearing.

2. Upon application of any party made at least 10 days before the date set for the hearing the court shall, or upon its own motion the court may, appoint an appraiser to appraise the property sold as of the date of foreclosure sale. Such appraiser shall file with the clerk the appraisal, which is admissible in evidence. The appraiser shall take an oath that the appraiser has truly, honestly and impartially appraised the property to the best of the appraiser's knowledge and ability. Any appraiser so appointed may be called and examined as a witness by any party or by the court. The court shall fix a reasonable compensation for the appraiser, but the appraiser's fee shall not exceed similar fees for similar services in the county where the encumbered land is situated.

(Added to NRS by 1969, 573; A 2015, 3341)

NRS 40.458 Deficiency judgment: Award to judgment creditor or beneficiary of deed of trust prohibited under certain circumstances.

1. If the judgment creditor or the beneficiary of the deed of trust who applies for a deficiency judgment is a banking or other financial institution, the court may not award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust if:

(a) The real property is a single-family dwelling and the debtor or the grantor of the deed of trust was the owner of the real property at the time of the sale in lieu of a foreclosure sale;

(b) The debtor or grantor used the amount for which the real property was secured by the mortgage or deed of trust to purchase the real property;

(c) The debtor or grantor continuously occupied the real property as the debtor's or grantor's principal residence after securing the mortgage or deed of trust;

(d) The debtor or grantor and the banking or other financial institution entered into an agreement to sell the real property secured by the mortgage or deed of trust to a third party for an amount less than the indebtedness secured thereby; and

(e) The agreement entered into pursuant to paragraph (d):

(1) Does not state the amount of money still owed to the banking or other financial institution by the debtor or grantor or does not authorize the banking or other financial institution to recover that amount from the debtor or grantor; and

(2) Contains a conspicuous statement that has been acknowledged by the signature of the banking or other financial institution and the debtor or grantor which provides that the banking or other financial institution has waived its right to recover the amount owed by the debtor or grantor and which sets forth the amount of recovery that is being waived.

2. As used in this section, "banking or other financial institution" means any bank, savings and loan association, savings bank, thrift company, credit union or other financial institution that is licensed, registered or otherwise authorized to do business in this State.

(Added to NRS by 2011, 2051; A 2013, 1016; 2015, 3341)

NRS 40.459 Limitations on amount of money judgment.

1. After the hearing, the court shall award a money judgment against the debtor, guarantor or surety who is personally liable for the debt.

2. Except as otherwise provided in subsection 3, the court shall not render judgment for more than:

(a) The amount by which the amount of the indebtedness which was secured exceeds the fair market value of the property sold at the time of the sale, with interest from the date of the sale; or

(b) The amount which is the difference between the amount for which the property was actually sold and the amount of the indebtedness which was secured, with interest from the date of sale,

↪ whichever is the lesser amount.

3. If the debt was secured by property upon which the debtor, guarantor or surety maintains his or her principal residence, there is not more than one residential structure and not more than four families reside, the court shall not render judgment for more than:

(a) The amount by which the amount of the indebtedness which was secured exceeds the fair market value of the property sold at the time of the sale, with interest from the date of the sale;

(b) The amount which is the difference between the amount for which the property was actually sold and the amount of the indebtedness which was secured, with interest from the date of sale; or

(c) If the person seeking the judgment acquired the right to obtain the judgment from a person who previously held that right, the amount by which the amount of the consideration paid for that right exceeds the fair market value of the property sold at the time of sale or the amount for which the property was actually sold, whichever is greater, with interest from the date of sale and reasonable costs,

↪ whichever is the lesser amount.

4. For the purposes of this section, the "amount of the indebtedness" does not include any amount received by, or payable to, the judgment creditor or beneficiary of the deed of trust pursuant to an insurance policy to compensate the judgment creditor or beneficiary for any losses incurred with respect to the property or the default on the debt.

(Added to NRS by 1969, 573; A 1985, 371; 1987, 1644; 1989, 1770; 1993, 152; 2011, 1743; 2015, 581)

NRS 40.462 Distribution of proceeds of foreclosure sale.

1. Except as otherwise provided by specific statute, this section governs the distribution of the proceeds of a foreclosure sale. The provisions of NRS 40.455, 40.457 and 40.459 do not affect the right to receive those proceeds, which vests at the time of the foreclosure sale. The purchase of any interest in the property at the foreclosure sale, and the subsequent disposition of the property, does not affect the right of the purchaser to the distribution of proceeds pursuant to paragraph (c) of subsection 2, or to obtain a deficiency judgment pursuant to NRS 40.455, 40.457 and 40.459.

2. The proceeds of a foreclosure sale must be distributed in the following order of priority:

(a) Payment of the reasonable expenses of taking possession, maintaining, protecting and leasing the property, the costs and fees of the foreclosure sale, including reasonable trustee's fees, applicable taxes and the cost of title insurance and, to the extent provided in the legally enforceable terms of the mortgage or lien, any advances, reasonable attorney's fees and other legal expenses incurred by the foreclosing creditor and the person conducting the foreclosure sale.

(b) Satisfaction of the obligation being enforced by the foreclosure sale.

(c) Satisfaction of obligations secured by any junior mortgages or liens on the property, in their order of priority.

(d) Payment of the balance of the proceeds, if any, to the debtor or the debtor's successor in interest.

↪ If there are conflicting claims to any portion of the proceeds, the person conducting the foreclosure sale is not required to distribute that portion of the proceeds until the validity of the conflicting claims is determined through interpleader or otherwise to the person's satisfaction.

3. A person who claims a right to receive the proceeds of a foreclosure sale pursuant to paragraph (c) of subsection 2 must, upon the written demand of the person conducting the foreclosure sale, provide:

(a) Proof of the obligation upon which the claimant claims a right to the proceeds; and

(b) Proof of the claimant's interest in the mortgage or lien, unless that proof appears in the official records of a county in which the property is located.

↪ Such a demand is effective upon personal delivery or upon mailing by registered or certified mail, return receipt requested, to the last known address of the claimant. Failure of a claimant to provide the required proof within 15 days after the effective date of the demand waives the claimant's right to receive those proceeds.

(Added to NRS by 1989, 887; A 2015, 3342)

NRS 40.463 Agreement for assistance in recovering proceeds of foreclosure sale due to debtor or successor in interest; requirements for enforceable agreement; fee must be reasonable.

1. Except as otherwise provided in this section, a debtor or the debtor's successor in interest may enter into an agreement with a third party that provides for the third party to assist in the recovery of any balance of the proceeds of a foreclosure sale due to the debtor or the debtor's successor in interest pursuant to paragraph (d) of subsection 2 of NRS 40.462.

2. An agreement pursuant to subsection 1:

(a) Must:

(1) Be in writing;

(2) Be signed by the debtor or the debtor's successor in interest; and

(3) Contain an acknowledgment of the signature of the debtor or the debtor's successor in interest by a notary public; and

(b) May not be entered into less than 30 days after the date on which the foreclosure sale was conducted.

3. Any agreement entered into pursuant to this section that does not comply with subsection 2 is void and unenforceable.

4. Any fee charged by a third party for services provided pursuant to an agreement entered into pursuant to this section must be reasonable. A fee that exceeds \$2,500, excluding attorney's fees and costs, is presumed to be unreasonable. A court shall not enforce an obligation to pay any unreasonable fee, but may require a debtor to pay a reasonable fee that is less than the amount set forth in the agreement.

5. A third party may apply to the court for permission to charge a fee that exceeds \$2,500. Any third party applying to the court pursuant to this subsection has the burden of establishing to the court that the fee is reasonable.

6. This section does not preclude a debtor or the debtor's successor in interest from contesting the reasonableness of any fee set forth in an agreement entered into pursuant to this section.

7. As used in this section:

(a) "Creditor" means a person due an obligation being enforced by a foreclosure sale conducted pursuant to NRS 40.451 to 40.463, inclusive.

(b) "Debtor" means a person, or the successor in interest of a person, who owes an obligation being enforced by a foreclosure sale conducted pursuant to NRS 40.451 to 40.463, inclusive.

(c) "Third party" means a person who is neither the debtor nor the creditor of a particular obligation being enforced by a foreclosure sale conducted pursuant to NRS 40.451 to 40.463, inclusive.

(Added to NRS by 2007, 107)

Actions by Holders of Junior Real Mortgages After Foreclosure Sales

NRS 40.4636 Limitations on amount of money judgment.

1. If a person to whom an obligation secured by a junior mortgage or lien on real property is owed:

(a) Files a civil action to obtain a money judgment against the debtor under that obligation after a foreclosure sale or a sale in lieu of a foreclosure sale; and

(b) Such action is not barred by NRS 40.430,

↪ in determining the amount owed by the debtor, the court shall not include the amount of any proceeds received by, or payable to, the person pursuant to an insurance policy to compensate the person for losses incurred with respect to the property or the default on the obligation.

2. If:

(a) A person acquired the right to enforce an obligation secured by a junior mortgage or lien on real property from a person who previously held that right;

(b) The person files a civil action to obtain a money judgment against the debtor after a foreclosure sale or a sale in lieu of a foreclosure sale;

(c) The obligation was secured by a junior mortgage or lien on real property upon which the debtor maintains his or her principal residence, there is not more than one residential structure and not more than four families reside; and

(d) Such action is not barred by NRS 40.430,

↳ the court shall not render judgment for more than the amount of the consideration paid for that right, plus interest from the date on which the person acquired the right and reasonable costs.

3. As used in this section, "obligation secured by a junior mortgage or lien on real property" includes, without limitation, an obligation which is not currently secured by a mortgage or lien on real property if the obligation:

(a) Is incurred by the debtor under an obligation which was secured by a mortgage or lien on real property; and

(b) Has the effect of reaffirming the obligation which was secured by a mortgage or lien on real property.

(Added to NRS by 2011, 1742; A 2015, 582)

NRS 40.4638 Circumstances under which action to enforce obligation is prohibited.

1. A person to whom an obligation secured by a junior mortgage or lien on real property is owed may not bring any action to enforce that obligation after a foreclosure sale of the real property which secured that obligation or a sale in lieu of a foreclosure sale if:

(a) The person is a financial institution;

(b) The real property which secured the obligation is a single-family dwelling and the debtor or grantor was the owner of the real property at the time of the foreclosure sale or sale in lieu of a foreclosure sale;

(c) The debtor or grantor used the amount of the obligation to purchase the real property;

(d) The debtor or grantor continuously occupied the real property as the debtor's or grantor's principal residence after securing the obligation; and

(e) The debtor or grantor did not refinance the obligation after securing it.

2. As used in this section, "financial institution" has the meaning ascribed to it in NRS 363A.050.

(Added to NRS by 2011, 1743)

NRS 40.4639 Period of limitation on commencement of civil action. A civil action not barred by NRS 40.430 or 40.4638 by a person to whom an obligation secured by a junior mortgage or lien on real property is owed to obtain a money judgment against the debtor after a foreclosure sale of the real property or a sale in lieu of a foreclosure sale may only be commenced within 6 months after the date of the foreclosure sale or sale in lieu of a foreclosure.

(Added to NRS by 2011, 1743)

Maintenance of Property Acquired at Foreclosure Sale

NRS 40.464 Duty to maintain vacant residential property acquired at foreclosure sale; notice of violation; proceedings for enforcement; civil penalties.

1. Any vacant residential property purchased or acquired by a person at a foreclosure sale must be maintained by that person in accordance with subsection 2.

2. In addition to complying with any other ordinance or rule as required by the applicable governmental entity, the purchaser shall care for the exterior of the property, including, without limitation:

(a) Limiting the excessive growth of foliage which would otherwise diminish the value of that property or of the surrounding properties;

(b) Preventing trespassers from remaining on the property;

(c) Preventing mosquito larvae from growing in standing water; and

(d) Preventing any other condition that creates a public nuisance.

3. If a person violates subsection 2, the applicable governmental entity shall mail to the last known address of the person, by certified mail, a notice:

(a) Describing the violation;

(b) Informing the person that a civil penalty may be imposed pursuant to this section unless the person acts to correct the violation within 14 days after the date of receipt of the notice and completes the correction within 30 days after the date of receipt of the notice; and

(c) Informing the person that the person may contest the allegation pursuant to subsection 4.

4. If a person, within 5 days after a notice is mailed to the person pursuant to subsection 3, requests a hearing to contest the allegation of a violation of subsection 2, the applicable governmental entity shall apply for a hearing before a court of competent jurisdiction.

5. Except as otherwise provided in subsection 8, in addition to any other penalty, the applicable governmental entity may impose a civil penalty of not more than \$1,000 per day for a violation of subsection 2:

(a) Commencing on the day following the expiration of the period of time described in subsection 3; or

(b) If the person requested a hearing pursuant to subsection 4, commencing on the day following a determination by the court in favor of the applicable governmental entity.

6. The applicable governmental entity may waive or extend the period of time described in subsection 3 if:

(a) The person to whom a notice is sent pursuant to subsection 3 makes a good faith effort to correct the violation; and

(b) The violation cannot be corrected in the period of time described in subsection 3.

7. Any penalty collected by the applicable governmental entity pursuant to this section must be directed to local nuisance abatement programs.

8. The applicable governmental entity may not assess any penalty pursuant to this section in addition to any penalty prescribed by a local ordinance. This section shall not be deemed to preempt any local ordinance.

9. If the applicable governmental entity assesses any penalty pursuant to this section, any lien related thereto must be recorded in the office of the county recorder.

10. As used in this section, "applicable governmental entity" means:

(a) If the property is within the boundaries of a city, the governing body of the city; and

(b) If the property is not within the boundaries of a city, the board of county commissioners of the county in which the property is located.

(Added to NRS by 2009, 2783; A 2015, 3343)

Rights of Guarantor, Surety or Obligor in Real Property

NRS 40.465 "Indebtedness" defined. As used in NRS 40.475, 40.485 and 40.495, "indebtedness" means the principal balance of the obligation, together with all accrued and unpaid interest, and those costs, fees, advances and other amounts secured by the mortgage or lien upon real property.

(Added to NRS by 1987, 1643; A 1989, 1001)

NRS 40.475 Remedy against mortgagor or grantor; assignment of creditor's rights to guarantor, surety or obligor. Upon full satisfaction by a guarantor, surety or other obligor, other than the mortgagor or grantor of a deed of trust, of the indebtedness secured by a mortgage or lien upon real property, the paying guarantor, surety or other obligor is entitled to enforce every remedy which the creditor then has against the mortgagor or grantor of the mortgage or lien upon real property, and is entitled to an assignment from the creditor of all of the rights which the creditor then has by way of security for the performance of the indebtedness.

(Added to NRS by 1987, 1643)

NRS 40.485 Interest in proceeds of secured indebtedness upon partial satisfaction of indebtedness. Immediately upon partial satisfaction by a guarantor, surety or other obligor, other than the mortgagor or grantor of a deed of trust, of the indebtedness secured by a mortgage or lien upon real property, the paying guarantor, surety or other obligor automatically, by operation of law and without further action, receives an interest in the proceeds of the indebtedness secured by the mortgage or lien to the extent of the partial satisfaction, subject only to the creditor's prior right to recover the balance of the indebtedness owed by the mortgagor or grantor.

(Added to NRS by 1987, 1643)

NRS 40.495 Waiver of rights; separate action to enforce obligation; limitation on amount of judgment; available defenses.

1. The provisions of NRS 40.475 and 40.485 may be waived by the guarantor, surety or other obligor only after default.

2. Except as otherwise provided in subsection 5, a guarantor, surety or other obligor, other than the mortgagor or grantor of a deed of trust, may waive the provisions of NRS 40.430. If a guarantor, surety or other obligor waives the provisions of NRS 40.430, an action for the enforcement of that person's obligation to pay, satisfy or purchase all or part of an indebtedness or obligation secured by a mortgage or lien upon real property may be maintained separately and independently from:

(a) An action on the debt;

(b) The exercise of any power of sale;

(c) Any action to foreclose or otherwise enforce a mortgage or lien and the indebtedness or obligations secured thereby; and

(d) Any other proceeding against a mortgagor or grantor of a deed of trust.

3. If the obligee maintains an action to foreclose or otherwise enforce a mortgage or lien and the indebtedness or obligations secured thereby, the guarantor, surety or other obligor may assert any legal or equitable defenses provided pursuant to the provisions of NRS 40.451 to 40.4639, inclusive.

4. If, before a foreclosure sale of real property, the obligee commences an action against a guarantor, surety or other obligor, other than the mortgagor or grantor of a deed of trust, to enforce an obligation to pay, satisfy or purchase all or part of an indebtedness or obligation secured by a mortgage or lien upon the real property:

(a) The court must hold a hearing and take evidence presented by either party concerning the fair market value of the property as of the date of the commencement of the action. Notice of such hearing must be served upon all defendants who have appeared in the action and against whom a judgment is sought, or upon their attorneys of record, at least 15 days before the date set for the hearing.

(b) After the hearing, if the court awards a money judgment against the guarantor, surety or other obligor who is personally liable for the debt, the court must not render judgment for more than:

(1) The amount by which the amount of the indebtedness exceeds the fair market value of the property as of the date of the commencement of the action; or

(2) If a foreclosure sale is concluded before a judgment is entered, the amount that is the difference between the amount for which the property was actually sold and the amount of the indebtedness which was secured,

↳ whichever is the lesser amount.

5. The provisions of NRS 40.430 may not be waived by a guarantor, surety or other obligor if the mortgage or lien:
- (a) Secures an indebtedness for which the principal balance of the obligation was never greater than \$500,000;
 - (b) Secures an indebtedness to a seller of real property for which the obligation was originally extended to the seller for any portion of the purchase price;
 - (c) Is secured by real property which is used primarily for the production of farm products as of the date the mortgage or lien upon the real property is created; or
 - (d) Is secured by real property upon which:
 - (1) The owner maintains the owner's principal residence;
 - (2) There is not more than one residential structure; and
 - (3) Not more than four families reside.
- (Added to NRS by 1987, 1643; A 1989, 1001; 2011, 1743; 2013, 3810; 2015, 3344)

ENVIRONMENTAL IMPAIRMENT OF REAL COLLATERAL OF SECURED LENDER

NRS 40.501 Definitions. As used in NRS 40.501 to 40.512, inclusive, the words and terms defined in NRS 40.502 to 40.506, inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 1993, 153; A 1995, 510)

NRS 40.502 "Environmental provision" defined. "Environmental provision" means any written representation, warranty, indemnity, promise or covenant relating to the existence, location, nature, use, generation, manufacture, storage, disposal, handling, or past, present, future or threatened release of any hazardous substance from, in, into or onto real collateral, or to past, present or future compliance with any law relating thereto, made by a debtor in conjunction with the making, renewal or modification of a loan, extension of credit, guaranty or other obligation involving the debtor, whether or not the representation, warranty, indemnity, promise or covenant is or was contained in or secured by the mortgage and whether or not the mortgage has been discharged, reconveyed or foreclosed upon.

(Added to NRS by 1993, 153; A 1995, 510)

NRS 40.503 "Environmentally impaired" defined. Real collateral is "environmentally impaired" if the estimated costs to clean up and remedy a past, present or threatened release of any hazardous substance from, in, into or onto it exceeds 10 percent of the total indebtedness owed to the secured lender secured by the collateral.

(Added to NRS by 1993, 153; A 1995, 510)

NRS 40.504 "Hazardous substance" defined. "Hazardous substance" means:

1. An element, compound, mixture, solution, material or substance whose use, possession, transportation, storage, release, discharge or disposal is regulated pursuant to chapter 444, 445A, 445B, 445C, 459, 477 or 618 of NRS or the Uniform Fire Code (1988 edition);
 2. An element, compound, mixture, solution, material or substance designated as a hazardous substance pursuant to 42 U.S.C. § 9602 and an element, compound, mixture, solution, material or substance described in 42 U.S.C. § 9601(14);
 3. An element, compound, mixture, solution, material or substance listed as a hazardous waste in, or having the characteristics identified in, 42 U.S.C. § 6921 on January 1, 1993, except any waste for which regulation under the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§ 6901 et seq., has been suspended by an act of Congress; and
 4. Petroleum, including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas, synthetic oil, synthetic gas usable for fuel or any mixture thereof.
- (Added to NRS by 1993, 153; A 1995, 510)

NRS 40.505 "Release" defined. "Release" means a spilling, leaking, pumping, pouring, emitting, emptying, discharging, ejecting, escaping, leaching, dumping or disposing of a hazardous substance into the environment, including continuing migration into or through the soil, surface water or groundwater.

(Added to NRS by 1993, 153; A 1995, 510)

NRS 40.506 "Secured lender" defined. "Secured lender" means the holder of an obligation secured by a mortgage.

(Added to NRS by 1993, 154; A 1995, 510)

NRS 40.507 Right of entry and inspection of real collateral.

1. A secured lender may enter and inspect real collateral for the purpose of determining the existence, location, nature and magnitude of any past, present or threatened release or presence of a hazardous substance from, in, into or onto it:
 - (a) Upon reasonable belief of the existence of a past, present or threatened release or the presence of any hazardous substance from, in, into or onto it not previously disclosed in writing to the secured lender in conjunction with the making, renewal or modification of a loan, extension of credit, guaranty or other obligation involving the debtor; or
 - (b) After the commencement of a trustee's sale or judicial foreclosure proceedings against the real collateral.
2. A secured lender shall not abuse the right of entry and inspection or use it to harass the debtor or tenant of the property. Except in case of an emergency, when the debtor or tenant of the property has abandoned the premises, or if it is impracticable to do so, a secured lender shall give the debtor or tenant of the property reasonable notice of intent to enter, and enter only during the

debtor's or tenant's normal business hours. Twenty-four hours' notice is presumed to be reasonable in the absence of evidence to the contrary.

3. If a secured lender is refused the right of entry and inspection by the debtor or tenant of the property, or is otherwise unable to enter and inspect the property without a breach of the peace, the secured lender may, upon petition, obtain an order from a court of competent jurisdiction to exercise the secured lender's rights under subsection 1.

(Added to NRS by 1993, 154; A 1995, 510)

NRS 40.508 Action by secured lender concerning environmental provision. A secured lender may bring a separate action for a breach of an environmental provision, to recover damages for the breach or for the enforcement of an environmental provision.

(Added to NRS by 1993, 154; A 1995, 510)

NRS 40.509 Limitation on amount of damages recoverable in action concerning environmental provision; recovery of interest.

1. Unless the environmental provision expressly permits a different or greater recovery or subsection 2 permits the addition of interest, the damages recoverable by a secured lender in an action pursuant to NRS 40.508 are limited to the sum of reimbursement or indemnification for:

(a) If the secured lender acted pursuant to an order of any federal, state or local governmental agency relating to the cleaning up, remedying or other responsive action required by applicable law which is anticipated by the environmental provision, all amounts reasonably advanced in good faith by the secured lender in connection therewith;

(b) If the secured lender did not act pursuant to such an order, those costs relating to a reasonable cleaning up, remedying or other responsive action concerning hazardous substances, performed in good faith, which is anticipated by the environmental provision;

(c) All liabilities of the secured lender to any third party relating to the breach, unless the secured lender had actual knowledge of the environmental condition which is the basis of the claim for indemnification before entering into the transaction in which the environmental provision was given; and

(d) Costs, attorney's fees and other incidental relief.

2. If the parties have so agreed, the secured lender may recover interest on the amount advanced by the secured lender to cure or mitigate the breach.

(Added to NRS by 1993, 154; A 1995, 510)

NRS 40.511 Exceptions to applicability of NRS 40.507 and 40.508. NRS 40.507 and 40.508 do not apply if the real collateral is a unit put to residential use in a common-interest community or is real property upon which:

1. The owner maintains the owner's principal residence;

2. There is not more than one residential structure; and

3. Not more than four families reside.

(Added to NRS by 1993, 155; A 1995, 510)

NRS 40.512 Environmental impairment of real collateral: Waiver of lien; notice of waiver; exception; recording of waiver.

1. If real collateral is environmentally impaired and the debtor's obligation is in default, a secured lender may:

(a) Waive the secured lender's lien as to all of the real collateral and proceed as an unsecured creditor, including reduction of the secured lender's claim against the debtor to judgment and any other rights and remedies permitted by law; or

(b) Waive the secured lender's lien in accordance with paragraph (a) as to that part of the real collateral which is environmentally impaired and proceed against the unimpaired real collateral.

2. To waive the secured lender's lien against all or part of the environmentally impaired real collateral, the secured lender must, before commencement of any action, record with the county recorder of the county where the real collateral is located a notice of intent to waive the lien and mail a copy thereof, by registered or certified mail, return receipt requested, with postage prepaid, to the debtor, to the person who holds the title of record on the date of the notice, and to those persons with an interest, as defined in NRS 107.015, whose interest or claimed interest is subordinate to the secured lender's lien, at their respective addresses, if known, otherwise to the address of the real collateral. In the case of a partial waiver the notice of intent to waive may be contained in a notice of default and election to sell. The notice of intent to waive must contain:

(a) A legal description of the environmentally impaired real collateral;

(b) A statement that the secured lender intends to proceed against the debtor under the applicable paragraph of subsection 1; and

(c) If the secured lender is proceeding under paragraph (b) of subsection 1, a statement that the secured lender will proceed against the unimpaired property, which may result in a judgment for deficiency against the debtor as a result of diminution in value of the collateral because of the exclusion of the environmentally impaired portion.

3. A secured lender may not waive the secured lender's lien as a result of any environmental impairment if the secured lender had actual knowledge of the environmental impairment at the time the lien was created. In determining whether a secured lender had such knowledge, the report of any person legally entitled to prepare the report with respect to the existence or absence of any environmental impairment is prima facie evidence of the existence or absence, as the case may be, of any environmental impairment.

4. A waiver made by a secured lender pursuant to this section is not final or conclusive until a final judgment, as defined in subsection 4 of NRS 40.435, has been obtained. If the waiver covers the full extent of the collateral, the secured lender shall immediately thereafter cause the secured lender's lien to be released by recording the waiver in the same manner as the lien was recorded.

(Added to NRS by 1993, 155; A 1995, 510; 2019, 1374)

PROCEEDINGS TO ESTABLISH TERMINATION OF LIFE ESTATES

NRS 40.515 Petition, notice, hearing and order; alternative method of terminating interest.

1. If any person has died, or shall hereafter die, who at the time of the person's death was the owner of a life estate which terminates by reason of the person's death, any person interested in the property, or in the title thereto, in which such life estate was held, may file in the district court of the county in which the property is situated, the person's verified petition, setting forth such facts, and thereupon and after such notice by publication or otherwise, as the court or judge may order, the court or judge shall hear such petition and the evidence offered in support thereof, and if upon such hearing it shall appear that such life estate of such deceased person absolutely terminated by reason of the person's death, the court or judge shall make an order to that effect, and thereupon a certified copy of such order may be recorded in the office of the county recorder.

2. As an alternative method of terminating the interest of any person who has died, or will hereafter die, and who at the time of the person's death was the owner of a life estate which terminates by reason of the person's death, any person who has knowledge of the facts may record in the office of the county recorder in the county where the property is situated an affidavit meeting the requirements of NRS 111.365, accompanied by a certified copy of the death certificate of the deceased person.

[1911 CPA § 642; RL § 5584; NCL § 9131]—(NRS A 2015, 3520)

METHODS OF TERMINATION OF INTERESTS OF DECEASED PERSONS IN PROPERTY

NRS 40.525 Petition; notice; hearing and order; alternative method.

1. If title or an interest in real or personal property is affected by the death of any person, any other person who claims any interest in the real or personal property, if the other person's interest is affected by the death of the deceased person, or the State of Nevada, may file in the district court of any county in which any part of the real or personal property is situated a verified petition setting forth those facts and particularly describing the real or personal property, the interest of the petitioner and the interest of the deceased person therein.

2. The clerk shall set the petition for hearing by the court. Notice of hearing of the petition must be mailed, by certified mail, return receipt requested, postage prepaid, to the heirs at law of the deceased person at their places of business or residences, if known, and if not, by publication for at least 3 successive weeks in such newspaper as the court orders. The clerk shall send a copy of the notice of hearing or of the affidavit to the Department of Health and Human Services by certified mail, return receipt requested, postage prepaid, if the State is not the petitioner, at the time notice is mailed to the heirs at law or the notice is published. Failure on the part of any such heir at law to contest the petition precludes any such heir at law from thereafter contesting the validity of the joint interest or its creation or termination.

3. The court shall take evidence for or against the petition, and may render judgment thereon establishing the fact of the death and the termination of the interest of the deceased person in the real or personal property described in the petition.

4. A certified copy of the decree may be recorded in the office of the recorder of each county in which any part of the real or personal property is situated.

5. As an alternative method of terminating the interest of the deceased person, if title or an interest in real or personal property held in joint tenancy or as community property with right of survivorship is affected by the death of a joint tenant or spouse, any person who has knowledge of the facts may record in the office of the county recorder in the county where the property is situated an affidavit meeting the requirements of NRS 111.365, accompanied by a certified copy of the death certificate of the deceased person.

[1:18:1939; A 1951, 172]—(NRS A 1963, 802; 1965, 665, 1004; 1983, 666; 1991, 457; 1995, 2569; 2001, 1750; 2003, 876)

NRS 40.535 Affidavit or petition may be filed in probate proceeding. Any affidavit or petition, such as described in NRS 40.525, may be filed as a part of any probate proceeding.

[1(a):18:1939; added 1951, 172]—(NRS A 1965, 665)

ACTIONS RESULTING FROM CONSTRUCTIONAL DEFECT

General Provisions

NRS 40.600 Definitions. As used in NRS 40.600 to 40.695, inclusive, unless the context otherwise requires, the words and terms defined in NRS 40.603 to 40.634, inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 1995, 2539; A 1997, 2716; 1999, 1440; 2001 Special Session, 67; 2003, 2041; 2015, 9)

NRS 40.603 "Amend a complaint to add a cause of action for a constructional defect" defined. "Amend a complaint to add a cause of action for a constructional defect" means any act by which a claimant seeks to:

1. Add to the pleadings a defective component that is not otherwise included in the pleadings and for which a notice was not previously given; or

2. Amend the pleadings in such a manner that the practical effect is the addition of a constructional defect that is not otherwise included in the pleadings.

↪ The term does not include amending a complaint to plead a different cause for a constructional defect which is included in the same action.

(Added to NRS by 2003, 2034)

NRS 40.605 “Appurtenance” defined.

1. “Appurtenance” means a structure, installation, facility, amenity or other improvement that is appurtenant to or benefits one or more residences, but is not a part of the dwelling unit. The term includes, without limitation, the parcel of real property, recreational facilities, golf courses, walls, sidewalks, driveways, landscaping, common elements and limited common elements other than those described in NRS 116.2102, and other structures, installations, facilities and amenities associated with or benefiting one or more residences.

2. As used in this section:

(a) “Common elements” has the meaning ascribed to it in NRS 116.017.

(b) “Limited common element” has the meaning ascribed to it in NRS 116.059.

(Added to NRS by 1995, 2539; A 1997, 2716; 1999, 1440)

NRS 40.607 “Builder’s warranty” defined. “Builder’s warranty” means a warranty issued or purchased by or on behalf of a contractor for the protection of a claimant. The term:

1. Includes a warranty contract issued by or on behalf of a contractor whose liability pursuant to the warranty contract is subsequently insured by a risk retention group that operates in compliance with chapter 695E of NRS and insures all or any part of the liability of a contractor for the cost to repair a constructional defect in a residence.

2. Does not include a policy of insurance for home protection as defined in NRS 690B.100 or a service contract as defined in NRS 690C.080.

(Added to NRS by 1995, 2540; A 1997, 2717; 1999, 1440; 2019, 2259)—(Substituted in revision for NRS 40.625)

NRS 40.610 “Claimant” defined. “Claimant” means:

1. An owner of a residence or appurtenance; or

2. A representative of a homeowners’ association acting within the scope of the representative’s duties pursuant to chapter 116 or 117 of NRS.

(Added to NRS by 1995, 2539; A 1997, 2717; 2003, 2041; 2015, 9)

NRS 40.615 “Constructional defect” defined. “Constructional defect” means a defect in the design, construction, manufacture, repair or landscaping of a new residence, of an alteration of or addition to an existing residence, or of an appurtenance and includes, without limitation, the design, construction, manufacture, repair or landscaping of a new residence, of an alteration of or addition to an existing residence, or of an appurtenance:

1. Which presents an unreasonable risk of injury to a person or property; or

2. Which is not completed in a good and workmanlike manner and proximately causes physical damage to the residence, an appurtenance or the real property to which the residence or appurtenance is affixed.

(Added to NRS by 1995, 2539; A 2003, 2041; 2015, 9)

NRS 40.620 “Contractor” defined. “Contractor” means a person who, with or without a license issued pursuant to chapter 624 of NRS, by himself or herself or through the person’s agents, employees or subcontractors:

1. Develops, constructs, alters, repairs, improves or landscapes a residence, appurtenance or any part thereof;

2. Develops a site for a residence, appurtenance or any part thereof; or

3. Sells a residence or appurtenance, any part of which the person, by himself or herself or through the person’s agents, employees or subcontractors, has developed, constructed, altered, repaired, improved or landscaped.

(Added to NRS by 1995, 2539; A 1997, 2717)

NRS 40.623 “Design professional” defined. “Design professional” means a person who holds a professional license or certificate issued pursuant to chapter 623, 623A or 625 of NRS.

(Added to NRS by 2003, 2034)

NRS 40.630 “Residence” defined. “Residence” means any dwelling in which title to the individual units is transferred to the owners.

(Added to NRS by 1995, 2540; A 1997, 2717)

NRS 40.632 “Subcontractor” defined. “Subcontractor” means a contractor who performs work on behalf of another contractor in the construction of a residence or appurtenance.

(Added to NRS by 2003, 2034)

NRS 40.634 “Supplier” defined. “Supplier” means a person who provides materials, equipment or other supplies for the construction of a residence or appurtenance.

(Added to NRS by 2003, 2034)

NRS 40.635 Applicability; effect on other defenses. NRS 40.600 to 40.695, inclusive:

1. Apply to any claim that arises before, on or after July 1, 1995, as the result of a constructional defect, except a claim for personal injury or wrongful death, if the claim is the subject of an action commenced on or after July 1, 1995.
 2. Prevail over any conflicting law otherwise applicable to the claim or cause of action.
 3. Do not bar or limit any defense otherwise available, except as otherwise provided in those sections.
 4. Do not create a new theory upon which liability may be based, except as otherwise provided in those sections.
- (Added to NRS by 1995, 2540; A 1997, 2717; 2003, 2041; 2015, 10)

Conditions and Limitations on Actions

NRS 40.640 Liability of contractor. In a claim to recover damages resulting from a constructional defect, a contractor is liable for the contractor's acts or omissions or the acts or omissions of the contractor's agents, employees or subcontractors and is not liable for any damages caused by:

1. The acts or omissions of a person other than the contractor or the contractor's agent, employee or subcontractor;
2. The failure of a person other than the contractor or the contractor's agent, employee or subcontractor to take reasonable action to reduce the damages or maintain the residence;
3. Normal wear, tear or deterioration;
4. Normal shrinkage, swelling, expansion or settlement; or
5. Any constructional defect disclosed to an owner before the owner's purchase of the residence, if the disclosure was provided in language that is understandable and was written in underlined and boldfaced type with capital letters.

(Added to NRS by 1995, 2540; A 1997, 2718)

NRS 40.645 Notice of defect: Required before commencement of or addition to certain actions; content; persons authorized to provide notice; exceptions.

1. Except as otherwise provided in this section and NRS 40.670, before a claimant commences an action or amends a complaint to add a cause of action for a constructional defect against a contractor, subcontractor, supplier or design professional, the claimant:

(a) Must give written notice by certified mail, return receipt requested, to the contractor, at the contractor's address listed in the records of the State Contractors' Board or in the records of the office of the county or city clerk or at the contractor's last known address if the contractor's address is not listed in those records; and

(b) May give written notice by certified mail, return receipt requested, to any subcontractor, supplier or design professional known to the claimant who may be responsible for the constructional defect, if the claimant knows that the contractor is no longer licensed in this State or that the contractor no longer acts as a contractor in this State.

2. The notice given pursuant to subsection 1 must:

(a) Include a statement that the notice is being given to satisfy the requirements of this section;

(b) Specify in reasonable detail the defects or any damages or injuries to each residence or appurtenance that is the subject of the claim;

(c) Describe in reasonable detail the cause of the defects if the cause is known and the nature and extent that is known of the damage or injury resulting from the defects; and

(d) Include a signed statement, by each named owner of a residence or appurtenance in the notice, that each such owner verifies that each such defect, damage and injury specified in the notice exists in the residence or appurtenance owned by him or her. If a notice is sent on behalf of a homeowners' association, the statement required by this paragraph must be signed under penalty of perjury by a member of the executive board or an officer of the homeowners' association.

3. A representative of a homeowners' association may send notice pursuant to this section on behalf of an association if the representative is acting within the scope of the representative's duties pursuant to chapter 116 or 117 of NRS.

4. Notice is not required pursuant to this section before commencing an action if:

(a) The contractor, subcontractor, supplier or design professional has filed an action against the claimant; or

(b) The claimant has filed a formal complaint with a law enforcement agency against the contractor, subcontractor, supplier or design professional for threatening to commit or committing an act of violence or a criminal offense against the claimant or the property of the claimant.

(Added to NRS by 1995, 2540; A 1997, 2718; 1999, 1440; 2003, 2042; 2015, 10; 2019, 2259)

NRS 40.646 Notice of defect to be forwarded by contractor to subcontractor, supplier or design professional; effect of failure to forward notice; inspection of alleged defect; election to repair.

1. Except as otherwise provided in subsection 2, not later than 30 days after the date on which a contractor receives notice of a constructional defect pursuant to NRS 40.645, the contractor shall forward a copy of the notice by certified mail, return receipt requested, to the last known address of each subcontractor, supplier or design professional whom the contractor reasonably believes is responsible for a defect specified in the notice.

2. If a contractor does not provide notice as required pursuant to subsection 1, the contractor may not commence an action against the subcontractor, supplier or design professional related to the constructional defect unless the contractor demonstrates that, after making a good faith effort, the contractor was unable to identify the subcontractor, supplier or design professional whom the contractor believes is responsible for the defect within the time provided pursuant to subsection 1.

3. Not later than 30 days after receiving notice from the contractor pursuant to this section, the subcontractor, supplier or design professional shall inspect the alleged constructional defect in accordance with NRS 40.6462 and provide the contractor with a written statement indicating:

(a) Whether the subcontractor, supplier or design professional has elected to repair the defect for which the contractor believes the subcontractor, supplier or design professional is responsible; and

(b) If the subcontractor, supplier or design professional elects to repair the defect, an estimate of the length of time required for the repair, and at least two proposed dates on and times at which the subcontractor, supplier or design professional is able to begin making the repair.

4. If a subcontractor, supplier or design professional elects to repair the constructional defect, the contractor or claimant may hold the subcontractor liable for any repair which does not eliminate the defect.

(Added to NRS by 2003, 2035; A 2015, 11)

NRS 40.6462 Access to residence or appurtenance with alleged defect after notice of defect is given. After notice of a constructional defect is given to a contractor pursuant to NRS 40.645, the claimant shall, upon reasonable notice, allow the contractor and each subcontractor, supplier or design professional who may be responsible for the alleged defect reasonable access to the residence or appurtenance that is the subject of the notice to determine the nature and extent of a constructional defect and the nature and extent of repairs that may be necessary. To the extent possible, the persons entitled to inspect shall coordinate and conduct the inspections in a manner which minimizes the inconvenience to the claimant.

(Added to NRS by 2003, 2036; A 2015, 12)

NRS 40.647 Claimant required to allow inspection of and reasonable opportunity to repair defect; claimant or claimant's expert required to be present at inspection; effect of noncompliance.

1. After notice of a constructional defect is given pursuant to NRS 40.645, before a claimant may commence an action or amend a complaint to add a cause of action for a constructional defect against a contractor, subcontractor, supplier or design professional, the claimant must:

(a) Allow an inspection of the alleged constructional defect to be conducted pursuant to NRS 40.6462;

(b) Be present or have a representative of the claimant present at an inspection conducted pursuant to NRS 40.6462 and, to the extent possible, reasonably identify the proximate locations of the defects, damages or injuries specified in the notice; and

(c) Allow the contractor, subcontractor, supplier or design professional a reasonable opportunity to repair the constructional defect or cause the defect to be repaired if an election to repair is made pursuant to NRS 40.6472.

2. If a claimant commences an action without complying with subsection 1 or NRS 40.645, the court shall:

(a) Dismiss the action without prejudice and compel the claimant to comply with those provisions before filing another action; or

(b) If dismissal of the action would prevent the claimant from filing another action because the action would be procedurally barred by the statute of limitations or statute of repose, the court shall stay the proceeding pending compliance with those provisions by the claimant.

(Added to NRS by 2003, 2039; A 2015, 13; 2019, 2260)

NRS 40.6472 Response to notice of defect: Time for sending; content; effect of election to repair or not to repair.

1. Except as otherwise provided in NRS 40.670 and 40.672, a written response must be sent by certified mail, return receipt requested, to a claimant who gives notice of a constructional defect pursuant to NRS 40.645:

(a) By the contractor not later than 90 days after the contractor receives the notice; and

(b) If notice was sent to a subcontractor, supplier or design professional, by the subcontractor, supplier or design professional not later than 90 days after the date that the subcontractor, supplier or design professional receives the notice.

2. The written response sent pursuant to subsection 1 must respond to each constructional defect in the notice and:

(a) Must state whether the contractor, subcontractor, supplier or design professional has elected to repair the defect or cause the defect to be repaired. If an election to repair is included in the response and the repair will cause the claimant to move from the claimant's home during the repair, the election must also include monetary compensation in an amount reasonably necessary for temporary housing or for storage of household items, or for both, if necessary.

(b) May include a proposal for monetary compensation, which may include contribution from a subcontractor, supplier or design professional.

(c) May disclaim liability for the constructional defect and state the reasons for such a disclaimer.

3. If the claimant is a homeowners' association, the association shall send a copy of the response to each member of the association not later than 30 days after receiving the response.

4. If the contractor, subcontractor, supplier or design professional has elected not to repair the constructional defect, the claimant or contractor may bring a cause of action for the constructional defect or amend a complaint to add a cause of action for the constructional defect.

5. If the contractor, subcontractor, supplier or design professional has elected to repair the constructional defect, the claimant must provide the contractor, subcontractor, supplier or design professional with a reasonable opportunity to repair the constructional defect.

(Added to NRS by 2003, 2037; A 2015, 13)

NRS 40.648 Election to repair defect: Who may repair; manner for performing repairs; deadline for repair; extension of deadline; written statement of repairs performed.

1. If the response provided pursuant to NRS 40.6472 includes an election to repair the constructional defect:

(a) The repairs may be performed by the contractor, subcontractor, supplier or design professional, if such person is properly licensed, bonded and insured to perform the repairs and, if such person is not, the repairs may be performed by another person who meets those qualifications.

(b) The repairs must be performed:

(1) On reasonable dates and at reasonable times agreed to in advance with the claimant;

(2) In compliance with any applicable building code and in a good and workmanlike manner in accordance with the generally accepted standard of care in the industry for that type of repair; and

(3) In a manner which will not increase the cost of maintaining the residence or appurtenance than otherwise would have been required if the residence or appurtenance had been constructed without the constructional defect, unless the contractor and the claimant agree in writing that the contractor will compensate the claimant for the increased cost incurred as a result of the repair.

(c) Any part of the residence or appurtenance that is not defective but which must be removed to correct the constructional defect must be replaced.

(d) The contractor, subcontractor, supplier or design professional shall prevent, remove and indemnify the claimant against any mechanics' liens and materialmen's liens.

2. Unless the claimant and the contractor, subcontractor, supplier or design professional agree to extend the time for repairs, the repairs must be completed:

(a) Not later than 105 days after the date on which the notice of the constructional defect was received by the contractor, subcontractor, supplier or design professional if the notice of a constructional defect was received from four or fewer owners; or

(b) Not later than 150 days after the date on which the notice of the constructional defect was received by the contractor, subcontractor, supplier or design professional if the notice was received from five or more owners or from a representative of a homeowners' association.

3. If repairs reasonably cannot be completed within the time set forth in subsection 2, the claimant and the contractor, subcontractor, supplier or design professional shall agree to a reasonable time within which to complete the repair. If the claimant and contractor, subcontractor, supplier or design professional cannot agree on such a time, any of them may petition the court to establish a reasonable time for completing the repair.

4. Any election to repair made pursuant to NRS 40.6472 may not be made conditional upon a release of liability.

5. Not later than 30 days after the repairs are completed, the contractor, subcontractor, supplier or design professional who repaired or caused the repair of a constructional defect shall provide the claimant with a written statement describing the nature and extent of the repair, the method used to repair the constructional defect and the extent of any materials or parts that were replaced during the repair.

(Added to NRS by 2003, 2037; A 2015, 14)

NRS 40.649 Notice of defect may be presented to insurer; duties of insurer.

1. If a contractor, subcontractor, supplier or design professional receives written notice of a constructional defect, the contractor, subcontractor, supplier or design professional may present the claim to an insurer which has issued a policy of insurance that covers all or any portion of the business of the contractor, subcontractor, supplier or design professional.

2. If the contractor, subcontractor, supplier or design professional presents the claim to the insurer pursuant to this section, the insurer:

(a) Must treat the claim as if a civil action has been brought against the contractor, subcontractor, supplier or design professional; and

(b) Must provide coverage to the extent available under the policy of insurance as if a civil action has been brought against the contractor, subcontractor, supplier or design professional.

3. A contractor, subcontractor, supplier or design professional is not required to present a claim to the insurer pursuant to this section, and the failure to present such a claim to the insurer does not relieve the insurer of any duty under the policy of insurance to the contractor, subcontractor, supplier or design professional.

(Added to NRS by 2003, 2040)

NRS 40.650 Effect of rejecting reasonable offer of settlement; effect of failing to take certain actions concerning defect; effect of coverage available under homeowner's warranty.

1. If a claimant unreasonably rejects a reasonable written offer of settlement made as part of a response pursuant to paragraph (b) of subsection 2 of NRS 40.6472 and thereafter commences an action governed by NRS 40.600 to 40.695, inclusive, the court in which the action is commenced may:

(a) Deny the claimant's attorney's fees and costs; and

(b) Award attorney's fees and costs to the contractor.

↪ Any sums paid under a builder's warranty, other than sums paid in satisfaction of claims that are collateral to any coverage issued to or by the contractor, must be deducted from any recovery.

2. If a contractor, subcontractor, supplier or design professional fails to:

(a) Comply with the provisions of NRS 40.6472;

(b) Make an offer of settlement;

(c) Make a good faith response to the claim asserting no liability;

(d) Agree to a mediator or accept the appointment of a mediator pursuant to NRS 40.680; or

(e) Participate in mediation,

↳ the limitations on damages and defenses to liability provided in NRS 40.600 to 40.695, inclusive, do not apply and the claimant may commence an action or amend a complaint to add a cause of action for a constructional defect without satisfying any other requirement of NRS 40.600 to 40.695, inclusive.

3. If a residence or appurtenance that is the subject of the claim is covered by a builder's warranty, a claimant shall diligently pursue a claim under the builder's warranty.

4. Nothing in this section prohibits an offer of judgment pursuant to Rule 68 of the Nevada Rules of Civil Procedure or NRS 17.117 or 40.652.

(Added to NRS by 1995, 2541; A 1997, 2719; 1999, 1442; 2003, 2044; 2015, 15, 2565; 2019, 275, 2260)

NRS 40.652 Offer of judgment.

1. At any time after a claimant has given notice pursuant to NRS 40.645 and before the claimant commences an action or amends a complaint to add a cause of action for a constructional defect against a contractor, subcontractor, supplier or design professional, the claimant or any contractor, subcontractor, supplier or design professional who has received notice pursuant to NRS 40.645 or 40.646 may serve upon one or more other parties a written offer to allow judgment to be entered without action in accordance with the terms and conditions of the offer of judgment.

2. Except as otherwise provided in subsection 7, if, within 10 days after the date of service of an offer of judgment, the party to whom the offer was made serves written notice that the offer is accepted, the party who made the offer or the party who accepted the offer may file the offer, the notice of acceptance and proof of service with the clerk of the district court. Upon receipt by the clerk, the clerk shall enter a judgment according to the terms of the offer. Any judgment entered pursuant to this section shall be deemed a compromise settlement. The judgment, the offer, the notice of acceptance and proof of service, with the judgment endorsed, become the judgment roll.

3. If the offer of judgment is not accepted pursuant to subsection 2 within 10 days after the date of service, the offer shall be deemed rejected by the party to whom it was made and withdrawn by the party who made it. The rejection of an offer does not preclude any party from making another offer pursuant to this section. Evidence of a rejected offer is not admissible in any proceeding other than a proceeding to determine costs and fees.

4. Except as otherwise provided in this section, if a party who rejects an offer of judgment fails to obtain a more favorable judgment in an action for a constructional defect, the court:

(a) May not award to the party any costs or attorney's fees;

(b) May not award to the party any interest on the judgment for the period from the date of service of the offer to the date of entry of the judgment;

(c) Shall order the party to pay the taxable costs incurred by the party who made the offer; and

(d) May order the party to pay to the party who made the offer any or all of the following:

(1) A reasonable sum to cover any costs incurred by the party who made the offer for each expert witness whose services were reasonably necessary to prepare for and conduct the trial of the case.

(2) Any applicable interest on the judgment for the period from the date of service of the offer to the date of entry of the judgment.

(3) Reasonable attorney's fees incurred by the party who made the offer for the period from the date of service of the offer to the date of entry of the judgment. If the attorney of the party who made the offer is collecting a contingent fee, the amount of any attorney's fees awarded to the party pursuant to this subparagraph must be deducted from that contingent fee.

5. To determine whether a party who rejected an offer of judgment failed to obtain a more favorable judgment:

(a) If the offer provided that the court would award costs, the court must compare the amount of the offer with the principal amount of the judgment, without inclusion of costs.

(b) If the offer precluded a separate award of costs, the court must compare the amount of the offer with the sum of:

(1) The principal amount of the judgment; and

(2) The amount of taxable costs that the claimant who obtained the judgment incurred before the date of service of the offer.

6. Multiple parties may make a joint offer of judgment pursuant to this section.

7. A party may make to two or more other parties pursuant to this section an apportioned offer of judgment that is conditioned upon acceptance by all the parties to whom the apportioned offer is made. Each party to whom such an offer is made may serve upon the party who made the offer a separate written notice of acceptance of the offer. If any party rejects the apportioned offer:

(a) The action must proceed as to all parties to whom the apportioned offer was made, whether or not the other parties accepted or rejected the offer; and

(b) The sanctions set forth in subsection 4:

(1) Apply to each party who rejected the apportioned offer.

(2) Do not apply to any party who accepted the apportioned offer.

8. The sanctions set forth in subsection 4 do not apply to:

(a) An offer of judgment made to multiple parties who received a notice pursuant to NRS 40.645 or 40.646 unless the same person is authorized to decide whether to settle the claims against all the parties to whom the offer is made and:

(1) There is a single common theory of liability against all the parties to whom the offer is made;

(2) The liability of one or more of the parties to whom the offer is made is entirely derivative of the liability of the remaining parties to whom the offer is made; or

(3) The liability of all the parties to whom the offer is made is entirely derivative of a common act or omission by another person.

(b) An offer of judgment made to multiple claimants unless the same person is authorized to decide whether to settle the claims of all the claimants to whom the offer is made and:

- (1) There is a single common theory of liability claimed by all the claimants to whom the offer is made;
 - (2) The damages claimed by one or more of the claimants to whom the offer is made are entirely derivative of an injury to the remaining claimants to whom the offer is made; or
 - (3) The damages claimed by all the claimants to whom the offer is made are entirely derivative of an injury to another person.
- (Added to NRS by 2015, 7)

NRS 40.655 Limitation on recovery.

1. Except as otherwise provided in NRS 40.650, in a claim governed by NRS 40.600 to 40.695, inclusive, the claimant may recover only the following damages to the extent proximately caused by a constructional defect:

(a) The reasonable cost of any repairs already made that were necessary and of any repairs yet to be made that are necessary to cure any constructional defect that the contractor failed to cure and the reasonable expenses of temporary housing reasonably necessary during the repair;

(b) The reduction in market value of the residence or accessory structure, if any, to the extent the reduction is because of structural failure;

(c) The loss of the use of all or any part of the residence;

(d) The reasonable value of any other property damaged by the constructional defect;

(e) Any additional costs reasonably incurred by the claimant, including, but not limited to, any costs and fees incurred for the retention of experts to:

(1) Ascertain the nature and extent of the constructional defects;

(2) Evaluate appropriate corrective measures to estimate the value of loss of use; and

(3) Estimate the value of loss of use, the cost of temporary housing and the reduction of market value of the residence; and

(f) Any interest provided by statute.

2. If a contractor complies with the provisions of NRS 40.600 to 40.695, inclusive, the claimant may not recover from the contractor, as a result of the constructional defect, any damages other than damages authorized pursuant to NRS 40.600 to 40.695, inclusive.

3. This section must not be construed as impairing any contractual rights between a contractor and a subcontractor, supplier or design professional.

4. As used in this section, "structural failure" means physical damage to the load-bearing portion of a residence or appurtenance caused by a failure of the load-bearing portion of the residence or appurtenance.

(Added to NRS by 1995, 2541; A 1997, 2720; 2003, 2045; 2015, 16; 2019, 2261)

NRS 40.660 Nonacceptance of offer of settlement deemed rejection. An offer of settlement made pursuant to paragraph (b) of subsection 2 of NRS 40.6472 that is not accepted within 35 days after the offer is received by the claimant is considered rejected if the offer contains a clear and understandable statement notifying the claimant of the consequences of the claimant's failure to respond or otherwise accept or reject the offer of settlement. An affidavit certifying rejection of an offer of settlement under this section may be filed with the court.

(Added to NRS by 1995, 2542; A 1999, 1442; 2003, 2045)

NRS 40.665 Settlement by repurchase; certain offers of settlement deemed reasonable. In addition to any other method provided for settling a claim pursuant to NRS 40.600 to 40.695, inclusive, a contractor may, pursuant to a written agreement entered into with a claimant, settle a claim by repurchasing the claimant's residence and the real property upon which it is located. The agreement may include provisions which reimburse the claimant for:

1. The market value of the residence as if no constructional defect existed, except that if a residence is less than 2 years of age and was purchased from the contractor against whom the claim is brought, the market value is the price at which the residence was sold to the claimant;

2. The value of any improvements made to the property by a person other than the contractor;

3. Reasonable attorney's fees and fees for experts; and

4. Any costs, including costs and expenses for moving and costs, points and fees for loans.

↪ Any offer of settlement made that includes the items listed in this section shall be deemed reasonable for the purposes of subsection 1 of NRS 40.650.

(Added to NRS by 1995, 2542; A 1997, 2721; 2003, 2046)

NRS 40.667 Effect of written waiver or settlement agreement when contractor fails to correct or repair defect properly; conditions to bringing action; effect of failure to prevail in action.

1. Except as otherwise provided in subsection 2, a written waiver or settlement agreement executed by a claimant after a contractor has corrected or otherwise repaired a constructional defect does not bar a claim for the constructional defect if it is determined that the contractor failed to correct or repair the defect properly.

2. The provisions of subsection 1 do not apply to any written waiver or settlement agreement described in subsection 1, unless:

(a) The claimant has obtained the opinion of an expert concerning the constructional defect;

(b) The claimant has provided the contractor with a written notice of the defect pursuant to NRS 40.645 and a copy of the expert's opinion; and

(c) The claimant and the contractor have complied with the requirements for inspection and repair as provided in NRS 40.600 to 40.695, inclusive.

3. The provisions of this section do not apply to repairs which are made pursuant to an election to repair pursuant to NRS 40.6472.

4. If a claimant does not prevail in any action which is not barred pursuant to this section, the court may:

(a) Deny the claimant's attorney's fees, fees for an expert witness or costs; and

(b) Award attorney's fees and costs to the contractor.

(Added to NRS by 1995, 2544; A 1997, 2723; 1999, 1442; 2003, 2046)

NRS 40.668 Action against subdivider or master developer for defect in appurtenance in planned unit development: Conditions and limitations; tolling of statutes of limitation or repose; applicability.

1. Notwithstanding the provisions of NRS 40.600 to 40.695, inclusive, a claimant may not commence an action against a subdivider or master developer for a constructional defect in an appurtenance constructed on behalf of the subdivider or master developer in a planned unit development, to the extent that the appurtenance was constructed by or through a licensed general contractor, unless:

(a) The subdivider or master developer fails to provide to the claimant the name, address and telephone number of each contractor hired by the subdivider or master developer to construct the appurtenance within 30 days of the receipt by the subdivider or master developer of a request from the claimant for such information; or

(b) After the claimant has made a good faith effort to obtain full recovery from the contractors hired by the subdivider or master developer to construct the appurtenance, the claimant has not obtained a full recovery.

2. All statutes of limitation or repose applicable to a claim governed by this section are tolled from the time the claimant notifies a contractor hired by the subdivider or master developer of the claim until the earlier of the date:

(a) A court determines that the claimant cannot obtain a full recovery against those contractors; or

(b) The claimant receives notice that those contractors are bankrupt, insolvent or dissolved.

↪ Tolling pursuant to this subsection applies only to the subdivider or master developer. Notwithstanding any applicable statute of limitation or repose, the claimant may commence an action against the subdivider or master developer for the claim within 1 year after the end of the tolling described in this subsection.

3. Nothing in this section prohibits the commencement of an action against a subdivider or master developer for a constructional defect in a residence sold, designed or constructed by or on behalf of the subdivider or master developer.

4. Nothing in this section prohibits a person other than the claimant from commencing an action against a subdivider or master developer to enforce the person's own rights.

5. The provisions of this section do not apply to a subdivider or master developer who acts as a general contractor or uses the subdivider's or master developer's license as a general contractor in the course of constructing the appurtenance that is the subject of the action.

6. As used in this section:

(a) "Master developer" means a person who buys, sells or develops a planned unit development, including, without limitation, a person who enters into a development agreement pursuant to NRS 278.0201.

(b) "Planned unit development" has the meaning ascribed to it in NRS 278A.065.

(c) "Subdivider" has the meaning ascribed to it in NRS 278.0185.

(Added to NRS by 1999, 1438)

Repairs

NRS 40.670 Defect which creates imminent threat to health or safety: Duty to cure; effect of failure to cure; exceptions.

1. A contractor, subcontractor, supplier or design professional who receives written notice of a constructional defect resulting from work performed by the contractor, subcontractor, supplier or design professional which creates an imminent threat to the health or safety of the inhabitants of the residence shall take reasonable steps to cure the defect as soon as practicable. The contractor, subcontractor, supplier or design professional shall not cure the defect by making any repairs for which such person is not licensed or by causing any repairs to be made by a person who is not licensed to make those repairs. If the contractor, subcontractor, supplier or design professional fails to cure the defect in a reasonable time, the owner of the residence may have the defect cured and may recover from the contractor, subcontractor, supplier or design professional the reasonable cost of the repairs plus reasonable attorney's fees and costs in addition to any other damages recoverable under any other law.

2. A contractor, subcontractor, supplier or design professional who does not cure a defect pursuant to this section because such person has determined, in good faith and after a reasonable inspection, that there is not an imminent threat to the health or safety of the inhabitants is not liable for attorney's fees and costs pursuant to this section, except that if a building inspector, building official or other similar authority employed by a governmental body with jurisdiction certifies that there is an imminent threat to the health and safety of the inhabitants of the residence, the contractor, subcontractor, supplier or design professional is subject to the provisions of subsection 1.

(Added to NRS by 1995, 2542; A 1997, 2721; 2001, 1249; 2003, 2046)

NRS 40.672 Defect in new residence: Duty to repair; deadline for repair; extensions; disciplinary action for failure to comply. Except as otherwise provided in NRS 40.670, if a contractor, subcontractor, supplier or design professional receives written notice of a constructional defect not more than 1 year after the closing of the initial purchase of the residence, the contractor,

subcontractor, supplier or design professional shall make the repairs within 45 days after receiving the written notice unless completion is delayed by the claimant or by other events beyond the control of the contractor, subcontractor, supplier or design professional, or timely completion of repairs is not reasonably possible. The contractor, subcontractor, supplier or design professional and claimant may agree in writing to extend the period prescribed by this section. If a contractor or subcontractor fails to comply with this section, the contractor or subcontractor is immediately subject to discipline pursuant to NRS 624.300.

(Added to NRS by 1999, 1437; A 2003, 2047)

NRS 40.675 Inspection of repairs.

1. A contractor who makes or provides for repairs under NRS 40.600 to 40.695, inclusive, may take reasonable steps to prove that the repairs were made and to have them inspected.

2. The provisions of NRS 40.600 to 40.695, inclusive, regarding inspection and repair are in addition to any rights of inspection and settlement provided by common law or by another statute.

(Added to NRS by 1995, 2542)

Special Procedures

NRS 40.680 Mediation of certain claims required before action commenced or complaint amended; procedure; appointment of special master; effect of failure to mediate in good faith.

1. Except as otherwise provided in this chapter, before a claimant commences an action or amends a complaint to add a cause of action for a constructional defect against a contractor, subcontractor, supplier or design professional, the matter must be submitted to mediation, unless mediation is waived in writing by the contractor, subcontractor, supplier or design professional and the claimant.

2. The claimant and each party alleged to have caused the constructional defect must select a mediator by agreement. If the claimant and the other parties fail to agree upon a mediator within 20 days after a mediator is first selected by the claimant, any party may petition the American Arbitration Association, the Nevada Arbitration Association, Nevada Dispute Resolution Services or any other mediation service acceptable to the parties for the appointment of a mediator. A mediator so appointed may discover only those documents or records which are necessary to conduct the mediation. The mediator shall convene the mediation within 30 days after the matter is submitted to the mediator and shall complete the mediation within 45 days after the matter is submitted to the mediator, unless the parties agree to extend the time.

3. Before the mediation begins:

(a) The claimant shall deposit \$50 with the mediation service; and

(b) Each other party shall deposit with the mediation service, in equal shares, the remaining amount estimated by the mediation service as necessary to pay the fees and expenses of the mediator for the first session of mediation and shall deposit additional amounts demanded by the mediation service as incurred for that purpose.

4. Unless otherwise agreed, the total fees for each day of mediation and the mediator must not exceed \$750 per day.

5. If the parties do not reach an agreement concerning the matter during mediation or if any party who is alleged to have caused the constructional defect fails to pay the required fees and appear, the claimant may commence an action or amend a complaint to add a cause of action for the constructional defect in court and:

(a) The reasonable costs and fees of the mediation are recoverable by the prevailing party as costs of the action.

(b) Any party may petition the court in which the action is commenced for the appointment of a special master.

6. A special master appointed pursuant to subsection 5 may:

(a) Review all pleadings, papers or documents filed with the court concerning the action.

(b) Coordinate the discovery of any books, records, papers or other documents by the parties, including the disclosure of witnesses and the taking of the deposition of any party.

(c) Order any inspections on the site of the property by a party and any consultants or experts of a party.

(d) Order settlement conferences and attendance at those conferences by any representative of the insurer of a party.

(e) Require any attorney representing a party to provide statements of legal and factual issues concerning the action.

(f) Refer to the judge who appointed the special master or to the presiding judge of the court in which the action is commenced any matter requiring assistance from the court.

↪ The special master shall not, unless otherwise agreed by the parties, personally conduct any settlement conferences or engage in any ex parte meetings regarding the action.

7. Upon application by a party to the court in which the action is commenced, any decision or other action taken by a special master appointed pursuant to this section may be appealed to the court for a decision.

8. A report issued by a mediator or special master that indicates that a party has failed to appear before the mediator or special master or to mediate in good faith is admissible in the action, but a statement or admission made by a party in the course of mediation is not admissible.

(Added to NRS by 1995, 2543; A 1997, 2721; 2003, 2047)

NRS 40.681 Premediation discovery. Not later than 15 days before the commencement of mediation required pursuant to NRS 40.680 and upon providing 15 days' notice, each party shall provide to the other party, or shall make a reasonable effort to assist the other party to obtain, all relevant reports, photos, correspondence, plans, specifications, warranties, contracts, subcontracts, work orders for repair, videotapes, technical reports, soil and other engineering reports and other documents or materials relating to the claim that are not privileged.

(Added to NRS by 2003, 2041)

NRS 40.684 Duties of insurer with respect to settlement conference.

1. If a settlement conference is held concerning a claim for a constructional defect, the special master, if any, or the judge presiding over the claim may order a representative of an insurer of a party to attend the settlement conference. If a representative of an insurer is ordered to attend the settlement conference, the insurer shall ensure that the representative is authorized, on behalf of the insurer, to:

- (a) Bind the insurer to any settlement agreement relating to the claim;
- (b) Enter into any agreement relating to coverage that may be available under the party's policy of insurance which is required to carry out any settlement relating to the claim; and
- (c) Commit for expenditure money or other assets available under the party's policy of insurance.

2. If a representative of an insurer who is ordered to attend a settlement conference pursuant to subsection 1 fails to attend the settlement conference or attends but is substantially unprepared to participate, or fails to participate in good faith, the special master or the judge may, on the special master's or the judge's own motion or that of a party, issue any order with regard thereto that is just under the circumstances.

3. In lieu of or in addition to any other sanction, the special master or the judge may require the insurer to pay any reasonable expenses or attorney's fees incurred by a party because of the failure of the insurer or its representative to comply with the provisions of this section or any order issued pursuant to this section, unless the special master or the judge finds that the failure to comply was substantially justified or that any other circumstances make the award of such expenses or fees unjust.

4. Any insurer which conducts business in this State and which insures a party against liability for the claim shall be deemed to have consented to the jurisdiction of the special master or the judge for the purposes of this section.

5. The authority conferred upon the special master or the judge pursuant to this section is in addition to any other authority conferred upon the special master or the judge pursuant to any other statute or any court rule.

(Added to NRS by 2003, 2040)

Disclosures

NRS 40.687 Disclosure of information concerning insurance agreements; compelled production of information.
Notwithstanding any other provision of law:

1. A contractor shall, no later than 10 days after a response is made pursuant to this chapter, disclose to the claimant any information about insurance agreements that may be obtained by discovery pursuant to rule 26(b)(2) of the Nevada Rules of Civil Procedure. Such disclosure does not affect the admissibility at trial of the information disclosed.

2. Except as otherwise provided in subsection 3, if the contractor fails to provide the information required pursuant to subsection 1 within the time allowed, the claimant may petition the court to compel production of the information. Upon receiving such a petition, the court may order the contractor to produce the required information and may award the claimant reasonable attorney's fees and costs incurred in petitioning the court pursuant to this subsection.

3. The parties may agree to an extension of time for the contractor to produce the information required pursuant to this section.

4. For the purposes of this section, "information about insurance agreements" is limited to any declaration sheets, endorsements and contracts of insurance issued to the contractor from the commencement of construction of the residence of the claimant to the date on which the request for the information is made and does not include information concerning any disputes between the contractor and an insurer or information concerning any reservation of rights by an insurer.

(Added to NRS by 1997, 2716; A 1999, 1443; 2019, 2262)

NRS 40.688 Disclosure of defects by claimant to prospective purchaser of residence required; timing and contents of disclosure; duty of attorney to inform claimant of disclosure requirement.

1. If a claimant attempts to sell a residence that is or has been the subject of a claim governed by NRS 40.600 to 40.695, inclusive, the claimant shall disclose, in writing, to any prospective purchaser of the residence, not less than 30 days before the close of escrow for the sale of the residence or, if escrow is to close less than 30 days after the execution of the sales agreement, then immediately upon the execution of the sales agreement or, if a claim is initiated less than 30 days before the close of escrow, within 24 hours after giving written notice to the contractor pursuant to NRS 40.645:

(a) All notices given by the claimant to the contractor pursuant to NRS 40.600 to 40.695, inclusive, that are related to the residence;

(b) All opinions the claimant has obtained from experts regarding a constructional defect that is or has been the subject of the claim;

(c) The terms of any settlement, order or judgment relating to the claim; and

(d) A detailed report of all repairs made to the residence by or on behalf of the claimant as a result of a constructional defect that is or has been the subject of the claim.

2. Before taking any action on a claim pursuant to NRS 40.600 to 40.695, inclusive, the attorney for a claimant shall notify the claimant in writing of the provisions of this section.

(Added to NRS by 1999, 1439; A 2003, 2048)

Additional Requirement for Actions Against Design Professionals

NRS 40.6882 “Complainant” defined. As used in NRS 40.6884 and 40.6885, unless the context otherwise requires, “complainant” means a person who makes a claim or files an action against a design professional pursuant to NRS 40.600 to 40.695, inclusive.

(Added to NRS by 2001 Special Session, 66; A 2003, 2049)

NRS 40.6884 Attorney required to consult expert; required affidavit of attorney; required report of expert.

1. Except as otherwise provided in subsection 2, in an action governed by NRS 40.600 to 40.695, inclusive, that is commenced against a design professional or a person primarily engaged in the practice of professional engineering, land surveying, architecture or landscape architecture, including, without limitation, an action for professional negligence, the attorney for the complainant shall file an affidavit with the court concurrently with the service of the first pleading in the action stating that the attorney:

- (a) Has reviewed the facts of the case;
- (b) Has consulted with an expert;
- (c) Reasonably believes the expert who was consulted is knowledgeable in the relevant discipline involved in the action; and
- (d) Has concluded on the basis of the attorney’s review and the consultation with the expert that the action has a reasonable basis in law and fact.

2. The attorney for the complainant may file the affidavit required pursuant to subsection 1 at a later time if the attorney could not consult with an expert and prepare the affidavit before filing the action without causing the action to be impaired or barred by the statute of limitations or repose, or other limitations prescribed by law. If the attorney must submit the affidavit late, the attorney shall file an affidavit concurrently with the service of the first pleading in the action stating the attorney’s reason for failing to comply with subsection 1 and the attorney shall consult with an expert and file the affidavit required pursuant to subsection 1 not later than 45 days after filing the action.

3. In addition to the statement included in the affidavit pursuant to subsection 1, a report must be attached to the affidavit. Except as otherwise provided in subsection 4, the report must be prepared by the expert consulted by the attorney and include, without limitation:

- (a) The resume of the expert;
- (b) A statement that the expert is experienced in each discipline which is the subject of the report;
- (c) A copy of each nonprivileged document reviewed by the expert in preparing the expert’s report, including, without limitation, each record, report and related document that the expert has determined is relevant to the allegations of negligent conduct that are the basis for the action;
- (d) The conclusions of the expert and the basis for the conclusions; and
- (e) A statement that the expert has concluded that there is a reasonable basis for filing the action.

4. In an action brought by a claimant in which an affidavit is required to be filed pursuant to subsection 1:

(a) The report required pursuant to subsection 3 is not required to include the information set forth in paragraphs (c) and (d) of subsection 3 if the claimant or the claimant’s attorney files an affidavit, at the time that the affidavit is filed pursuant to subsection 1, stating that the claimant or the claimant’s attorney made reasonable efforts to obtain the nonprivileged documents described in paragraph (c) of subsection 3, but was unable to obtain such documents before filing the action;

(b) The claimant or the claimant’s attorney shall amend the report required pursuant to subsection 3 to include any documents and information required pursuant to paragraph (c) or (d) of subsection 3 as soon as reasonably practicable after receiving the document or information; and

(c) The court may dismiss the action if the claimant and the claimant’s attorney fail to comply with the requirements of paragraph (b).

5. An expert consulted by an attorney to prepare an affidavit pursuant to this section must not be a party to the action.

6. As used in this section, “expert” means a person who is licensed in a state to engage in the practice of professional engineering, land surveying, architecture or landscape architecture.

(Added to NRS by 2001 Special Session, 66)

NRS 40.6885 Effect of compliance with or failure to comply with NRS 40.6884.

1. The court shall dismiss an action governed by NRS 40.600 to 40.695, inclusive, that is commenced against a design professional or a person primarily engaged in the practice of professional engineering, land surveying, architecture or landscape architecture, including, without limitation, an action for professional negligence, if the attorney for the complainant fails to:

- (a) File an affidavit required pursuant to NRS 40.6884;
- (b) File a report required pursuant to subsection 3 of NRS 40.6884; or
- (c) Name the expert consulted in the affidavit required pursuant to subsection 1 of NRS 40.6884.

2. The fact that an attorney for a complainant has complied or failed to comply with the provisions of NRS 40.6884 is admissible in the action.

(Added to NRS by 2001 Special Session, 67)

Miscellaneous Provisions

NRS 40.6887 Submission of questions or disputes concerning defects to State Contractors’ Board; regulations.

1. A claimant or any contractor, subcontractor, supplier or design professional may submit a question or dispute to the State Contractors’ Board concerning any matter which may affect or relate to a constructional defect, including, without limitation,

questions concerning the need for repairs, the appropriate method for repairs, the sufficiency of any repairs that have been made and the respective rights and responsibilities of homeowners, claimants, contractors, subcontractors, suppliers and design professionals.

2. If a question or dispute is submitted to the State Contractors' Board pursuant to this section, the State Contractors' Board shall, pursuant to its regulations, rules and procedures, respond to the question or investigate the dispute and render a decision. Nothing in this section authorizes the State Contractors' Board to require the owner of a residence or appurtenance to participate in any administrative hearing which is held pursuant to this section.

3. Not later than 30 days after a question or dispute is submitted to the State Contractors' Board pursuant to subsection 1, the State Contractors' Board shall respond to the question or render its decision. The response or decision of the State Contractors' Board:

(a) Is not binding and is not subject to judicial review pursuant to the provisions of chapters 233B and 624 of NRS; and

(b) Is not admissible in any judicial or administrative proceeding brought pursuant to the provisions of this chapter.

4. The provisions of this chapter do not preclude a claimant or a contractor, subcontractor, supplier or design professional from pursuing any remedy otherwise available from the State Contractors' Board pursuant to the provisions of chapter 624 of NRS concerning a constructional defect.

5. If an action for a constructional defect has been commenced, the court shall not stay or delay any proceedings before the court pending an answer to a question or decision concerning a dispute submitted to the State Contractors' Board.

6. The State Contractors' Board shall adopt regulations necessary to carry out the provisions of this section and may charge and collect reasonable fees from licensees to cover the cost of carrying out its duties pursuant to this section.

(Added to NRS by 2003, 2039; A 2005, 477)

NRS 40.689 Preference given to action; action may be assigned to senior judge; assessment of additional expenses.

1. Upon petition by a party:

(a) The court shall give preference in setting a date for the trial of an action commenced pursuant to NRS 40.600 to 40.695, inclusive; and

(b) The court may assign an action commenced pursuant to NRS 40.600 to 40.695, inclusive, to a senior judge.

2. If the action is assigned to a senior judge upon petition by a party:

(a) Any additional expenses caused by the assignment must be borne equally by each party involved; or

(b) The judge may distribute any additional expenses among the parties as the judge deems appropriate.

(Added to NRS by 1997, 2716)

NRS 40.690 Limitation on bringing claim against governmental entity during period for resolution; effect of settlement; contractor or claimant may require party to appear and participate.

1. A claim governed by NRS 40.600 to 40.695, inclusive, may not be brought by a claimant or contractor against a government, governmental agency or political subdivision of a government, during the period in which a claim for a constructional defect is being settled, mediated or otherwise resolved pursuant to NRS 40.600 to 40.695, inclusive. The settlement of such a claim does not affect the rights or obligations of the claimant or contractor in any action brought by the claimant or contractor against a third party.

2. A contractor or claimant may require a party against whom the contractor or claimant asserts a claim governed by NRS 40.600 to 40.695, inclusive, to appear and participate in proceedings held pursuant to those sections as if the party were a contractor and the party requiring the appearance were a claimant. The party must receive notice of the proceedings from the contractor or claimant.

(Added to NRS by 1995, 2544; A 1997, 2723; 1999, 1443)

NRS 40.692 Notice not required to be given to intervener in action. A claimant who commences an action for a constructional defect is not required to give written notice of a defect pursuant to NRS 40.645 to any person who intervenes in the action as a party after it is commenced. If such a person becomes a party to the action:

1. For the purposes of NRS 40.645, the person shall be deemed to have been given notice of the defect by the claimant on the date on which the person becomes a party to the action; and

2. The provisions of NRS 40.600 to 40.695, inclusive, apply to the person after that date.

(Added to NRS by 1999, 1438; A 2003, 2049)

NRS 40.693 Contractual provisions requiring subcontractor to indemnify controlling party; wrap-up insurance policies.

1. In any action or other proceeding involving a constructional defect asserted by a claimant and governed by NRS 40.600 to 40.695, inclusive:

(a) Except as otherwise provided in paragraph (b), any provision in a contract entered into on or after February 24, 2015, for residential construction that requires a subcontractor to indemnify, defend or otherwise hold harmless a controlling party from any liability, claim, action or cause of action resulting from a constructional defect caused by the negligence, whether active or passive, or intentional act or omission of the controlling party is against public policy and is void and unenforceable.

(b) Except as otherwise provided in paragraph (c), a provision in a contract entered into on or after February 24, 2015, for residential construction is not against public policy and is not void and unenforceable under paragraph (a) to the extent that the provision requires a subcontractor to indemnify, defend or otherwise hold harmless a controlling party from any liability, claim, action or cause of action resulting from a constructional defect arising out of, related to or connected with the subcontractor's scope of work, negligence, or intentional act or omission.

(c) A provision in a contract entered into on or after February 24, 2015, for residential construction is against public policy and is void and unenforceable under paragraph (a) to the extent that it requires a subcontractor to defend, indemnify or otherwise hold

harmless a controlling party from any liability, claim, action or cause of action resulting from a constructional defect arising out of, related to or connected with that portion of the subcontractor's work which has been altered or modified by another trade or the controlling party.

(d) Except as otherwise provided in paragraph (e), if a provision of a contract entered into on or after February 24, 2015, for residential construction that requires a subcontractor to indemnify, defend or otherwise hold harmless a controlling party is not against public policy and is not void and unenforceable under this subsection, the duty of the subcontractor to defend the controlling party arises upon presentment of a notice pursuant to subsection 1 of NRS 40.646 containing a particular claim, action or cause of action from which it can be reasonably inferred that an alleged constructional defect was caused by or attributable to the subcontractor's work, negligence, or wrongful act or omission.

(e) If a controlling party gives a notice to a subcontractor pursuant to NRS 40.646 that contains a claim, action or cause of action from which it can be reasonably inferred that an alleged constructional defect was caused by or attributable to the subcontractor's work, negligence, or wrongful act or omission, the claim, action or cause of action is covered by the subcontractor's commercial general liability policy of insurance issued by an insurer, and the controlling party is named as an additional insured under that policy of insurance:

(1) The controlling party, as an additional insured, must pursue available means of recovery of its defense fees and costs under the policy before the controlling party is entitled to pursue a claim against the subcontractor.

(2) Upon the final settlement of or issuance of a final judgment in an action involving a claim for a constructional defect, if the insurer has not assumed the controlling party's defense and reimbursed the controlling party for the defense obligation of the subcontractor, or if the defense obligation is not otherwise resolved by the settlement or final judgment, the controlling party has the right to pursue a claim against the subcontractor for reimbursement of that portion of the attorney's fees and costs incurred by the controlling party which are attributable to the claims, actions or causes of action arising out of, related to or connected with the subcontractor's scope of work, negligence, or intentional act or omission.

(3) The provisions of subparagraphs (1) and (2) do not prohibit a controlling party from:

(I) Following the requirements of NRS 40.600 to 40.695, inclusive, relating to providing notice of an alleged constructional defect or any other procedures set forth in those provisions; or

(II) Filing a third-party complaint against the subcontractor if a claimant commences an action or amends a complaint to add a cause of action for a constructional defect against a controlling party which arises out of, relates to or is otherwise connected with the subcontractor's scope of work, negligence, or wrongful act or omission.

2. For any wrap-up insurance policy or other consolidated insurance program that covers a subcontractor who performs work on residential construction for which a contract is entered into on or after February 24, 2015, for claims, actions or causes of action for a constructional defect governed by NRS 40.600 to 40.695, inclusive:

(a) The controlling party obtaining the wrap-up insurance policy or other consolidated insurance program shall disclose the total amount or method of calculation of any credit or compensation for the premium required from a subcontractor or other participant for that wrap-up insurance policy in the contract documents.

(b) Except as otherwise provided in paragraph (c), the contract documents must disclose, if and to the extent known:

(1) The policy limits;

(2) The scope of policy coverage;

(3) The policy term;

(4) The basis upon which the deductible or occurrence is triggered by the insurer;

(5) If the policy covers more than one work of improvement, the number of units, if any, indicated on the application for the insurance policy; and

(6) A good faith estimate of the amount of available limits remaining under the policy as of a date indicated in the disclosure obtained from the insurer.

(c) The disclosure requirements of subparagraphs (1) to (4), inclusive, of paragraph (b) may be satisfied by providing the participant with a copy of the binder or declaration.

(d) The disclosures made pursuant to subparagraphs (5) and (6) of paragraph (b):

(1) May be based upon information available at the time the disclosure is made and are not inaccurate or made in bad faith solely because the disclosures do not accurately reflect the actual number of units covered by the policy or the amount of insurance available, if any, when a later claim is made.

(2) Are presumptively made in good faith if:

(I) The disclosure pursuant to subparagraph (5) of paragraph (b) is the same as that contained in the application to the wrap-up insurance policy insurer; and

(II) The disclosure pursuant to subparagraph (6) of paragraph (b) was obtained from the wrap-up insurance policy insurer or broker.

↳ The presumptions stated in subparagraph (2) may be overcome only by a showing that the insurer, broker or controlling party intentionally misrepresented the facts identified in subparagraph (5) or (6) of paragraph (b).

(e) Upon the written request of any participant in the wrap-up insurance policy or consolidated insurance program, a copy of the insurance policy must be provided, if available, that shows the coverage terms and items in subparagraphs (1) to (5), inclusive, of paragraph (b). If the policy is not available at the time of the request, a copy of the insurance binder or declaration of coverage may be provided in lieu of the actual policy.

(f) Any party receiving a copy of the policy, binder or declaration shall not disclose it to third parties other than the participant's insurance broker or attorney unless required to do so by law. The participant's insurance broker or attorney may not disclose the policy, binder or declaration to any third party unless required to do so by law.

(g) If the controlling party obtaining the wrap-up insurance policy or other consolidated insurance program does not disclose the total amount or method of calculation of the premium credit or compensation to be charged to the participant before the time the participant submits its bid, the participant is not legally bound by the bid unless that participant has the right to increase the bid up to the amount equal to the difference between the amount the participant included, if any, for insurance in the original bid and the amount of the actual bid credit required by the controlling party obtaining the wrap-up insurance policy or other consolidated insurance program. This paragraph does not apply if the controlling party obtaining the wrap-up insurance policy or other consolidated insurance program did not require the subcontractor to offset the original bid amount with a deduction for the wrap-up insurance policy or program.

(h) The subcontractor's monetary obligation for enrollment in the wrap-up insurance policy or consolidated insurance program ceases upon the subcontractor's satisfaction of its agreed contribution percentage, which may have been paid either as a lump sum or on a pro rata basis throughout the subcontractor's performance of the work.

(i) In the event of an occurrence, the dollar amount required to be paid by a subcontractor as a self-insured retention or deductible must not be greater than the amount that the subcontractor would have otherwise been required to pay as a self-insured retention or deductible under a commercial general liability policy of comparable insurance in force during the relevant period for that particular subcontractor and within the specific market at the time the subcontract is entered into.

3. As used in this section:

(a) "Controlling party" means a person who owns real property involved in residential construction, a contractor or any other person who is to be indemnified by a provision in a contract entered into on or after February 24, 2015, for residential construction.

(b) "Residential construction" means the construction of a new residence, of an alteration of or addition to an existing residence, or of an appurtenance.

(c) "Wrap-up insurance policy" is an insurance policy, or series of policies, written to cover risks associated with the construction, repair or landscaping of a new residence, of an alteration of or addition to an existing residence, or of an appurtenance, and covering two or more of the contractors or subcontractors that work on that construction, repair or landscaping.

(Added to NRS by 2015, 4)

NRS 40.695 Tolling of statutes of limitation or repose; applicability.

1. Except as otherwise provided in subsections 2 and 3, statutes of limitation or repose applicable to a claim based on a constructional defect governed by NRS 40.600 to 40.695, inclusive, are tolled from the time notice of the claim is given, until the earlier of:

(a) One year after notice of the claim is given; or

(b) Thirty days after mediation is concluded or waived in writing pursuant to NRS 40.680.

2. Statutes of limitation and repose may be tolled under this section for a period longer than 1 year after notice of the claim is given only if, in an action for a constructional defect brought by a claimant after the applicable statute of limitation or repose has expired, the claimant demonstrates to the satisfaction of the court that good cause exists to toll the statutes of limitation and repose under this section for a longer period.

3. Tolling under this section applies to a third party regardless of whether the party is required to appear in the proceeding.

(Added to NRS by 1995, 2544; A 1997, 2723; 1999, 1444; 2003, 2049; 2015, 17)

MISCELLANEOUS PROVISIONS

NRS 40.750 Fraud against financial institution or other lender for purpose of obtaining loan secured by lien on real property.

1. As used in this section, "financial institution" means a bank, mortgage company, mortgage servicer as that term is defined in NRS 645F.063, credit union, thrift company, savings and loan association or savings bank, or any subsidiary or affiliate of a bank, mortgage company, mortgage servicer, credit union, thrift company, savings and loan association or savings bank, which is authorized to transact business in this State and which makes or acquires, in whole or in part, any loan of the kind described in subsection 2.

2. Except as otherwise provided in subsection 5, a person who, for the purpose of obtaining a loan secured by a lien on real property, knowingly conceals a material fact, or makes a false statement concerning a material fact knowing that the statement is false, is liable to any financial institution or other lender which relied upon the absence of that concealed fact or on that false statement for any damages it sustains because of the fraud.

3. In addition to its actual damages, a financial institution or other lender may recover exemplary or punitive damages in an amount not to exceed 50 percent of the actual damages awarded.

4. The cause of action provided by this section:

(a) Is not, for the purposes of NRS 40.430, an action for the recovery of any debt or an action for the enforcement of any right secured by mortgage or lien upon real estate.

(b) Is in addition to and not in substitution for any right of foreclosure existing in favor of the financial institution or other lender. Any recovery pursuant to this section does not limit the amount of a judgment awarded pursuant to NRS 40.459, but the financial institution or other lender is not entitled to recover actual damages more than once for the same loss.

5. The provisions of this section do not apply to any loan which is secured by a lien on real property used for residential purposes if:

(a) The residence is a single-family dwelling occupied by the person obtaining the loan, as represented by the person in connection with the person's application for the loan; and

(b) The loan is for the principal amount of \$150,000 or less.

(Added to NRS by 1987, 1346; A 1999, 3802; 2003, 3570; 2007, 2850; 2015, 2810; 2017, 3084)

NRS 40.770 Limitation on liability of seller, seller's agent and buyer's agent for failure to disclose certain facts concerning property.

1. Except as otherwise provided in subsection 6, in any sale, lease or rental of real property, the fact that the property is or has been:

(a) The site of a homicide, suicide or death by any other cause, except a death that results from a condition of the property;

(b) The site of any crime punishable as a felony other than a crime that involves the manufacturing of any material, compound, mixture or preparation which contains any quantity of methamphetamine; or

(c) Occupied by a person exposed to or suffering from any disease that is not known to be transmitted through occupancy of the property,

↪ is not material to the transaction.

2. In any sale, lease or rental of real property, the fact that a sex offender, as defined in NRS 179D.095, resides or is expected to reside in the community is not material to the transaction, and the seller, lessor or landlord or any agent of the seller, lessor or landlord does not have a duty to disclose such a fact to a buyer, lessee or tenant or any agent of a buyer, lessee or tenant.

3. In any sale, lease or rental of real property, the fact that a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS is located near the property being sold, leased or rented is not material to the transaction.

4. A seller, lessor or landlord or any agent of the seller, lessor or landlord is not liable to the buyer, lessee or tenant in any action at law or in equity because of the failure to disclose any fact described in subsection 1, 2 or 3 that is not material to the transaction or of which the seller, lessor or landlord or agent of the seller, lessor or landlord had no actual knowledge.

5. Except as otherwise provided in an agreement between a buyer, lessee or tenant and that person's agent, an agent of the buyer, lessee or tenant is not liable to the buyer, lessee or tenant in any action at law or in equity because of the failure to disclose any fact described in subsection 1, 2 or 3 that is not material to the transaction or of which the agent of the buyer, lessee or tenant had no actual knowledge.

6. For purposes of this section, the fact that the property is or has been the site of a crime that involves the manufacturing of any material, compound, mixture or preparation which contains any quantity of methamphetamine is not material to the transaction if:

(a) All materials and substances involving methamphetamine have been removed from or remediated on the property by an entity certified or licensed to do so; or

(b) The property has been deemed safe for habitation by the board of health.

7. As used in this section:

(a) "Board of health" has the meaning ascribed to it in NRS 439.4797.

(b) "Facility for transitional living for released offenders" has the meaning ascribed to it in NRS 449.0055.

(Added to NRS by 1989, 629; A 1995, 845; 1997, 1674; 2003, 1338; 2005, 2353; 2007, 2772; 2009, 826; 2021, 3190)

CHAPTER 645 - REAL ESTATE BROKERS AND SALESPERSONS

GENERAL PROVISIONS

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<u>NRS 645.002</u>	“Advance fee” defined.
<u>NRS 645.004</u>	“Advance fee listing” defined.
<u>NRS 645.0045</u>	“Agency” defined.
<u>NRS 645.005</u>	“Brokerage agreement” defined.
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<u>NRS 645.0075</u>	“Business broker” defined.
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<u>NRS 645.013</u>	“Designated property manager” defined.
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<u>NRS 645.018</u>	“Owner-developer” defined.
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ADMINISTRATION

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<u>NRS 645.120</u>	Administrator: Qualifications; restrictions.
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<u>NRS 645.140</u>	Deposit and use of money received by Division; salary of members; per diem allowance and travel expenses of members and employees of Commission.
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<u>NRS 645.160</u>	Real Estate Commission: Quorum; effect of vacancy; act of majority.
<u>NRS 645.170</u>	Real Estate Division: Principal and branch offices.
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<u>NRS 645.230</u>	Unlawful to engage in certain conduct without license or permit or without complying with certain provisions of chapter; power of Real Estate Division to file complaint with court and assist in prosecution of violation; prosecution by district attorney or Attorney General.
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<u>NRS 645.2515</u>	Broker's price opinion: Requirements; duties of licensee; regulations.
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<u>NRS 645.355</u>	Investigation of applicant's background; fees; fingerprints.
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<u>NRS 645.358</u>	Payment of child support: Submission of certain information by applicant; grounds for denial of license; duty of Division. [Effective on the date of the repeal of 42 U.S.C. § 666, the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings and expires by limitation 2 years after that date.]
<u>NRS 645.370</u>	Issuance of license to certain organizations doing business as broker; restrictions.
<u>NRS 645.380</u>	Issuance of license as broker required for certain members and officers of certain organizations.
<u>NRS 645.385</u>	Waiver of requirements of <u>NRS 645.370</u> and <u>645.380</u> .

<u>NRS 645.387</u>	Issuance of license as broker-salesperson or salesperson to sole shareholder of corporation on behalf of corporation or to manager of limited-liability company on behalf of company; restrictions; duties; expiration.
<u>NRS 645.400</u>	Additional information concerning applicants may be required by Division; regulations concerning applications.
<u>NRS 645.410</u>	Regulations concerning fees for examination; time for payment of fees.
<u>NRS 645.420</u>	Action on application by Division; additional investigation; invalidation of license for certain errors in issuance.
<u>NRS 645.430</u>	Restrictions on reapplication after applicant denied license on ground other than failure of examination.
<u>NRS 645.440</u>	Denial of application: Notice; hearing; written decision; false statement ground for denial.
<u>NRS 645.450</u>	Time for examinations.
<u>NRS 645.460</u>	Examination: Subjects covered; acceptance of national examination.
<u>NRS 645.475</u>	Examination for license as broker may be taken before meeting requirements for experience; issuance of license as broker-salesperson upon passing examination; application and experience required for issuance of license as broker.
<u>NRS 645.490</u>	Issuance of license; duty of Real Estate Division; renewal of license.
<u>NRS 645.495</u>	Nonresident licensee required to authorize service of process upon Administrator.
<u>NRS 645.510</u>	Authority of license limited to person or place of business licensed.
<u>NRS 645.520</u>	Form and contents; limitation on association with or employment of broker-salesperson or salesperson.
<u>NRS 645.530</u>	Delivery; display; maintenance in place of business.
<u>NRS 645.550</u>	Broker required to maintain place of business; business required to be conducted from location designated in license; licensing of broker or owner-developer by county, city or town.
<u>NRS 645.560</u>	Broker: Erection, maintenance, size and placement of signs.
<u>NRS 645.570</u>	Notice of change of name, location of business or association; requirements for transfer of association; effect of failure to give notice.
<u>NRS 645.575</u>	Continuing education: Standards; renewal or reinstatement of license; regulations.
<u>NRS 645.577</u>	Placement of license on inactive status; reinstatement.
<u>NRS 645.580</u>	Termination of association or employment of broker-salesperson or salesperson; duties of broker or owner-developer and broker-salesperson or salesperson; transfer of license or new license.
<u>NRS 645.590</u>	Termination of association by broker with limited-liability company, partnership or corporation; new license.
<u>NRS 645.600</u>	Inactive status for period of military service; reinstatement.
<u>NRS 645.605</u>	Certificate authorizing out-of-state licensed broker to cooperate with broker in Nevada: Issuance; fee; regulations.
<u>NRS 645.6051</u>	Broker required to maintain record of work performed on residential property; contents of record.

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<u>NRS 645.6052</u>	Permit to engage in property management: Persons eligible; requirements; instruction; expiration; renewal; regulations.
<u>NRS 645.6054</u>	Permit to engage in property management: Requirements for certain organizations.
<u>NRS 645.6055</u>	Designated property managers: Requirements; qualifications; duties.
<u>NRS 645.6056</u>	Property management agreements: Requirements; contents.
<u>NRS 645.6058</u>	Disposition of fees, penalties and fines received by Division; delegation of authority of Division to hearing officer or panel.

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<u>NRS 645.610</u>	Investigation of actions of licensees and other persons.
<u>NRS 645.615</u>	Duty to report certain convictions and pleas to Division.
<u>NRS 645.620</u>	Maintenance by Division of record of complaints, investigations and denials of applications.
<u>NRS 645.625</u>	Certain records relating to complaint or investigation deemed confidential; certain records relating to disciplinary action deemed public records.
<u>NRS 645.630</u>	Authorized disciplinary action; grounds for disciplinary action; orders imposing discipline deemed public records.
<u>NRS 645.633</u>	Additional grounds for disciplinary action: Improper trade practices; violations of certain orders, agreements, laws and regulations; criminal offenses; other unprofessional and improper conduct; reciprocal discipline; violations relating to property management; log of complaints.
<u>NRS 645.635</u>	Additional grounds for disciplinary action: Unprofessional and improper conduct relating to real estate transactions.
<u>NRS 645.645</u>	Additional grounds for disciplinary action: Unprofessional and improper conduct relating to sale of insurance for home protection.
<u>NRS 645.647</u>	Additional grounds for disciplinary action: Failure to pay money to Commission or Division.
<u>NRS 645.648</u>	Suspension of license for failure to pay child support or comply with certain subpoenas or warrants; reinstatement of license. [Effective until 2 years after the date of the repeal of 42 U.S.C. § 666, the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.]
<u>NRS 645.660</u>	Knowledge of associate or employer of violation by licensee or employee; penalties.
<u>NRS 645.670</u>	Effect on limited-liability company, partnership or corporation of revocation or suspension of license of manager, partner or officer; termination of suspension or reinstatement of license.
<u>NRS 645.675</u>	Investigations, disciplinary or other proceedings, fines and penalties not affected by expiration, revocation or voluntary surrender of license, permit or registration.
<u>NRS 645.680</u>	Revocation, suspension or denial of renewal of license, permit or registration: Complaint; notice of hearing.

<u>NRS 645.685</u>	Revocation, suspension or denial of renewal of license, permit or registration: Answer; limitations on time of commencing proceeding.
<u>NRS 645.690</u>	Revocation, suspension or denial of renewal of license, permit or registration: Hearing; transcript.
<u>NRS 645.700</u>	Power of Commission to administer oaths, certify acts and issue subpoenas; service of process.
<u>NRS 645.710</u>	Fees and mileage for witness.
<u>NRS 645.720</u>	Enforcement of subpoenas.
<u>NRS 645.730</u>	Depositions; taking of evidence in another state; rights of party to hearing.
<u>NRS 645.740</u>	Decision of Commission: Rendition; notice; effective date; stay of decision.
<u>NRS 645.760</u>	Decision final when in favor of licensee; judicial review of decision against licensee.
<u>NRS 645.770</u>	Restrictions on issuance of new license, permit or registration after revocation.

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<u>NRS 645.830</u>	Fees; regulations.
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<u>NRS 645.841</u>	"Fund" defined.
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<u>NRS 645.843</u>	Payment of additional fee by licensee for augmentation of Fund.
<u>NRS 645.844</u>	Recovery from Fund: Procedure; grounds; amount; hearing.
<u>NRS 645.845</u>	Administrator may answer petition for recovery; effect of judgment; compromise of claim.
<u>NRS 645.846</u>	Court order requiring payment from Fund.
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<u>NRS 645.848</u>	Distribution of payment from Fund if claims exceed maximum liability of Fund; order of payment of claims if balance of Fund insufficient; interest; use of certain money deposited in Fund.
<u>NRS 645.8491</u>	Administrator subrogated to rights of judgment creditor; deposit of money recovered.
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<u>NRS 645.8494</u>	Disciplinary action against licensee not restricted.

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<u>NRS 645.863</u>	Permit to engage in business as business broker: Persons eligible; requirements; continuing education; expiration; renewal; regulations.
<u>NRS 645.865</u>	Permit to engage in business as business broker: Requirements for certain organizations.
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BROKERAGE AGREEMENTS INVOLVING COMMERCIAL REAL ESTATE

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<u>NRS 645.8701</u>	Definitions.
<u>NRS 645.8705</u>	"Brokerage agreement" defined.
<u>NRS 645.8711</u>	"Commercial real estate" defined.
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<u>NRS 645.8725</u>	"Escrow" defined.
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<u>NRS 645.8765</u>	Requirements for broker to enforce claim: Written notice to owner and escrow agent; effect of failure to provide notice; exceptions.
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<u>NRS 645.8775</u>	Duty of owner to confirm or deny claim; effect of confirming claim; effect of denying claim or failing to respond; recording of claim by broker.
<u>NRS 645.8781</u>	Duties of escrow agent upon notice of claim.
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<u>NRS 645.8795</u>	Priority of recorded claim.
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PROHIBITED ACTS; PENALTIES; ENFORCEMENT

<u>NRS 645.990</u>	Unlawful acts; penalties.
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GENERAL PROVISIONS

NRS 645.0005 Definitions. As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645.001 to 645.042, inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 1985, 1260; A 1995, 2074; 1997, 956; 2003, 931, 1290; 2005, 648, 665; 2007, 1788)

NRS 645.001 "Administrator" defined. As used in this chapter, "Administrator" means the Real Estate Administrator.
(Added to NRS by 1963, 663)

NRS 645.002 "Advance fee" defined. "Advance fee" means a fee contracted for, claimed, demanded, charged, received or collected for an advance fee listing, advertisement or offer to sell or lease property, issued for the purpose of promoting the sale or lease of a business or real estate or for referral to a business or real estate brokers or salespersons, or both, before the last printing or other last issuance thereof, other than by a newspaper of general circulation.

(Added to NRS by 1957, 210; A 1985, 1260)

NRS 645.004 "Advance fee listing" defined.

1. "Advance fee listing" includes, but is not limited to:

(a) The name or a list of the names of the owners, landlords, exchangers or lessors, or the location of property or a business, or of an interest therein, offered for rent, sale, lease or exchange.

(b) The name, or a list of the names, or the location at which prospective or potential purchasers, buyers, lessees, tenants or exchangers of property may be communicated with or found.

(c) A brokerage agreement by which a person who is engaged in the business of promoting the sale or lease of businesses or real estate agrees to render to an owner or lessee of the property any services, to promote the sale or lease of the property, for an advance fee.

(d) A brokerage agreement by which a person agrees to locate or promote the sale or lease of a business or real estate for an advance fee.

2. The term does not include publications intended for general circulation.

(Added to NRS by 1957, 210; A 1971, 681; 1979, 1534; 1985, 1260; 1987, 731; 1995, 2074)

NRS 645.0045 "Agency" defined.

1. "Agency" means a relationship between a principal and an agent arising out of a brokerage agreement whereby the agent is engaged to do certain acts on behalf of the principal in dealings with a third party.

2. The term does not include a relationship arising solely from negotiations or communications with a client of another broker with the written permission of the broker in accordance with the provisions of subsection 2 of NRS 645.635.

(Added to NRS by 2007, 1787)

NRS 645.005 "Brokerage agreement" defined. "Brokerage agreement" means an oral or written contract between a client and a broker in which the broker agrees to accept valuable consideration from the client or another person for assisting, soliciting or negotiating the sale, purchase, option, rental or lease of real property, or the sale, exchange, option or purchase of a business. The term does not include a property management agreement.

(Added to NRS by 1995, 2072; A 2003, 932; 2005, 648)

NRS 645.007 "Business" defined. "Business" means the tangible assets and goodwill of an existing enterprise.

(Added to NRS by 1985, 1260)

NRS 645.0075 “Business broker” defined. “Business broker” means a person who, while acting for another and for compensation or with the intention or expectation of receiving compensation:

1. Sells, exchanges, options, purchases, rents or leases a business that is sold, exchanged, optioned, purchased, rented or leased as part of an interest or estate in real property;
2. Negotiates or offers, attempts or agrees to negotiate the sale, exchange, option, purchase, rental or lease of a business that is or is intended to be sold, exchanged, optioned, purchased, rented or leased as part of an interest or estate in real property; or
3. Lists or solicits prospective purchasers of a business if a component of the listing or solicitation is an interest or estate in real property.

(Added to NRS by 2005, 646; A 2013, 2097)

NRS 645.009 “Client” defined. “Client” means a person who has entered into a brokerage agreement with a broker or a property management agreement with a broker.

(Added to NRS by 1995, 2072; A 2003, 932)

NRS 645.010 “Commission” defined. As used in this chapter, “Commission” means the Real Estate Commission.

[Part 6:150:1947; A 1949, 433; 1955, 131]—(NRS A 1963, 663; 1981, 1605)

NRS 645.013 “Designated property manager” defined. “Designated property manager” means a person who has the qualifications required by NRS 645.6055 to be a designated property manager and who is appointed as the designated property manager for an office pursuant to NRS 645.6055.

(Added to NRS by 2003, 1287)

NRS 645.015 “Director” defined. As used in this chapter, “Director” means the Director of the Department of Business and Industry.

(Added to NRS by 1963, 663; A 1993, 1891)

NRS 645.018 “Owner-developer” defined. As used in this chapter, “owner-developer” means a person who owns five or more lots within a recorded subdivision, shown on an approved parcel map, or the parceling of which has been approved by the county, on each of which there is a single-family residence not previously sold.

(Added to NRS by 1975, 1639; A 1979, 1535)

NRS 645.019 “Property management” defined. “Property management” means the physical, administrative or financial maintenance and management of real property, or the supervision of such activities for a fee, commission or other compensation or valuable consideration, pursuant to a property management agreement.

(Added to NRS by 1997, 954; A 2003, 932)

NRS 645.0192 “Property management agreement” defined. “Property management agreement” means a written contract between a client and a broker in which the broker agrees to accept valuable consideration from the client or another person for providing property management for the client.

(Added to NRS by 2003, 931)

NRS 645.0195 “Property manager” defined. “Property manager” means a person engaged in property management who, as an employee or independent contractor, is associated with a licensed real estate broker, whether or not for compensation.

(Added to NRS by 1997, 954)

NRS 645.020 “Real estate” defined. As used in this chapter, “real estate” means every interest or estate in real property including but not limited to freeholds, leaseholds and interests in condominiums, town houses or planned unit developments, whether corporeal or incorporeal, and whether the real property is situated in this State or elsewhere.

[Part 2:150:1947; 1943 NCL § 6396.02]—(NRS A 1973, 1097; 1975, 1541)

NRS 645.030 “Real estate broker” defined.

1. “Real estate broker” means a person who, for another and for compensation or with the intention or expectation of receiving compensation:

(a) Sells, exchanges, options, purchases, rents or leases, or negotiates or offers, attempts or agrees to negotiate the sale, exchange, option, purchase, rental or lease of, or lists or solicits prospective purchasers, lessees or renters of, any real estate or the improvements thereon or any modular homes, used manufactured homes, used mobile homes or other housing offered or conveyed with any interest in real estate;

(b) Engages in or offers to engage in the business of claiming, demanding, charging, receiving, collecting or contracting for the collection of an advance fee in connection with any employment undertaken to promote the sale or lease of business opportunities or real estate by advance fee listing advertising or other offerings to sell, lease, exchange or rent property;

(c) Engages in or offers to engage in the business of property management; or

(d) Engages in or offers to engage in the business of business brokerage.

2. Any person who, for another and for compensation, aids, assists, solicits or negotiates the procurement, sale, purchase, rental or lease of public lands is a real estate broker within the meaning of this chapter.

3. The term does not include a person who is employed by a licensed real estate broker to accept reservations on behalf of a person engaged in the business of the rental of lodging for 31 days or less, if the employee does not perform any tasks related to the sale or other transfer of an interest in real estate.

[Part 2:150:1947; 1943 NCL § 6396.02] + [2.5:150:1947; added 1955, 615]—(NRS A 1957, 337; 1959, 393; 1963, 330; 1973, 1097; 1975, 1383; 1977, 928; 1979, 1535; 1981, 1327; 1985, 312, 1261; 1997, 505, 956; 2005, 648, 665)

NRS 645.035 “Real estate broker-salesperson” defined.

1. Within the meaning of this chapter, a “real estate broker-salesperson” is any person who holds a real estate broker’s license, or who has passed the real estate broker’s examination, but who, as an employee or as an independent contractor, for compensation or otherwise, is associated with:

(a) A licensed real estate broker in the capacity of a salesperson, to do or to deal in any act, acts or transactions included within the definition of a real estate broker in NRS 645.030; or

(b) A registered owner-developer in the capacity of a sales manager in accordance with NRS 645.283 and 645.289.

2. In this chapter, the term “real estate salesperson” includes “real estate broker-salesperson” when applicable.

(Added to NRS by 1957, 337; A 1975, 793, 1541; 1977, 928; 1981, 1605; 1985, 312; 2005, 1286)

NRS 645.037 “Real Estate Division” and “Division” defined. As used in this chapter, “Real Estate Division” and “Division” mean the Real Estate Division of the Department of Business and Industry.

(Added to NRS by 1963, 663; A 1973, 1098; 1993, 1891)

NRS 645.040 “Real estate salesperson” defined. Within the meaning of this chapter, a “real estate salesperson” is any person who, as an employee or as an independent contractor, is associated with a licensed real estate broker or registered owner-developer to do or to deal in any act, acts or transactions set out or comprehended by the definition of a real estate broker in NRS 645.030, for a compensation or otherwise.

[3:150:1947; 1943 NCL § 6396.03]—(NRS A 1971, 1410; 1973, 1763; 1975, 1541, 1639; 1977, 929; 1985, 313)

NRS 645.042 “Used manufactured home” or “used mobile home” defined. “Used manufactured home” or “used mobile home” means a manufactured home or mobile home, respectively, which has been:

1. Sold, rented or leased, and which was occupied before or after the sale, rental or lease; or

2. Registered with or been the subject of a certificate of title issued by the appropriate agency of authority of this State, any other state, the District of Columbia, any territory or possession of the United States, or any foreign state, province or country.

(Added to NRS by 2005, 664)

NRS 645.044 Use of terms “salesman,” “saleswoman” and “salesperson” authorized.

1. A person licensed as a real estate salesperson may use the term “real estate salesman,” “real estate saleswoman” or “real estate salesperson” in the course of doing business.

2. A person licensed as a real estate broker-salesperson may use the term “real estate broker-salesman,” “real estate broker-saleswoman” or “real estate broker-salesperson” in the course of doing business.

(Added to NRS by 1999, 92)

NRS 645.045 Applicability of chapter.

1. The provisions of this chapter do not apply to, and the terms “real estate broker” and “real estate salesperson” do not include, any:

(a) Owner or lessor of property, or any regular employee of such a person, who performs any of the acts mentioned in NRS 645.030, 645.040, 645.230 and 645.260, with respect to the property in the regular course of or as an incident to the management of or investment in the property. For the purposes of this subsection, “management” means activities which tend to preserve or increase the income from the property by preserving the physical desirability of the property or maintaining high standards of service to tenants. The term does not include sales activities.

(b) Employee of a real estate broker while engaged in the collection of rent for or on behalf of the broker.

(c) Person while performing the duties of a property manager for a property, if the person maintains an office on the property and does not engage in property management with regard to any other property.

(d) Person while performing the duties of a property manager for a common-interest community governed by the provisions of chapter 116 of NRS, an association of a condominium hotel governed by the provisions of chapter 116B of NRS, a condominium project governed by the provisions of chapter 117 of NRS, a time share governed by the provisions of chapter 119A of NRS, or a planned unit development governed by the provisions of chapter 278A of NRS, if the person is a member in good standing of, and, if applicable, holds a current certificate, registration or other similar form of recognition from, a nationally recognized organization or association for persons managing such properties that has been approved by the Real Estate Division by regulation.

(e) Person while performing the duties of a property manager for property used for residential housing that is subsidized either directly or indirectly by this State, an agency or political subdivision of this State, or the Federal Government or an agency of the Federal Government.

2. The provisions of this chapter do not apply to:

(a) Any bank, thrift company, credit union, trust company, savings and loan association or savings bank or any mortgage or farm loan association licensed under the laws of this State or of the United States, with reference to property it has acquired for development, for the convenient transaction of its business, or as a result of foreclosure of property encumbered in good faith as security for a loan or other obligation it has originated or holds.

(b) A corporation which, through its regular officers who receive no special compensation for it, performs any of those acts with reference to the property of the corporation.

(c) The services rendered by an attorney at law in the performance of his or her duties as an attorney at law.

(d) A receiver, trustee in bankruptcy, administrator or executor, or any other person doing any of the acts specified in NRS 645.030 under the jurisdiction of any court.

(e) A trustee acting under a trust agreement, deed of trust or will, or the regular salaried employees thereof.

(f) The purchase, sale or locating of mining claims or options thereon or interests therein.

(g) The State of Nevada or a political subdivision thereof.

[5:150:1947; A 1955, 457](NRS A 1973, 1100; 1979, 1538; 1981, 1328; 1983, 151; 1985, 1262, 1507; 1987, 517; 1993, 2021; 1997, 957; 1999, 938; 2007, 2292, 3114; 2009, 35)—(Substituted in revision for NRS 645.240)

ADMINISTRATION

NRS 645.045 Administration by Real Estate Division. The provisions of this chapter shall be administered by the Real Estate Division, subject to administrative supervision by the Director.

(Added to NRS by 1963, 663)

NRS 645.050 Real Estate Commission: Creation; number and appointment of members; powers and duties; regulations; service of process.

1. The Real Estate Commission is hereby created. The Commission consists of five members appointed by the Governor.

2. The Commission shall act in an advisory capacity to the Real Estate Division, adopt regulations and conduct hearings as provided in this chapter. The Commission shall adopt regulations establishing standards for the operation of licensees' offices and for their business conduct and ethics.

3. The Commission may by regulation delegate any authority conferred upon it by this chapter to the Administrator to be exercised pursuant to the regulations of the Commission.

4. Service of process and other communications upon the Commission may be made at the principal office of the Real Estate Division.

[Part 6:150:1947; A 1949, 433; 1955, 131](NRS A 1963, 663; 1973, 1098; 1979, 1536; 1981, 1605)

NRS 645.060 Real Estate Commission: Limitation on consecutive service by member. Members are eligible for reappointment, but shall not serve for a period greater than 6 years consecutively, after which time they are not eligible for appointment or reappointment until 3 years have elapsed from any period of previous service. If a successor is appointed to fill the balance of any unexpired term of a member, the time served by the successor shall not apply in computing the 6 years' consecutive service unless the balance of the unexpired term exceeds 18 months.

[Part 6:150:1947; A 1949, 433; 1955, 131](NRS A 1977, 1259)

NRS 645.070 Real Estate Commission: Oaths of members. Each member of the Commission shall, before entering upon the duties of his or her office:

1. Take the constitutional oath of office; and

2. In addition, make oath that the member is legally qualified under the provisions of this chapter to serve as a member of the Commission.

[Part 6:150:1947; A 1949, 433; 1955, 131]

NRS 645.090 Real Estate Commission: Qualifications of members. Each member of the Commission must:

1. Be a citizen of the United States.

2. Have been a resident of the State of Nevada for not less than 5 years.

3. Have been actively engaged in business as:

(a) A real estate broker within the State of Nevada for at least 3 years immediately preceding the date of appointment; or

(b) A real estate broker-salesperson within the State of Nevada for at least 5 years immediately preceding the date of appointment.

[Part 6:150:1947; A 1949, 433; 1955, 131](NRS A 1981, 1605; 1987, 912)

NRS 645.100 Real Estate Commission: Residency of members.

1. Of the five members appointed to the Commission pursuant to NRS 645.050:

(a) Three members must reside in or have a principal place of business located in Clark County;

(b) One member must reside in or have a principal place of business located in Washoe County; and

(c) One member must reside in or have a principal place of business located in Carson City or Churchill, Douglas, Elko, Esmeralda, Eureka, Humboldt, Lander, Lincoln, Lyon, Mineral, Nye, Pershing, Storey or White Pine County.

2. For purposes of appointing a member or filling a vacancy in the membership of the Commission, if no qualified person is willing to serve on the Commission from the region prescribed in

(a) Paragraph (a) of subsection 1, the Governor must appoint a qualified person who is willing to serve on the Commission from the region prescribed in paragraph (c) of subsection 1 or, if there is no such person, a qualified person who is willing to serve on the Commission from the region prescribed in paragraph (b) of subsection 1.

(b) Paragraph (b) of subsection 1, the Governor must appoint a qualified person who is willing to serve on the Commission from the region prescribed in paragraph (a) of subsection 1 or, if there is no such person, a qualified person who is willing to serve on the Commission from the region prescribed in paragraph (c) of subsection 1.

(c) Paragraph (c) of subsection 1, the Governor must appoint a qualified person who is willing to serve on the Commission from the region prescribed in paragraph (b) of subsection 1 or, if there is no such person, a qualified person who is willing to serve on the Commission from the region prescribed in paragraph (a) of subsection 1.

↪ If there is no qualified person willing to be appointed or to fill a vacancy on the Commission from any region, the seat must be left vacant.

3. At the expiration of the term of a member who is appointed from outside a prescribed region pursuant to paragraph (a), (b) or (c) of subsection 2 or if that member vacates the seat, the Governor must appoint a qualified person from the prescribed region or, if no qualified person is willing to serve on the Commission from that region, appoint a qualified person pursuant to paragraph (a), (b) or (c) of subsection 2, as applicable.

4. The apportionment of members pursuant to subsection 1 is intended to give approximately proportional regional representation on the Commission to the residents of this State. In each regular legislative session following the completion of a decennial census conducted by the Bureau of the Census of the United States Department of Commerce, the apportionment of members on the Commission must be reconsidered to ensure approximately proportional regional representation is maintained. Any reapportionment of a seat pursuant to this subsection does not become effective until the expiration of the term of the member who holds the seat immediately preceding the date of the reapportionment.

[Part 6:150:1947; A 1949, 433; 1955, 131](NRS A 1959, 393; 1969, 343, 893; 1981, 1328; 2015, 2684)

NRS 645.110 Real Estate Commission: Officers. The Commission, at the first meeting of each fiscal year, shall elect a President, a Vice President and a Secretary to serve for the ensuing year.

[Part 6:150:1947; A 1949, 433; 1955, 131](NRS A 1963, 161, 663; 1981, 1606)

NRS 645.120 Administrator: Qualifications; restrictions. The Administrator shall:

1. Possess a broad knowledge of generally accepted real estate practice and be reasonably well informed on laws governing real estate agency contracts.

2. Not be interested in any real estate firm or brokerage firm, nor shall he or she act as a broker or salesperson or agent therefor.

[Part 6:150:1947; A 1949, 433; 1955, 131](NRS A 1957, 337; 1959, 394; 1963, 664; 1967, 931; 1975, 351; 1985, 1261)

NRS 645.130 Employees, legal counsel, investigators and other professional consultants of Real Estate Division; restrictions.

1. The Real Estate Division may employ:

(a) Legal counsel, investigators and other professional consultants without regard to the provisions of chapter 284 of NRS.

(b) Such other employees as are necessary to the discharge of its duties.

2. No employee of the Real Estate Division may be interested in any real estate firm or brokerage firm, nor may any employee act as a broker or salesperson or agent therefor.

[Part 6:150:1947; A 1949, 433; 1955, 131](NRS A 1963, 162, 664; 1967, 1503; 1971, 1442; 1981, 1285; 1985, 445, 1261)

NRS 645.140 Deposit and use of money received by Division; salary of members; per diem allowance and travel expenses of members and employees of Commission.

1. Except as otherwise provided in this section and NRS 645.142, all fees, penalties and charges received by the Division pursuant to NRS 645.410, 645.660 and 645.830 must be deposited with the State Treasurer for credit to the State General Fund.

2. The fees received by the Division:

(a) From the sale of publications must be retained by the Division to pay the costs of printing and distributing publications.

(b) For examinations must be retained by the Division to pay the costs of the administration of examinations.

↪ Any surplus of the fees retained by the Division for the administration of examinations must be deposited with the State Treasurer for credit to the State General Fund.

3. Money for the support of the Division must be provided by direct legislative appropriation, and be paid out on claims as other claims against the State are paid.

4. Each member of the Commission is entitled to receive:

(a) A salary of not more than \$150 per day, as fixed by the Commission, while engaged in the business of the Commission; and

(b) A per diem allowance and travel expenses at a rate fixed by the Commission, while engaged in the business of the Commission. The rate must not exceed the rate provided for state officers and employees generally.

5. While engaged in the business of the Commission, each employee of the Commission is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Commission. The rate must not exceed the rate provided for state officers and employees generally.

[Part 6:150:1947; A 1949, 433; 1955, 131](NRS A 1957, 547; 1960, 305; 1963, 162, 664; 1965, 1140; 1967, 931; 1973, 1098; 1975, 307; 1979, 1536; 1981, 1995; 1983, 332, 1544, 1546; 1985, 445; 1989, 1705; 1995, 161; 1997, 847; 2007, 2958; 2015, 2780; 2021, 3533)

NRS 645.142 Technology Account for Chapter 645 of NRS.

1. The Technology Account for Chapter 645 of NRS is hereby created in the State General Fund. The Administrator shall administer the Account.
2. The interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account. Any money remaining in the Account at the end of the fiscal year does not revert to the State General Fund, and the balance in the Account must be carried forward to the next fiscal year.
3. All money collected from the technology fee imposed pursuant to NRS 645.830 must be deposited in the Account and used only to acquire technology for or improve the technology used by the Division to administer the provisions of this chapter, including, without limitation, costs related to acquiring or improving technology, purchasing hardware and software, maintaining the technology and contracting for professional services related to the technology.
4. All claims against the Account must be paid as other claims against the State are paid.
(Added to NRS by 2021, 3532)

NRS 645.145 Real Estate Commission: Fiscal year. The Commission shall operate on the basis of a fiscal year commencing on July 1 and terminating on June 30.
(Added to NRS by 1963, 161)

NRS 645.150 Real Estate Commission: Meetings.

1. The Commission may hold at least two regular meetings annually, one of which must be held in the southern part of the State, and one of which must be held in the northern part of the State, at such place or places as the Commission designates for that purpose.
2. Additional meetings of the Commission may be held at the call of the President when there is sufficient business to come before the Commission to warrant such action, at any place convenient to the Commission, or upon written request of two members of the Commission. Written notice of the time, place and purpose of all meetings must be given to each member at least 3 working days before the meeting.
[Part 6:150:1947; A 1949, 433; 1955, 131](NRS A 1959, 394; 1981, 1606; 1983, 1448)

NRS 645.160 Real Estate Commission: Quorum; effect of vacancy; act of majority.

1. A majority of the Commission shall constitute a quorum for the transaction of business, for the performance of any duty, or for the exercise of any power or authority of the Commission.
2. A vacancy on the Commission shall not impair the right of the remaining members to perform all of the duties and exercise all of the power and authority of the Commission.
3. The act of the majority of the Commission when in session as a Commission shall constitute the act of the Commission.
[Part 6:150:1947; A 1949, 433; 1955, 131]

NRS 645.170 Real Estate Division: Principal and branch offices.

1. The Director shall designate the location of the principal office of the Real Estate Division. The Administrator shall conduct business primarily in the principal office of the Real Estate Division.
2. If the principal office of the Real Estate Division is located in:
 - (a) The southern district of Nevada, the Real Estate Division shall establish at least one branch office in the northern district of Nevada.
 - (b) The northern district of Nevada, the Real Estate Division shall establish at least one branch office in the southern district of Nevada.
3. The Real Estate Division may designate other convenient places within the State for the establishment of branch offices.
4. As used in this section:
 - (a) "Northern district of Nevada" means that portion of the State lying within the boundaries of Carson City and the counties of Churchill, Douglas, Elko, Eureka, Humboldt, Lander, Lyon, Mineral, Pershing, Storey, Washoe and White Pine.
 - (b) "Southern district of Nevada" means that portion of the State lying within the boundaries of the counties of Clark, Esmeralda, Lincoln and Nye.
[Part 6:150:1947; A 1949, 433; 1955, 131](NRS A 1963, 664; 1995, 993)

NRS 645.180 Real Estate Division: Seal; general provisions governing public inspection and confidentiality of records; admissibility of certified copies of records as evidence.

1. The Division shall adopt a seal by which it shall authenticate its proceedings.
2. Except as otherwise provided in NRS 645.625, records kept in the office of the Division under authority of this chapter are open to public inspection under regulations adopted by the Division, except that the Division may refuse to make public, unless ordered to do so by a court:
 - (a) Real estate brokers' and real estate salespersons' examinations; and
 - (b) The criminal and financial records of licensees, applicants for licenses and owner-developers.
3. Copies of all records and papers in the office of the Division, certified and authenticated by the seal of the Division, must be received in evidence in all courts equally and with like effect as the originals.
[Part 6:150:1947; A 1949, 433; 1955, 131](NRS A 1963, 665; 1975, 1541; 1979, 1537; 2003, 3464)

NRS 645.190 Powers of Real Estate Division; regulations of Commission or Administrator; publication of manual or guide.

1. The Division may do all things necessary and convenient for carrying into effect the provisions of this chapter.
2. The Commission or the Administrator, with the approval of the Commission, may from time to time adopt reasonable regulations for the administration of this chapter. When regulations are proposed by the Administrator, in addition to other notices required by law, the Administrator shall provide copies of the proposed regulations to the Commission no later than 30 days before the next Commission meeting. The Commission shall approve, amend or disapprove any proposed regulations at that meeting.
3. All regulations adopted by the Commission, or adopted by the Administrator with the approval of the Commission, must be published by the Division and offered for sale at a reasonable fee.
4. The Division may publish or supply a reference manual or study guide for licensees or applicants for licenses, and may offer it for sale at a reasonable fee.

[Part 6:150:1947; A 1949, 433; 1955, 131](NRS A 1963, 1073; 1973, 1099; 1975, 1542; 1977, 91; 1979, 1537)

NRS 645.191 Authority for Real Estate Division to conduct business electronically; regulations; fees; use of unsworn declaration; exclusions.

1. The Administrator may adopt regulations which establish procedures for the Division to conduct business electronically pursuant to title 59 of NRS with persons who are regulated pursuant to this chapter and with any other persons with whom the Division conducts business. The regulations may include, without limitation, the establishment of fees to pay the costs of conducting business electronically with the Division.

2. In addition to the process authorized by NRS 719.280, if the Division is conducting business electronically with a person and a law requires a signature or record to be notarized, acknowledged, verified or made under oath, the Division may allow the person to substitute a declaration that complies with the provisions of NRS 53.045 or 53.250 to 53.390, inclusive, to satisfy the legal requirement.

3. The Division may refuse to conduct business electronically with a person who has failed to pay money which the person owes to the Division or the Commission.

(Added to NRS by 2003, 1288; A 2011, 17)

NRS 645.193 Real Estate Division required to prepare and distribute forms setting forth certain duties owed by licensees. The Division shall prepare and distribute to licensees:

1. A form which sets forth the duties owed by a licensee who is acting for only one party to a real estate transaction.
2. A form which sets forth the duties owed by a licensee who is acting for more than one party to a real estate transaction.
3. A form which sets forth the duties owed by a real estate broker who assigns different licensees affiliated with his or her brokerage to separate parties to a real estate transaction.

(Added to NRS by 1995, 2073)

NRS 645.194 Real Estate Division required to prepare booklet concerning certain disclosures required in sale of residential property.

1. The Division shall prepare a booklet that provides relevant information concerning the disclosures that are required by federal, state and local laws and regulations by a buyer and a seller in a transaction involving the sale of residential property.

2. The Division shall make copies of the booklet prepared pursuant to subsection 1 available to licensees which the licensee must distribute to prospective buyers and sellers in the sale of residential property in accordance with the regulations adopted by the Commission.

3. The Commission shall approve the format and content of the information that must be included in the booklet.

4. As used in this section, "residential property" has the meaning ascribed to it in NRS 113.100.

(Added to NRS by 2005, 1285)

NRS 645.195 Inspection of records of broker and owner-developer by Real Estate Division; regulations.

1. The Division shall regularly inspect the transaction files, trust records and pertinent real estate business accounts of all real estate brokers and owner-developers to ensure compliance with the provisions of this chapter.

2. The Commission shall adopt regulations pertaining to those inspections.

(Added to NRS by 1973, 989; A 1975, 1542; 1979, 1537)

NRS 645.200 Attorney General: Opinions and action as attorney.

1. The Attorney General shall render to the Division opinions upon all questions of law relating to the construction or interpretation of this chapter, or arising in the administration thereof, that may be submitted to the Attorney General by the Division or the Commission.

2. The Attorney General shall act as the attorney for the Division in all actions and proceedings brought against or by the Division pursuant to any of the provisions of this chapter.

[7:150:1947; 1943 NCL § 6396.07](NRS A 1963, 665; 1979, 1537)

NRS 645.210 Injunctions.

1. Whenever the Real Estate Division believes from evidence satisfactory to it that any person has violated or is about to violate any of the provisions of this chapter, or any order, license, permit, demand or requirement, or any part or provision thereof, it

may bring an action, in the name of the Real Estate Division, in the district court of the State of Nevada in and for the county wherein such person resides, or, if such person resides outside the State of Nevada, in any court of competent jurisdiction within or outside the State of Nevada, against such person to enjoin such person from continuing such violation or engaging therein or doing any act or acts in furtherance thereof.

2. If this action is in a district court of the State of Nevada, an order or judgment may be entered awarding such preliminary or final injunction as may be proper, but no preliminary injunction or temporary restraining order shall be granted without at least 5 days' notice to the opposite party.

[31:150:1947; 1943 NCL § 6396.31]—(NRS A 1963, 665; 1973, 1099)

NRS 645.215 Investigation by Real Estate Division of certain transactions relating to unimproved land or subdivision; injunction for fraud, deceit or false advertising.

1. If the Real Estate Division has reason to believe that fraud, deceit or false advertising is being, has been or is to be perpetrated in connection with the proposed or completed sale, purchase, rental, lease or exchange of any vacant or unimproved land or subdivision outside the corporate limits of any city, it may investigate the circumstances of such sale, purchase, rental, lease or exchange.

2. If such investigation reveals any evidence of fraud, deceit or false advertising which has influenced or induced or may influence or induce the sale, purchase, rental, lease or exchange, the Real Estate Division shall advise the Attorney General or the district attorney of the county in which the land or subdivision is located. The district attorney or, upon the request of the Administrator, the Attorney General shall cause appropriate legal action to be taken to enjoin any further sale, purchase, rental, lease or exchange until the fraud, deceit or false advertising is eliminated and restitution has been made for any loss.

3. Nothing in this section shall prevent prosecution of any person in a criminal action under the provisions of any other law.

(Added to NRS by 1961, 75; A 1963, 666; 1973, 1099)

REGULATION OF PRACTICES

NRS 645.230 Unlawful to engage in certain conduct without license or permit or without complying with certain provisions of chapter; power of Real Estate Division to file complaint with court and assist in prosecution of violation; prosecution by district attorney or Attorney General.

1. It is unlawful for any person, limited-liability company, partnership, association or corporation to engage in the business of, act in the capacity of, advertise or assume to act as, a:

(a) Real estate broker, real estate broker-salesperson or real estate salesperson within the State of Nevada without first obtaining the appropriate license from the Real Estate Division as provided for in this chapter;

(b) Property manager within the State of Nevada without first obtaining from the Real Estate Division as provided for in this chapter a license as a real estate broker, real estate broker-salesperson or real estate salesperson and a permit to engage in property management;

(c) Designated property manager within the State of Nevada without complying with the provisions of NRS 645.6055;

(d) Business broker within the State of Nevada without first obtaining from the Real Estate Division as provided for in this chapter a license as a real estate broker, real estate broker-salesperson or real estate salesperson and a permit to engage in business as a business broker issued pursuant to the provisions of NRS 645.863; or

(e) Designated business broker within the State of Nevada without complying with the provisions of NRS 645.867.

2. The Real Estate Division may prefer a complaint for a violation of this section before any court of competent jurisdiction and may assist in presenting the law or facts upon any trial for a violation of this section.

3. The district attorney of each county shall prosecute all violations of this section in their respective counties in which violations occur, unless prosecuted by the Attorney General. Upon the request of the Administrator, the Attorney General shall prosecute any violation of this section in lieu of the district attorney.

[1:150:1947; 1943 NCL § 6396.01]—(NRS A 1963, 666; 1973, 1100; 1981, 514; 1985, 1262; 1997, 166, 957; 2003, 1290; 2005, 649)

NRS 645.235 Administrative fine for engaging in certain conduct without license, permit, certificate, registration or authorization; procedure for imposition of fine; judicial review; exceptions.

1. In addition to any other remedy or penalty, the Commission may impose an administrative fine against any person who knowingly:

(a) Engages or offers to engage in any activity for which a license, permit, certificate or registration or any type of authorization is required pursuant to this chapter, or any regulation adopted pursuant thereto, if the person does not hold the required license, permit, certificate or registration or has not been given the required authorization; or

(b) Assists or offers to assist another person to commit a violation described in paragraph (a).

2. If the Commission imposes an administrative fine against a person pursuant to this section, the amount of the administrative fine may not exceed the amount of any gain or economic benefit that the person derived from the violation or \$5,000, whichever amount is greater.

3. In determining the appropriate amount of the administrative fine, the Commission shall consider:

(a) The severity of the violation and the degree of any harm that the violation caused to other persons;

(b) The nature and amount of any gain or economic benefit that the person derived from the violation;

(c) The person's history or record of other violations; and

(d) Any other facts or circumstances that the Commission deems to be relevant.

4. Before the Commission may impose the administrative fine, the Commission must provide the person with notice and an opportunity to be heard.

5. The person is entitled to judicial review of the decision of the Commission in the manner provided by chapter 233B of NRS.

6. The provisions of this section do not apply to a person who engages or offers to engage in activities within the purview of this chapter if:

(a) A specific statute exempts the person from complying with the provisions of this chapter with regard to those activities; and

(b) The person is acting in accordance with the exemption while engaging or offering to engage in those activities.

(Added to NRS by 2003, 1289)

NRS 645.250 Power of cities and towns to license and regulate brokers and salespersons not affected. Nothing contained in this chapter shall affect the power of cities and towns to tax, license and regulate real estate brokers or real estate salespersons. The requirements of this chapter shall be in addition to the requirements of any existing or future ordinance of any city or town so taxing, licensing or regulating real estate brokers or real estate salespersons.

[32:150:1947; 1943 NCL § 6396.32]

NRS 645.251 Licensee not required to comply with certain principles of common law. A licensee is not required to comply with any principles of common law that may otherwise apply to any of the duties of the licensee as set forth in NRS 645.252, 645.253 and 645.254 and the regulations adopted to carry out those sections.

(Added to NRS by 1995, 2072)

NRS 645.2515 Broker's price opinion: Requirements; duties of licensee; regulations.

1. A person licensed pursuant to this chapter may prepare and provide a broker's price opinion and charge and collect a fee therefor if:

(a) The license of that licensee is active and in good standing; and

(b) The broker's price opinion meets the requirements of subsection 3.

2. A person licensed pursuant to this chapter may prepare a broker's price opinion for:

(a) An existing or potential seller for the purposes of listing and selling a parcel of real property;

(b) An existing or potential buyer of a parcel of real property;

(c) A third party making decisions or performing due diligence related to the potential listing, offering, sale, exchange, option, lease or acquisition price of a parcel of real property; or

(d) An existing or potential lienholder, except that a broker's price opinion prepared for an existing or potential lienholder may not be used in lieu of an appraisal for the purpose of determining whether to approve a mortgage loan.

3. A broker's price opinion must include, without limitation:

(a) A statement of the intended purpose of the broker's price opinion;

(b) A brief description of the real property and the interest in the real property for which the broker's price opinion is being prepared;

(c) The basis used to determine the broker's price opinion, including, without limitation, any applicable market data and the computation of capitalization;

(d) Any assumptions or limiting conditions used to determine the broker's price opinion;

(e) The date of issuance of the broker's price opinion;

(f) A disclosure of any existing or contemplated interest of every licensee who prepares or provides the broker's price opinion, including, without limitation, the possibility of a licensee representing the seller or purchaser;

(g) The license number, name and signature of every licensee who prepares or provides the broker's price opinion;

(h) If a licensee who prepares or provides the broker's price opinion is a real estate salesperson or a real estate broker-salesperson, the name of the real estate broker with whom the licensee is associated; and

(i) In at least 14-point bold type, the following disclaimer:

Notwithstanding any preprinted language to the contrary, this opinion is not an appraisal of the market value of the property. If an appraisal is desired, the services of a licensed or certified appraiser must be obtained.

4. If a broker's price opinion is submitted electronically or on a form supplied by the requesting party:

(a) A signature required by paragraph (g) of subsection 3 may be an electronic signature, as defined by NRS 719.100.

(b) A signature required by paragraph (g) of subsection 3 and the disclaimer required by paragraph (i) of subsection 3 may be transmitted in a separate attachment if the electronic format or form supplied by the requesting party does not allow additional comments to be written by the licensee. The electronic format or the form supplied by the requesting party must:

(1) Reference the existence of a separate attachment; and

(2) Include a statement that the broker's price opinion is not complete without the attachment.

5. A broker's price opinion that is submitted electronically is subject to any regulations relating to recordkeeping as adopted pursuant to this chapter.

6. A broker is responsible for all activities of a licensee who is associated with the broker and with the preparation of a broker's price opinion.

7. The Commission may adopt regulations prescribing the manner in which a broker's price opinion must be prepared in accordance with the provisions of this section.

8. As used in this section, "broker's price opinion" means a written analysis, opinion or conclusion that a person licensed pursuant to this chapter prepares for a person described in subsection 2 relating to the estimated price for a specified parcel of real property.

(Added to NRS by 2009, 1936)

NRS 645.252 Duties of licensee acting as agent in real estate transaction. A licensee who acts as an agent in a real estate transaction:

1. Shall disclose to each party to the real estate transaction as soon as is practicable:

(a) Any material and relevant facts, data or information which the licensee knows, or which by the exercise of reasonable care and diligence should have known, relating to the property which is the subject of the transaction.

(b) Each source from which the licensee will receive compensation as a result of the transaction.

(c) That the licensee is a principal to the transaction or has an interest in a principal to the transaction.

(d) Except as otherwise provided in NRS 645.253, that the licensee is acting for more than one party to the transaction. If a licensee makes such a disclosure, he or she must obtain the written consent of each party to the transaction for whom the licensee is acting before he or she may continue to act in his or her capacity as an agent. The written consent must include:

(1) A description of the real estate transaction.

(2) A statement that the licensee is acting for two or more parties to the transaction who have adverse interests and that in acting for these parties, the licensee has a conflict of interest.

(3) A statement that the licensee will not disclose any confidential information for 1 year after the revocation or termination of any brokerage agreement entered into with a party to the transaction, unless he or she is required to do so by a court of competent jurisdiction or is given written permission to do so by that party.

(4) A statement that a party is not required to consent to the licensee acting on behalf of the party.

(5) A statement that the party is giving consent without coercion and understands the terms of the consent given.

(e) Any changes in the licensee's relationship to a party to the transaction.

2. Shall exercise reasonable skill and care with respect to all parties to the real estate transaction.

3. Shall provide the appropriate form prepared by the Division pursuant to NRS 645.193 to:

(a) Each party for whom the licensee is acting as an agent in the real estate transaction; and

(b) Each unrepresented party to the real estate transaction, if any.

4. Unless otherwise agreed upon in writing, owes no duty to:

(a) Independently verify the accuracy of a statement made by an inspector certified pursuant to chapter 645D of NRS or another appropriate licensed or certified expert.

(b) Conduct an independent inspection of the financial condition of a party to the real estate transaction.

(c) Conduct an investigation of the condition of the property which is the subject of the real estate transaction.

(Added to NRS by 1995, 2072; A 2001, 2892; 2005, 649; 2007, 1788)

NRS 645.253 Licensees affiliated with same brokerage: Additional duties when assigned to separate parties to real estate transaction. If a real estate broker assigns different licensees affiliated with his or her brokerage to separate parties to a real estate transaction, the licensees are not required to obtain the written consent required pursuant to paragraph (d) of subsection 1 of NRS 645.252. Each licensee shall not disclose, except to the real estate broker, confidential information relating to a client in violation of NRS 645.254.

(Added to NRS by 1995, 2073)

NRS 645.254 Additional duties of licensee entering into brokerage agreement to represent client in real estate transaction. A licensee who has entered into a brokerage agreement to represent a client in a real estate transaction:

1. Shall exercise reasonable skill and care to carry out the terms of the brokerage agreement and to carry out his or her duties pursuant to the terms of the brokerage agreement;

2. Shall not disclose confidential information relating to a client for 1 year after the revocation or termination of the brokerage agreement, unless he or she is required to do so pursuant to an order of a court of competent jurisdiction or is given written permission to do so by the client;

3. Shall seek a sale, purchase, option, rental or lease of real property at the price and terms stated in the brokerage agreement or at a price acceptable to the client;

4. Shall present all offers made to or by the client as soon as is practicable, unless the client chooses to waive the duty of the licensee to present all offers and signs a waiver of the duty on a form prescribed by the Division;

5. Shall disclose to the client material facts of which the licensee has knowledge concerning the transaction;

6. Shall advise the client to obtain advice from an expert relating to matters which are beyond the expertise of the licensee; and

7. Shall account for all money and property the licensee receives in which the client may have an interest as soon as is practicable.

(Added to NRS by 1995, 2073; A 2007, 1788)

NRS 645.255 Waiver of duties of licensee prohibited. Except as otherwise provided in subsection 4 of NRS 645.254, no duty of a licensee set forth in NRS 645.252 or 645.254 may be v-201-

(Added to NRS by 2007, 1787)

NRS 645.256 Broker who provides asset management services to client required to provide Real Estate Division with certain information annually; disciplinary action by Division.

1. A broker who enters into an agreement to provide asset management services to a client shall:
 - (a) Disclose annually to the Division any such agreements to provide asset management services to a client; and
 - (b) Provide proof satisfactory to the Division on an annual basis that the broker has complied with the requirements of NRS 645H.490.
 2. In addition to any other remedy or penalty, the Division may take administrative action, including, without limitation, the suspension of a license or permit or the imposition of an administrative fine, against a broker who fails to comply with this section.
 3. As used in this section:
 - (a) "Asset management" has the meaning ascribed to it in NRS 645H.030.
 - (b) "Client" has the meaning ascribed to it in NRS 645H.060.
- (Added to NRS by 2011, 2831)

NRS 645.257 Action to recover damages suffered as result of licensee's failure to perform certain duties; standard of care.

1. A person who has suffered damages as the proximate result of a licensee's failure to perform any duties required by NRS 645.252, 645.253 or 645.254 or the regulations adopted to carry out those sections may bring an action against the licensee for the recovery of the person's actual damages.
 2. In such an action, any knowledge of the client of the licensee of material facts, data or information relating to the real property which is the subject of the real estate transaction may not be imputed to the licensee.
 3. In an action brought by a person against a licensee pursuant to subsection 1, the standard of care owed by a licensee is the degree of care that a reasonably prudent real estate licensee would exercise and is measured by the degree of knowledge required to be obtained by a real estate licensee pursuant to NRS 645.343 and 645.345.
- (Added to NRS by 1995, 2073; A 2001, 2893)

NRS 645.258 Duties concerning transaction involving used manufactured home or used mobile home.

1. In any transaction involving a used manufactured home or used mobile home that has not been converted to real property pursuant to NRS 361.244, a licensee shall provide to the purchaser, on a form prepared by the Real Estate Division, the following disclosures:
 - (a) The year, serial number and manufacturer of the used manufactured home or used mobile home;
 - (b) A statement that the used manufactured home or used mobile home is personal property subject to personal property taxes;
 - (c) A statement of the requirements of NRS 489.521 and 489.531; and
 - (d) Such other disclosures as may be required by the Real Estate Division.
 2. The disclosures required pursuant to subsection 1 do not constitute a warranty as to the title or condition of the used manufactured home or used mobile home.
 3. A real estate broker who represents a client in such a transaction shall take such actions as necessary to ensure that the client complies with the requirements of NRS 489.521 and 489.531.
- (Added to NRS by 2005, 665)

NRS 645.259 Liability of licensee for misrepresentation made by client; failure of seller to make required disclosures is public record. A licensee may not be held liable for:

1. A misrepresentation made by his or her client unless the licensee:
 - (a) Knew the client made the misrepresentation; and
 - (b) Failed to inform the person to whom the client made the misrepresentation that the statement was false.
 2. Except as otherwise provided in this subsection, the failure of the seller to make the disclosures required by NRS 113.130 and 113.135 if the information that would have been disclosed pursuant to NRS 113.130 and 113.135 is a public record which is readily available to the client. Notwithstanding the provisions of this subsection, a licensee is not relieved of the duties imposed by paragraph (a) of subsection 1 of NRS 645.252.
- (Added to NRS by 1995, 2074; A 2001, 2893)

NRS 645.260 One act constitutes action in capacity of broker or salesperson. Any person, limited-liability company, partnership, association or corporation who, for another, in consideration of compensation by fee, commission, salary or otherwise, or with the intention or expectation of receiving compensation, does, offers or attempts or agrees to do, engages in, or offers or attempts or agrees to engage in, either directly or indirectly, any single act or transaction contained in the definition of a real estate broker in NRS 645.030, whether the act is an incidental part of a transaction, or the entire transaction, is acting in the capacity of a real estate broker or real estate salesperson within the meaning of this chapter.

[4:150:1947; 1943 NCL § 6396.04]—(NRS A 1985, 1263; 1997, 166)

NRS 645.270 Allegation and proof of licensed status in action for compensation. A person, limited-liability company, partnership, association or corporation engaged in the business or acting in the capacity of a real estate broker or a real estate salesperson within this State may not commence or maintain an action in the courts of this State for the collection of compensation

for the performance of any of the acts mentioned in NRS 645.030 without alleging and proving that the person, limited-liability company, partnership, association or corporation was a licensed real estate broker or real estate salesperson at the time the alleged cause of action arose.

[30:150:1947; 1943 NCL § 6396.30]—(NRS A 1985, 1263; 1997, 166)

NRS 645.280 Association with or compensation of unlicensed broker, broker-salesperson or salesperson unlawful; payment of commission other than through broker or owner-developer unlawful.

1. It is unlawful for any licensed real estate broker, or broker-salesperson or salesperson to offer, promise, allow, give or pay, directly or indirectly, any part or share of his or her commission, compensation or finder's fee arising or accruing from any real estate transaction to any person who is not a licensed real estate broker, broker-salesperson or salesperson, in consideration of services performed or to be performed by the unlicensed person. A licensed real estate broker may pay a commission to a licensed broker of another state.

2. A real estate broker-salesperson or salesperson shall not be associated with or accept compensation from any person other than the broker or owner-developer under whom he or she is licensed at the time of the real estate transaction.

3. It is unlawful for any licensed real estate broker-salesperson or salesperson to pay a commission to any person except through the broker or owner-developer under whom he or she is licensed at the time of the real estate transaction.

[26:150:1947; 1943 NCL § 6396.26]—(NRS A 1959, 394; 1975, 1542; 1979, 1538; 1985, 1263; 2005, 1286)

NRS 645.283 Owner-developers: Employment of licensed salespersons; association with qualified sales manager; registration.

1. Except as otherwise provided in subsection 2, an owner-developer who is registered with the Real Estate Division may employ one or more licensed real estate salespersons to sell any single-family residence, owned by the owner-developer and not previously sold, which is within the area covered by his or her current registration.

2. An owner-developer may not employ a licensed real estate salesperson pursuant to subsection 1 unless a licensed real estate broker-salesperson who is qualified pursuant to NRS 645.289 is associated with the owner-developer as a sales manager to oversee the activities of the real estate salesperson.

3. The area covered by an owner-developer's registration may be enlarged from time to time upon application and payment of the required fee.

4. Registration may be kept in force by annual renewal.

(Added to NRS by 1975, 1639; A 2005, 1287)

NRS 645.285 Owner-developers: Form and contents of application for registration.

1. Application for original registration as an owner-developer shall be made on a form provided by the Division, and shall set forth:

(a) The limits of the area within which the applicant owns the residences proposed to be sold;

(b) The location of the applicant's principal place of business; and

(c) Any further information required by regulations of the Commission.

2. An application to enlarge the area covered by a registration shall set forth the limits of the area to be added.

(Added to NRS by 1975, 1639)

NRS 645.287 Owner-developers: Regulations concerning qualifications; principal place of business and records.

1. Regulations adopted by the Real Estate Commission shall not establish any educational qualification or require any examination of an owner-developer, but shall provide appropriate standards of good moral character and financial stability.

2. Each owner-developer shall maintain a principal place of business and keep there the records concerning salespersons employed by the owner-developer.

(Added to NRS by 1975, 1639)

NRS 645.289 Owner-developers: Qualifications and duties of person who acts as sales manager.

1. To qualify as a sales manager for the purposes of NRS 645.283, a licensed real estate broker-salesperson must have at least 2 years of experience during the immediately preceding 4 years as a real estate broker-salesperson or salesperson licensed in this State or any other state or territory of the United States, or the District of Columbia.

2. A real estate broker-salesperson shall:

(a) Before becoming associated with an owner-developer as a sales manager, notify the Division on a form prescribed by the Division that he or she will be acting in that capacity; and

(b) Upon the termination of his or her association with an owner-developer as a sales manager, notify the Division of that fact.

(Added to NRS by 2005, 1286)

NRS 645.300 Delivery of copy of written brokerage agreement; receipt. When a licensee prepares or has prepared a written brokerage agreement authorizing or employing the licensee to purchase or sell real estate for compensation or commission, the licensee shall deliver a copy of the written brokerage agreement to the client signing it at the time the signature is obtained, if possible, or otherwise within a reasonable time thereafter. Receipt for the copy may be made on the face of the written brokerage agreement.

[28:150:1947; 1943 NCL § 6396.28]—(NRS A 1979, 1539; 1995, 2074)

NRS 645.310 Deposits and trust accounts: Accounting; commingling; records; inspection and audit.

1. All deposits accepted by every real estate broker or person registered as an owner-developer pursuant to this chapter, which are retained by him or her pending consummation or termination of the transaction involved, must be accounted for in the full amount at the time of the consummation or termination.

2. Every real estate salesperson or broker-salesperson who receives any money on behalf of a broker or owner-developer shall pay over the money promptly to the real estate broker or owner-developer.

3. A real estate broker shall not commingle the money or other property of a client with his or her own.

4. If a real estate broker receives money, as a broker, which belongs to others, the real estate broker shall promptly deposit the money in a separate checking account located in a bank or credit union in this State which must be designated a trust account. All down payments, earnest money deposits, rents, or other money which the real estate broker receives, on behalf of a client or any other person, must be deposited in the account unless all persons who have any interest in the money have agreed otherwise in writing. A real estate broker may pay to any seller or the seller's authorized agent the whole or any portion of such special deposit. The real estate broker is personally responsible and liable for such deposit at all times. A real estate broker shall not permit any advance payment of money belonging to others to be deposited in the real estate broker's business or personal account or to be commingled with any money he or she may have on deposit.

5. Every real estate broker required to maintain a separate trust account shall keep records of all money deposited therein. The records must clearly indicate the date and from whom the real estate broker received money, the date deposited, the dates of withdrawals, and other pertinent information concerning the transaction, and must show clearly for whose account the money is deposited and to whom the money belongs. The real estate broker shall balance each separate trust account at least monthly. The real estate broker shall provide to the Division, on a form provided by the Division, an annual accounting which shows an annual reconciliation of each separate trust account. All such records and money are subject to inspection and audit by the Division and its authorized representatives. All such separate trust accounts must designate the real estate broker as trustee and provide for withdrawal of money without previous notice.

6. Each real estate broker shall notify the Division of the names of the banks and credit unions in which the real estate broker maintains trust accounts and specify the names of the accounts on forms provided by the Division.

7. If a real estate broker who has money in a trust account dies or becomes mentally disabled, the Division, upon application to the district court, may have a trustee appointed to administer and distribute the money in the account with the approval of the court. The trustee may serve without posting a bond.

[27.5:150:1947; added 1955, 76](NRS A 1963, 1073; 1975, 1543; 1979, 1539; 1981, 1606; 1983, 152; 1995, 2074; 1997, 958; 1999, 1538)

NRS 645.313 Other financial accounts: Investigation and audit involving insolvency of broker or enforcement by Division; regulations governing scope of audit; grounds for disciplinary action.

1. The Division may investigate and audit all financial accounts related to the business of a real estate broker, regardless of whether it is a trust account, if the Division has reasonable cause to believe that the broker is using or has used the account to operate or carry on the broker's business and the Division:

(a) Has reasonable cause to believe or has received a credible complaint that the real estate broker is insolvent or is in any financial condition or has engaged in any financial practice which creates a substantial risk of insolvency; or

(b) Determines that the investigation and audit are reasonably necessary to assist the Division in administering or enforcing any other provision of this chapter or any other statute that the Division is charged with administering or enforcing.

2. The Commission shall adopt regulations prescribing the scope of an audit conducted pursuant to this section.

3. The Commission may take action pursuant to NRS 645.630 against:

(a) Any real estate broker or other licensee who knowingly fails to cooperate or comply with or knowingly impedes or interferes with any investigation or audit conducted by the Division pursuant to this section; or

(b) Any real estate broker who is insolvent or who is in any financial condition or has engaged in any financial practice which creates a substantial risk of insolvency.

4. As used in this section, "insolvent" or "insolvency" means a condition in which a real estate broker is unable to meet the liabilities of the broker's business as those liabilities become due in the regular course of the broker's business and which creates a substantial risk of harm to the public or a consumer.

(Added to NRS by 2003, 1288)

NRS 645.314 Administrator may charge broker for costs and fees of audit under certain circumstances; additional grounds for disciplinary action.

1. The Administrator may charge and collect from a real estate broker an amount equal to the amount of the actual costs and fees incurred by the Division to conduct an audit of the financial accounts of the real estate broker pursuant to this chapter or any regulations adopted pursuant thereto if:

(a) The Division makes a request during the course of the audit for the real estate broker to produce, provide access to or grant authorization to the Division to inspect or obtain any documentation related to the business of a real estate broker which the broker is required to maintain pursuant to NRS 645.310 and any regulations adopted pursuant to this chapter;

(b) The real estate broker fails to comply with the request within a reasonable time established by the Division; and

(c) The Division has reasonable cause to believe that the requested documentation will assist it in investigating whether the real estate broker has committed any act or offense that would be grounds for taking disciplinary action against the real estate broker.

2. If the Administrator charges a real estate broker for the costs and fees of an audit pursuant to subsection 1, the Administrator shall bill the real estate broker upon the completion of the audit. The costs and fees must be paid within 90 days after the date the real estate broker receives the bill. Except as otherwise provided in this subsection, any payment received after the due date must include a penalty in the amount of 10 percent of the amount specified in the bill plus an additional penalty in the amount of 1 percent of the amount for each month, or portion of a month, that the bill is not paid. The Administrator may waive the penalty for good cause.

3. The failure of a real estate broker to pay any costs and fees as required by this section constitutes grounds for disciplinary action against the real estate broker.

4. Money received by the Division pursuant to this section must be:

(a) Deposited with the State Treasurer for credit to the appropriate account of the Division.

(b) Used by the Division only to offset the fees and costs incurred by the Division in carrying out the provisions of NRS 645.313.

(Added to NRS by 2005, 1285)

NRS 645.315 Conditions and limitations on certain advertisements; required disclosures; prohibited acts; regulations.

1. In any advertisement through which a licensee offers to perform services for which a license is required pursuant to this chapter, the licensee shall include his or her license number and:

(a) If the licensee is a real estate broker, disclose the name of any brokerage under which the licensee does business; or

(b) If the licensee is a real estate broker-salesperson or real estate salesperson, disclose the name of the brokerage with whom the licensee is associated.

2. If a licensee is a real estate broker-salesperson or real estate salesperson, the licensee shall not advertise solely under the licensee's own name when acting in the capacity as a broker-salesperson or salesperson. All such advertising must be done under the direct supervision of and in the name of the brokerage with whom the licensee is associated.

3. The Commission shall by regulation establish the conditions and limitations under which a licensee may advertise under a nickname.

(Added to NRS by 1999, 92; A 2003, 932; 2019, 2777)

NRS 645.320 Requirements for exclusive agency representation. Every brokerage agreement which includes a provision for an exclusive agency representation must:

1. Be in writing.

2. Have set forth in its terms a definite, specified and complete termination.

3. Contain no provision which requires the client who signs the brokerage agreement to notify the real estate broker of the client's intention to cancel the exclusive features of the brokerage agreement after the termination of the brokerage agreement.

4. Be signed by both the client or his or her authorized representative and the broker or his or her authorized representative in order to be enforceable.

[28.5:150:1947; added 1955, 18](NRS A 1995, 2075; 2003, 932)

NRS 645.3205 Dealing with party to real estate transaction in manner which is deceitful, fraudulent or dishonest prohibited. A licensee shall not deal with any party to a real estate transaction in a manner which is deceitful, fraudulent or dishonest.

(Added to NRS by 1995, 2074)

NRS 645.321 Discriminatory practices unlawful; penalty.

1. It is unlawful, on account of race, religious creed, color, national origin, disability, sexual orientation, gender identity or expression, ancestry, familial status or sex, to:

(a) Discriminate against any person:

(1) By denying the person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service or facility relating to the sale or rental of dwellings; or

(2) In the terms or conditions of such access, membership or participation.

(b) Discriminate against any person:

(1) By denying the person access to any opportunity to engage in a transaction regarding residential real estate; or

(2) In the terms or conditions of such a transaction.

2. Any person violating the provisions of subsection 1 shall be punished by a fine of \$500 for the first offense and for the second offense shall show cause why his or her license should not be revoked by the Commission.

3. As used in this section:

(a) "Disability" means, with respect to a person:

(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 18 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 custody of a child.

(c) "Gender identity or expression" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.

(d) "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

(Added to NRS by 1971, 733; A 1991, 1983; 1995, 1994; 2011, 872)

ADVANCE FEES

NRS 645.322 Accounting of use of advance fee charged or collected; Division may demand accounting. Any person or entity who charges or collects an advance fee shall, within 3 months after the charge or collection, furnish to his or her client an accounting of the use of that money. The Real Estate Division may also demand an accounting by such person or entity of advance fees so collected.

(Added to NRS by 1957, 211; A 1963, 667; 1995, 2075)

NRS 645.323 License required for acceptance of advance fee listing. A person shall not accept an advance fee listing unless he or she is licensed as a real estate broker, broker-salesperson or salesperson pursuant to this chapter.

(Added to NRS by 1985, 1260)

NRS 645.324 Forms of brokerage agreements; reports and forms of accounting; regulations; maintenance of agreements for review and audit; grounds for disciplinary action.

1. The Commission may require such forms of brokerage agreements which include provisions for the payment of advance fees to be used, and such reports and forms of accounting to be kept, made and submitted, and may adopt such rules and regulations as the Commission may determine to be necessary to carry out the purposes and intent of NRS 645.322.

2. A licensee shall maintain, for review and audit by the Division, each brokerage agreement that is entered into by the licensee.

3. Any violation of the rules, regulations, orders or requirements of the Commission constitutes grounds for disciplinary action against a licensee.

(Added to NRS by 1957, 211; A 1995, 2075; 1997, 959)

LICENSES

NRS 645.330 General qualifications of applicant; grounds for denial of application; eligibility for licensing as broker.

1. Except as otherwise provided by a specific statute, the Division may approve an application for a license for a person who meets all the following requirements:

(a) Has a good reputation for honesty, trustworthiness and integrity and who offers proof of those qualifications satisfactory to the Division.

(b) Has not made a false statement of material fact on his or her application.

(c) Is competent to transact the business of a real estate broker, broker-salesperson or salesperson in a manner which will safeguard the interests of the public.

(d) Has passed the examination.

(e) Has submitted all information required to complete the application.

2. The Division:

(a) May deny a license to any person who has been convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, engaging in a real estate business without a license, possessing for the purpose of sale any controlled substance or any crime involving moral turpitude, in any court of competent jurisdiction in the United States or elsewhere; and

(b) Shall not issue a license to such a person until at least 3 years after:

(1) The person pays any fine or restitution ordered by the court; or

(2) The expiration of the period of the person's parole, probation or sentence,

↪ whichever is later.

3. Suspension or revocation of a license pursuant to this chapter or any prior revocation or current suspension in this or any other state, district or territory of the United States or any foreign country before the date of the application is grounds for refusal to grant a license.

4. Except as otherwise provided in NRS 645.332, a person may not be licensed as a real estate broker unless the person has been actively engaged as a full-time licensed real estate broker-salesperson or salesperson in this State, or actively engaged as a full-time licensed real estate broker, broker-salesperson or salesperson in another state or the District of Columbia, for at least 2 of the 4 years immediately preceding the issuance of a broker's license.

[Part 8:150:1947; A 1949, 433; 1955, 424](NRS A 1973, 1101; 1975, 794; 1979, 1540; 1981, 1607; 1983, 163; 1985, 1263; 1993, 2805; 1995, 993, 2477; 1997, 2165; 2003, 1499; 2005, 1287, 1288, 2773, 2807; 2007, 1474)

NRS 645.332 Applicants licensed in another jurisdiction: Exemption from certain examination requirements; issuance of license as broker or broker-salesperson by reciprocity.

1. An applicant for a license as a real estate salesperson is not required to pass the uniform portion of a national real estate examination otherwise required by NRS 645.330 and 645.460 if:

(a) The applicant holds a license in good standing as a real estate broker, broker-salesperson or salesperson issued by another state or territory of the United States, or the District of Columbia;

(b) The requirements for licensure as a real estate salesperson issued in that state or territory of the United States, or the District of Columbia, are substantially equivalent to the requirements in this State for licensure as a real estate salesperson; and

(c) The applicant has passed the examination in that state or territory of the United States, or the District of Columbia.

2. The Division may issue a license as a real estate broker or broker-salesperson to a person who holds a license as a real estate broker or broker-salesperson, or an equivalent license, issued by a state or territory of the United States, or the District of Columbia, if that state or territory, or the District of Columbia, has entered into a reciprocal agreement with the Commission for the issuance of licenses pursuant to this chapter and the person submits proof to the Division that:

(a) The person has been issued a license as a real estate broker or broker-salesperson, or an equivalent license, by that state or territory of the United States, or the District of Columbia; and

(b) At the time the person files an application with the Division, the license is in good standing.

3. The Division may refuse to issue a license as a real estate broker or broker-salesperson pursuant to subsection 2 to a person who has committed any act or offense that would be grounds for denying a license to an applicant or taking disciplinary action against a licensee pursuant to this chapter.

4. The Commission shall not enter into a reciprocal agreement pursuant to subsection 2 unless the provisions relating to the practice of real estate, including the requirements for the licensing of real estate brokers and real estate broker-salespersons in the other state or territory of the United States, or the District of Columbia, are substantially similar to the provisions relating to the practice of real estate in this State.

(Added to NRS by 2005, 1284)

NRS 645.335 Depository financial institution prohibited from being licensed.

1. For the purposes of this section, "depository financial institution" means any bank, savings and loan association, savings bank, thrift company, credit union or other institution which:

(a) Holds or receives deposits, savings or share accounts;

(b) Issues certificates of deposit; or

(c) Provides to its customers other depository accounts which are subject to withdrawal by checks, drafts or other instruments or by electronic means to effect payment to a third party.

2. The purposes of this section are to help maintain the separation between depository financial institutions and the business of real estate and to minimize the possibility of unfair competitive activities by depository financial institutions against real estate brokers and salespersons.

3. No depository financial institution or its holding company, parent, subsidiary or affiliate may directly or indirectly be licensed to sell real estate in this State.

(Added to NRS by 1985, 1507)

NRS 645.343 Educational requirements; regulations of Commission concerning standards of education.

1. In addition to the other requirements contained in this chapter, an applicant for an original real estate salesperson's license must furnish proof satisfactory to the Real Estate Division that the applicant has successfully completed a course of instruction which consists of not less than 120 hours of instruction in the principles, practices, procedures, law and ethics of real estate, which course may be an extension or correspondence course offered by the Nevada System of Higher Education, by any other accredited college or university or by any other college or school approved by the Commission. The course of instruction must include:

(a) The subject of disclosure of required information in real estate transactions, including instruction on methods a seller may use to obtain the required information;

(b) Not less than 15 hours of instruction in the preparation of contracts in real estate transactions to the extent allowed in the capacity of a licensee; and

(c) Not less than 15 hours of instruction on agency.

2. An applicant for an original real estate broker's or broker-salesperson's license must furnish proof satisfactory to the Real Estate Division that the applicant has successfully completed:

(a) Three semester units or an equivalent number of quarter units in real estate law, including at least 18 classroom hours of the real estate law of Nevada;

(b) Three semester units or an equivalent number of quarter units in the principles of real estate;

(c) Nine semester units or the equivalent in quarter units of college level courses in real estate appraisal and business or economics;

(d) Nine semester units or the equivalent in quarter units of college level courses in real estate, business or economics;

(e) Three semester units or an equivalent number of quarter units in broker management;

(f) Not less than one semester unit or an equivalent number of quarter units of instruction in the preparation of contracts in real estate transactions to the extent allowed in the capacity of a licensee; and

(g) Not less than one semester unit or an equivalent number of quarter units of instruction on agency.

3. On and after January 1, 1986, in addition to other requirements contained in this chapter, an applicant for an original real estate broker's or broker-salesperson's license must furnish proof satisfactory to the Real Estate Division that the applicant has completed 64 semester units or the equivalent in quarter units of college level courses. This educational requirement includes and is not in addition to the requirements listed in subsection 2.

4. For the purposes of this section, each person who holds a license as a real estate broker, broker-salesperson or salesperson, or an equivalent license, issued by a state or territory of the United States, or the District of Columbia, is entitled to receive credit for the equivalent of 16 semester units of college level courses for each 2 years of active experience that, during the immediately preceding 10 years, the person has obtained while he or she has held such a license, not to exceed 8 years of active experience. This credit may not be applied against the requirement in subsection 2 for three semester units or an equivalent number of quarter units in broker management or 18 classroom hours of the real estate law of Nevada.

5. An applicant for a broker's license pursuant to NRS 645.350 must meet the educational prerequisites applicable on the date his or her application is received by the Real Estate Division.

6. As used in this section, "college level courses" are courses offered by any accredited college or university or by any other institution which meet the standards of education established by the Commission. The Commission may adopt regulations setting forth standards of education which are equivalent to the college level courses outlined in this subsection. The regulations may take into account the standard of instructors, the scope and content of the instruction, hours of instruction and such other criteria as the Commission requires.

(Added to NRS by 1960, 155; A 1963, 667; 1969, 1448; 1973, 987, 1591; 1975, 794, 1544, 1639; 1977, 610; 1981, 1032; 1983, 228; 1993, 419; 1995, 505; 1999, 180; 2005, 1288; 2019, 2777)

NRS 645.345 Regulations of Division concerning schools and courses of instruction in principles and practice of real estate; standard of instruction. The Division, with the approval of the Commission, shall:

1. Adopt reasonable regulations defining what constitutes:

(a) A course of instruction in real estate principles, practices, procedures, law and ethics, which course of instruction must include the subjects upon which an applicant is examined in determining his or her fitness to receive an original real estate salesperson's license.

(b) A school offering such a course.

2. Adopt regulations providing for the establishment and maintenance of a uniform and reasonable standard of instruction to be observed in and by such schools.

(Added to NRS by 1960, 155; A 1969, 1448; 1975, 1545; 1981, 1034)

NRS 645.350 Application: Form and contents.

1. An application for a license as a real estate broker, broker-salesperson or salesperson must be submitted in writing to the Division upon blanks prepared or furnished by the Division.

2. Every application for a real estate broker's, broker-salesperson's or salesperson's license must set forth the following information:

(a) The name, age and address of the applicant. If the applicant is a partnership or an association which is applying to do business as a real estate broker, the application must contain the name and address of each member thereof. If the application is for a corporation which is applying to do business as a real estate salesperson, real estate broker-salesperson or real estate broker, the application must contain the name and address of each officer and director thereof. If the applicant is a limited-liability company which is applying to do business as a real estate broker, the company's articles of organization must designate a manager, and the name and address of the manager and each member must be listed in the application.

(b) In the case of a broker, the name under which the business is to be conducted. The name is a fictitious name if it does not contain the name of the applicant or the names of the members of the applicant's company, firm, partnership or association. Except as otherwise provided in NRS 645.387, a license must not be issued under a fictitious name which includes the name of a real estate salesperson or broker-salesperson. A license must not be issued under the same fictitious name to more than one licensee within the State. All licensees doing business under a fictitious name shall comply with other pertinent statutory regulations regarding the use of fictitious names.

(c) In the case of a broker, the place or places, including the street number, city and county, where the business is to be conducted.

(d) The business or occupation engaged in by the applicant for at least 2 years immediately preceding the date of the application, and the location thereof.

(e) The time and place of the applicant's previous experience in the real estate business as a broker or salesperson.

(f) Whether the applicant has ever been convicted of or is under indictment for a felony or has entered a plea of guilty, guilty but mentally ill or nolo contendere to a charge of felony and, if so, the nature of the felony.

(g) Whether the applicant has been convicted of or entered a plea of nolo contendere to forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, engaging in the business of selling real estate without a license or any crime involving moral turpitude.

(h) Whether the applicant has been refused a real estate broker's, broker-salesperson's or salesperson's license in any state, or whether his or her license as a broker or salesperson has been revoked or suspended by any other state, district or territory of the United States or any other country.

(i) If the applicant is a member of a limited-liability company, partnership or association, or an officer of a corporation, the name and address of the office of the limited-liability company, partnership, association or corporation of which the applicant is a member or officer.

(j) All information required to complete the application.

3. An applicant for a license as a broker-salesperson or salesperson shall provide a verified statement from the broker with whom the applicant will be associated, expressing the intent of that broker to associate the applicant with the broker and to be responsible for the applicant's activities as a licensee.

4. If a limited-liability company, partnership or association is to do business as a real estate broker, the application for a broker's license must be verified by at least two members thereof. If a corporation is to do business as a real estate broker, the application must be verified by the president and the secretary thereof.

[Part 9:150:1947; 1943 NCL § 6396.09]—(NRS A 1963, 668; 1967, 932; 1975, 1545; 1979, 1541; 1981, 514, 1608; 1983, 164; 1985, 1264; 1995, 2478; 1997, 167, 2166; 2003, 1500; 2005, 2774, 2807, 2815; 2007, 1474)

NRS 645.355 Investigation of applicant's background; fees; fingerprints.

1. Each applicant for a license as a real estate broker, broker-salesperson or salesperson must pay a fee for the costs of an investigation of the applicant's background.

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

(a) Arrange to have a complete set of 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. The Division may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 2, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Division deems necessary; and

(b) Request from each such agency any information regarding the applicant's background as the Division deems necessary.

(Added to NRS by 1981, 1616; A 1983, 165; 2003, 1290, 2862; 2005, 1289)

NRS 645.358 Payment of child support: Submission of certain information by applicant; grounds for denial of license; duty of Division. [Effective until the date of the repeal of 42 U.S.C. § 666, the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.]

1. In addition to any other requirements set forth in this chapter:

(a) A natural person who applies for the issuance of a license as a real estate broker, broker-salesperson or salesperson shall include the social security number of the applicant in the application submitted to the Division.

(b) A natural person who applies for the issuance or renewal of a license as a real estate broker, broker-salesperson or salesperson shall submit to the Division the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Division shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Division.

3. A license as a real estate broker, broker-salesperson or salesperson may not be issued or renewed by the Division if the applicant is a natural person who:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Division shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

(Added to NRS by 1997, 2163; A 2005, 2775, 2807)

NRS 645.358 Payment of child support: Submission of certain information by applicant; grounds for denial of license; duty of Division. [Effective on the date of the repeal of 42 U.S.C. § 666, the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings and expires by limitation 2 years after that date.]

1. In addition to any other requirements set forth in this chapter, a natural person who applies for the issuance or renewal of a license as a real estate broker, broker-salesperson or salesperson shall submit to the Division the statement prescribed by the Division

of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Division shall include the statement required pursuant to subsection 1 in:

- (a) The application or any other forms that must be submitted for the issuance or renewal of the license; or
- (b) A separate form prescribed by the Division.

3. A license as a real estate broker, broker-salesperson or salesperson may not be issued or renewed by the Division if the applicant is a natural person who:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Division shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

(Added to NRS by 1997, 2163; A 2005, 2775, 2776, 2807, effective on the date of the repeal of 42 U.S.C. § 666, the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings)

NRS 645.370 Issuance of license to certain organizations doing business as broker; restrictions.

1. Each limited-liability company doing business as a real estate broker must designate its manager, each partnership doing business as a real estate broker must designate one of its members, and each corporation doing business as a real estate broker must designate one of its officers, to submit an application for a broker's license.

2. Upon such manager's, member's or officer's successfully passing the examination, and upon compliance with all other requirements of law by the limited-liability company, partnership or corporation, as well as by the designated manager, member or officer, the Division shall issue a broker's license to the manager, member or officer on behalf of the limited-liability company, corporation or partnership, and thereupon the manager, member or officer so designated is entitled to perform all the acts of a real estate broker contemplated by this chapter; except:

(a) That the license entitles the manager, member or officer so designated to act as a real estate broker only as officer or agent of the limited-liability company, partnership or corporation, and not on his or her own behalf, except as otherwise provided in NRS 645.385; and

(b) That if in any case the person so designated is refused a license by the Real Estate Division, or in case the person ceases to be connected with the limited-liability company, partnership or corporation, the limited-liability company, partnership or corporation may designate another person who must apply and qualify as in the first instance.

[Part 9:150:1947; 1943 NCL § 6396.09]—(NRS A 1963, 669; 1975, 1547; 1979, 1543; 1985, 1265; 1997, 168)

NRS 645.380 Issuance of license as broker required for certain members and officers of certain organizations. Each member or officer of a limited-liability company, partnership or corporation who will perform or engage in any of the acts specified in NRS 645.030, other than the manager, member or officer designated for such purpose by the limited-liability company, partnership or corporation in the manner provided in NRS 645.370, must apply for and take out a separate broker's license in his or her own name individually. The license issued to any such member or officer of a limited-liability company, partnership or corporation entitles the member or officer to act as a real estate broker only as an officer or agent of the limited-liability company, partnership or corporation and not on his or her own behalf except as otherwise provided in NRS 645.385.

[Part 9:150:1947; 1943 NCL § 6396.09]—(NRS A 1983, 165; 1985, 1266; 1997, 168)

NRS 645.385 Waiver of requirements of NRS 645.370 and 645.380. The Division may waive the requirements of NRS 645.370 and 645.380 by adopting regulations authorizing real estate brokers to act on their own behalf as well as on the behalf of a limited-liability company, corporation or partnership.

(Added to NRS by 1973, 1105; A 1975, 1547; 1985, 1266; 1997, 168)

NRS 645.387 Issuance of license as broker-salesperson or salesperson to sole shareholder of corporation on behalf of corporation or to manager of limited-liability company on behalf of company; restrictions; duties; expiration.

1. Any natural person who meets the qualifications of a real estate broker-salesperson or salesperson and:

(a) Except as otherwise provided in subsection 2, is the sole shareholder of a corporation organized pursuant to the provisions of chapter 89 of NRS; or

(b) Is the manager of a limited-liability company organized pursuant to the provisions of chapter 86 of NRS,
↪ may be licensed on behalf of the corporation or limited-liability company for the purpose of associating with a licensed real estate broker in the capacity of a broker-salesperson or salesperson.

2. The spouse of the owner of the corporation who has a community interest in any shares of the corporation shall not be deemed a second shareholder of the corporation for the purposes of paragraph (a) of subsection 1, if the spouse does not vote any of those shares.

3. A license issued pursuant to this section entitles only the sole shareholder of the corporation or the manager of the limited-liability company to act as a broker-salesperson or salesperson, a-210- as an officer or agent of the corporation or limited-liability

company and not on his or her own behalf. The licensee shall not do or deal in any act, acts or transactions included within the definition of a real estate broker in NRS 645.030, except as that activity is permitted pursuant to this chapter to licensed broker-salespersons and salespersons.

4. The corporation or limited-liability company shall, within 30 days after a license is issued on its behalf pursuant to this section and within 30 days after any change in its ownership, file an affidavit with the Division stating:

(a) For a corporation, the number of issued and outstanding shares of the corporation and the names of all persons to whom the shares have been issued.

(b) For a limited-liability company, the names of members who have an interest in the company.

5. A license issued pursuant to this section automatically expires upon:

(a) The death of the licensed shareholder in the corporation or the manager of the limited-liability company.

(b) The issuance of shares in the corporation to more than one person other than the spouse.

6. Nothing in this section alters any of the rights, duties or liabilities which otherwise arise in the legal relationship between a real estate broker, broker-salesperson or salesperson and a person who deals with him or her.

(Added to NRS by 1981, 513; A 1997, 169)

NRS 645.400 Additional information concerning applicants may be required by Division; regulations concerning applications.

1. In addition to the information required by this chapter, applications for brokers' or salespersons' licenses must contain such other information pertaining to the applicants as the Division may require.

2. The Division may require such other proof through the application or otherwise, with due regard to the paramount interests of the public as to the honesty, truthfulness, integrity and competency of the applicant.

3. The Commission may adopt regulations connected with the application for any examination and license.

[Part 13:150:1947; A 1949, 433; 1943 NCL § 6396.13]—(NRS A 1979, 1543; 1981, 1609)

NRS 645.410 Regulations concerning fees for examination; time for payment of fees.

1. The Commission shall adopt regulations establishing the fee for an examination for a license as a real estate broker, broker-salesperson or salesperson and all other fees necessary for the administration of the examination.

2. Every application for examination for a license as a real estate broker, broker-salesperson or salesperson under the provisions of this chapter must be accompanied by the applicable fees established pursuant to subsection 1. The applicant must pay the original license fee and the fee for the Real Estate Education, Research and Recovery Fund at the time he or she files an application for a license.

[11:150:1947; 1943 NCL § 6396.11]—(NRS A 1963, 670; 1973, 1102; 1975, 795; 1979, 1543; 1981, 1609; 1985, 1266; 1995, 162)

NRS 645.420 Action on application by Division; additional investigation; invalidation of license for certain errors in issuance.

1. The Division shall notify each applicant in writing whether the applicant passed or failed the examination.

2. The Division shall act upon all applications for licenses as real estate brokers, broker-salespersons or real estate salespersons within 60 days from the date of receiving the completed application for a license.

3. If in the opinion of the Real Estate Division additional investigation of the applicant appears necessary, the Real Estate Division may extend the 60-day period and may make such additional investigation as is necessary or desirable before acting on the applicant's application.

4. The burden of proof is on the applicant to establish to the satisfaction of the Real Estate Division that he or she is qualified to receive a license.

5. Passing the examination creates no vested right in the applicant to hold a license pending an appeal of a denial of his or her licensing by the Division.

6. The Division, upon the discovery of any error in the issuance of a license which is related to the qualification or fitness of the licensee, may invalidate the license. The Division shall promptly notify the licensee, in writing, of the invalidation and the licensee shall surrender the license to the Division within 20 days after notice is sent by the Division. A licensee whose license is invalidated under this subsection and is surrendered within the time specified is entitled to a hearing as for a denial of application in accordance with the provisions of NRS 645.440.

[Part 13:150:1947; A 1949, 433; 1943 NCL § 6396.13]—(NRS A 1963, 670; 1973, 1102; 1975, 796; 1977, 611; 1981, 1329, 1609)

NRS 645.430 Restrictions on reapplication after applicant denied license on ground other than failure of examination.

If an applicant shall have been denied a license except for failure to pass an examination, the applicant shall not be permitted to reapply until the Real Estate Division shall, in its discretion, upon petition of the applicant, grant leave to file such reapplication.

[Part 13:150:1947; A 1949, 433; 1943 NCL § 6396.13]—(NRS A 1963, 670)

NRS 645.440 Denial of application: Notice; hearing; written decision; false statement ground for denial.

1. If the Division, after an application for a license in proper form has been filed with it, accompanied by the proper fee, denies an application, the Division shall give notice of the denial to the applicant within 15 days after its ruling, order or decision.

2. Upon written request from the applicant, filed within 30 days after receipt of that notice by the applicant, the President of the Commission shall set the matter for a hearing to be conducted at the next meeting of the Commission held pursuant to NRS 645.150 after receipt of the applicant's request if the request is received at least 20 days before the meeting and contains allegations which, if true, qualify the applicant for a license.

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 the possession of the Division relevant to the matter in question. Written notice of the 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 by a majority of its members, and a hearing must be held, if the applicant so desires. 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 shall render a written decision on any appeal within 60 days after the final hearing and shall notify the parties to the proceedings, in writing, of its ruling, order or decision within 15 days after it is made.

6. If an applicant has made a false statement of material fact on his or her application, the false statement may in itself be sufficient ground for refusal of a license.

[Part 15:150:1947; A 1955, 80](NRS A 1959, 395; 1963, 670; 1969, 95; 1971, 452; 1975, 1548; 1977, 92; 1979, 1544; 1981, 1610; 1985, 1267; 1999, 181; 2007, 1540)

NRS 645.450 Time for examinations. Examination for licenses shall be held by the Real Estate Division at least bimonthly.

[Part 14:150:1947; A 1949, 433; 1943 NCL § 6396.14](NRS A 1963, 1074; 1973, 1102; 1975, 1549)

NRS 645.460 Examination: Subjects covered; acceptance of national examination.

1. The Division shall ascertain by written examination that the applicant has an appropriate knowledge and understanding of those subjects which commonly and customarily apply to the real estate business.

2. The Division may hire a professional testing organization to create, administer or score the written examination or perform all of those functions.

3. The Division may accept successful completion of the uniform portion of a national real estate examination in partial satisfaction of the requirements of the examination in Nevada.

[Part 14:150:1947; A 1949, 433; 1943 NCL § 6396.14](NRS A 1963, 1074; 1973, 1103; 1979, 1545; 1981, 1611)

NRS 645.475 Examination for license as broker may be taken before meeting requirements for experience; issuance of license as broker-salesperson upon passing examination; application and experience required for issuance of license as broker.

1. An applicant for a real estate broker's license may take the written examination before the applicant has complied with the experience requirements of subsection 4 of NRS 645.330, but the Division shall not approve the issuance of a broker's license until all the requirements of this chapter are met.

2. An applicant, pursuant to subsection 1, who passes the broker's examination must be issued a broker-salesperson's license. The applicant may be issued a broker's license upon:

(a) Making proper application to the Division; and

(b) Satisfying the experience requirements of subsection 4 of NRS 645.330.

(Added to NRS by 1975, 793; A 1979, 1545; 1981, 1611; 1995, 994)

NRS 645.490 Issuance of license; duty of Real Estate Division; renewal of license.

1. Upon satisfactorily passing the written examination and upon complying with all other provisions of law and conditions of this chapter, a license shall thereupon be granted by the Division to the successful applicant therefor as a real estate broker, broker-salesperson or salesperson, and the applicant, upon receiving the license, may conduct the business of a real estate broker, broker-salesperson or salesperson in this State.

2. The Division shall issue licenses as a real estate broker, broker-salesperson or salesperson to all applicants who qualify and comply with all provisions of law and all requirements of this chapter.

3. Except as otherwise provided in NRS 645.785:

(a) An original license as a real estate broker, broker-salesperson or salesperson must be renewed with the Division before the expiration of the initial license period of 12 consecutive months as prescribed in NRS 645.780; and

(b) Thereafter, the license must be renewed with the Division before the expiration of each subsequent license period of 24 consecutive months as prescribed in NRS 645.780.

[Part 14:150:1947; A 1949, 433; 1943 NCL § 6396.14] + [Part 15:150:1947; A 1955, 80](NRS A 1963, 672; 1979, 1545; 2001, 2893; 2003, 1291; 2009, 1938; 2015, 2781)

NRS 645.495 Nonresident licensee required to authorize service of process upon Administrator.

1. No license may be issued pursuant to NRS 645.490 to a resident of a state other than Nevada until the applicant has appointed in writing the Administrator to be his or her agent, upon whom all process, in any action or proceeding against the applicant, may be served. In this writing the applicant must agree that any process against him or her which is served on the Administrator is of the same legal validity as if it had been served on the applicant and state that the appointment continues in force as long as any liability remains outstanding against the applicant in this State. It must contain a : -212- on agreeing to venue in any judicial or administrative district

in this State without regard to the location of the licensee's principal place of business. The written appointment must be acknowledged before an officer authorized to take acknowledgments of deeds and must be filed in the office of the Administrator. A copy of the appointment which is certified by the Administrator is sufficient evidence of the appointment and agreement.

2. When any process is served upon the Administrator under this section, the Administrator shall mail the process by certified mail to the last known address of the licensee. Service is complete upon such mailing. The manner of serving process described in this subsection does not affect the validity of any other service authorized by law.

(Added to NRS by 1987, 516)

NRS 645.510 Authority of license limited to person or place of business licensed. No real estate license issued under the provisions of this chapter shall give authority to do or perform any act specified in this chapter to any person other than the person to whom the license is issued, or from any place of business other than that specified therein.

[16:150:1947; 1943 NCL § 6396.16]

NRS 645.520 Form and contents; limitation on association with or employment of broker-salesperson or salesperson.

1. The Division shall issue to each licensee a license in such form and size as is prescribed by the Division.

2. Each license must:

(a) Show the name and address of the licensee, and in case of a real estate broker-salesperson's or salesperson's license show the name of the real estate broker with whom he or she will be associated.

(b) Have imprinted thereon the seal of the Division.

(c) Contain any additional matter prescribed by the Division.

3. No real estate broker-salesperson or salesperson may be associated with or employed by more than one broker or owner-developer at the same time.

[Part 17:150:1947; A 1949, 433; 1955, 77](NRS A 1963, 673; 1975, 1549; 1979, 1546)

NRS 645.530 Delivery; display; maintenance in place of business.

1. The license of each real estate broker-salesperson or salesperson must be delivered or mailed to the real estate broker with whom the licensee is associated or to the owner-developer by whom the licensee is employed and must be kept in the custody and control of the broker or owner-developer.

2. Each real estate broker shall:

(a) Display his or her license conspicuously in the broker's place of business. If a real estate broker maintains more than one place of business within the State, an additional license must be issued to the broker for each branch office so maintained by the broker, and the additional license must be displayed conspicuously in each branch office.

(b) Maintain in his or her place of business the licenses of all real estate broker-salespersons and salespersons associated with him or her therein or in connection therewith. The licenses must be kept in a secure manner and, upon request, made available for inspection by the public and the Division during usual business hours.

3. Each owner-developer shall maintain in his or her place of business the license of each real estate broker-salesperson and salesperson employed by him or her. The licenses must be kept in a secure manner and, upon request, made available for inspection by the public and the Division during usual business hours.

[Part 17:150:1947; A 1949, 433; 1955, 77](NRS A 1975, 1549, 1641; 1979, 1546; 1981, 1034; 2019, 2778)

NRS 645.550 Broker required to maintain place of business; business required to be conducted from location designated in license; licensing of broker or owner-developer by county, city or town.

1. Every real estate broker shall have and maintain a definite place of business within the State, which must be a room or rooms used for the transaction of real estate business, or such business and any allied businesses, and which must serve as the office for the transaction of business under the authority of the license, and where the license must be prominently displayed.

2. The place of business must be specified in the application for license and designated in the license.

3. No license authorizes the licensee to transact business from any office other than that designated in the license.

4. Each city, town or county may require a license for revenue purposes for a licensed real estate broker or owner-developer who maintains an office within the city or town, or within the county outside the cities and towns of the county, respectively.

[Part 17:150:1947; A 1949, 433; 1955, 77](NRS A 1969, 893; 1973, 84; 1979, 1547)

NRS 645.560 Broker: Erection, maintenance, size and placement of signs.

1. Each licensed real estate broker shall erect and maintain a sign in a conspicuous place upon the premises of his or her place of business. The name of the broker or the name under which the broker conducts his or her business set forth in the license must be clearly shown thereon.

2. The size and place of the sign must conform to regulations adopted by the Commission.

3. Similar signs must also be erected and maintained in a conspicuous place at all branch offices.

[18:150:1947; 1943 NCL § 6396.18](NRS A 1979, 1547; 1989, 1610)

NRS 645.570 Notice of change of name, location of business or association; requirements for transfer of association; effect of failure to give notice.

1. Notice in writing must be given by the broker or a corporate officer to the Division within 10 days of any change of name or business location of any licensee or of a change of association of any broker-salesperson or salesperson licensee. Upon the surrender of the license previously issued and the payment of the fee required by law the Division shall issue the license for the unexpired term.

2. Upon the transfer of association of any broker-salesperson or salesperson licensee, application accompanied by the fee required by law must be made to the Division for the reissuance of the license to the broker-salesperson or salesperson for the unexpired term. Such a transfer may only be into an association with a licensed broker or registered owner-developer who must certify to the honesty, truthfulness and good reputation of the transferee.

3. Failure to give notice as required by this section constitutes cause for the revocation of any outstanding license or involuntary inactivation of the license.

[Part 17:150:1947; A 1949, 433; 1955, 77]—(NRS A 1963, 673; 1975, 1550, 1641; 1979, 1547; 1983, 166)

NRS 645.575 Continuing education: Standards; renewal or reinstatement of license; regulations.

1. The Commission shall adopt regulations that prescribe the standards for the continuing education of persons licensed pursuant to this chapter.

2. The standards adopted pursuant to subsection 1 must:

(a) Require a minimum of 36 hours of continuing education; and

(b) Permit alternatives of subject material, taking cognizance of specialized areas of practice and alternatives in sources of programs considering availability in area and time. The standards must include, where qualified, generally accredited educational institutions, private vocational schools, educational programs and seminars of professional societies and organizations, other organized educational programs on technical subjects, or equivalent offerings. The Commission shall qualify only those educational courses that it determines address the appropriate subject matter and are given by an accredited university or community college. Subject to the provisions of this section, the Commission has exclusive authority to determine what is an appropriate subject matter for qualification as a continuing education course.

3. In addition to any other standards for continuing education that the Commission adopts by regulation pursuant to this section, the Commission:

(a) Shall, without limitation, adopt by regulation standards for continuing education that set forth certain mandatory subject matter which must be completed by every person who is licensed as a real estate broker, real estate broker-salesperson or real estate salesperson. Standards which are adopted pursuant to this section must authorize a person who is 65 years of age or older to apply to the Division for an exemption from any requirement to complete continuing education other than the mandatory subject matter which is set forth in regulations adopted pursuant to this paragraph if the person has been licensed in good standing as a real estate broker, real estate broker-salesperson or real estate salesperson in this State for 30 years or longer at the time of his or her application for an exemption.

(b) May, without limitation, adopt by regulation standards for continuing education that:

(1) Establish a postlicensing curriculum of continuing education which must be completed by a person within the first year immediately after the initial licensing of the person.

(2) Require a person whose license as a real estate broker or real estate broker-salesperson has been placed on inactive status for any reason for 1 year or more or has been suspended or revoked to complete a course of instruction in broker management that is designed to fulfill the educational requirements for issuance of a license which are described in paragraph (e) of subsection 2 of NRS 645.343, before the person's license is reissued or reinstated.

4. Except as otherwise provided in this subsection and regulations adopted pursuant to paragraph (a) of subsection 3, the license of a real estate broker, broker-salesperson or salesperson must not be renewed or reinstated unless the Administrator finds that the applicant for the renewal license or for reinstatement to active status has completed the continuing education required by this chapter. Any amendment or repeal of a regulation does not operate to prevent an applicant from complying with this section for the next licensing period following the amendment or repeal.

(Added to NRS by 1977, 1315; A 1979, 662; 1985, 1508; 1989, 1610; 1995, 162; 1997, 219; 2001, 2894; 2003, 1291; 2007, 1540; 2019, 2779)

NRS 645.577 Placement of license on inactive status; reinstatement.

1. The Division may place a license on inactive status for any of the following reasons:

(a) At the request of the licensee.

(b) If a broker's license or a corporate officer's license, for failure to immediately notify the Division in writing of any change in the name of the licensee's firm or its business location.

(c) If a broker-salesperson's license or a salesperson's license, for failure to notify the Division of a change in the broker or owner-developer with whom the licensee will be associated within 30 days after the licensee's previous association was terminated.

(d) For failure to apply and pay the fee for renewal before the license expired.

(e) If inactivated upon the placing of the broker under whose supervision the licensee worked in an inactive status.

(f) As a result of a formal disciplinary proceeding.

2. Any licensee whose license has been placed on inactive status may not engage in the business of a real estate broker, broker-salesperson or salesperson until the licensee has met all of the requirements for reinstatement of his or her license to active status.

(Added to NRS by 1979, 1532; A 1985, 1267)

NRS 645.580 Termination of association or employment of broker-salesperson or salesperson; duties of broker or owner-developer and broker-salesperson or salesperson; tra-214- license or new license.

1. When any real estate broker-salesperson or salesperson terminates, for any reason, his or her association with the real estate broker with whom he or she was associated, or his or her employment with the owner-developer by whom he or she was employed, the real estate broker or owner-developer shall:

(a) Deliver or mail by certified mail to the Division the real estate broker-salesperson's or salesperson's license, together with a written statement of the circumstances surrounding the termination of the association or the employment, within 10 days after the termination occurs.

(b) At the time of delivering or mailing the license to the Division, address a communication to the last known residence address of the broker-salesperson or salesperson, advising him or her that the license has been delivered or mailed to the Division. A copy of the communication must accompany the license when delivered or mailed to the Division.

2. A broker-salesperson or salesperson must, within 30 days after termination of that association, become associated with or employed by another broker or owner-developer or request that the license be placed on inactive status.

3. It is unlawful for any real estate salesperson to perform any of the acts contemplated by this chapter, either directly or indirectly, under authority of the license on or after the date of receipt of the license from the broker or owner-developer by the Division and until the license is transferred or reissued or a new license is issued.

[Part 17:150:1947; A 1949, 433; 1955, 77]—(NRS A 1963, 674; 1969, 95; 1975, 1550, 1641; 1979, 1548; 1981, 1034; 1989, 1611)

NRS 645.590 Termination of association by broker with limited-liability company, partnership or corporation; new license. If any real estate broker licensed pursuant to the provisions of this chapter as a manager of a limited-liability company, member of a partnership, or as an officer of a corporation, discontinues his or her connections with the limited-liability company, partnership or corporation, and thereafter desires to act as an individual real estate broker, or become associated with any other limited-liability company, partnership or corporation, the broker must file an application and pay a transfer fee of \$20 for a new license as an individual broker, as the manager of the new limited-liability company, or as a member of the new partnership or association, or as an officer of the new corporation. The payment of such a fee does not extend or otherwise alter the original license period.

[Part 17:150:1947; A 1949, 433; 1955, 77]—(NRS A 1973, 1103; 1985, 1268; 1997, 169)

NRS 645.600 Inactive status for period of military service; reinstatement.

1. Any licensee under the provisions of this chapter who shall be called into the military service of the United States shall, at his or her request, be relieved from compliance with the provisions of this chapter and placed on inactive status for the period of such military service and for a period of 6 months after discharge therefrom.

2. At any time within 6 months after termination of such service, providing the provisions of subsection 1 are complied with, the licensee may be reinstated, without examination, to active status in the appropriate classification which the licensee left upon entry into the military service, without having to meet any qualification or requirement other than the payment of the reinstatement fee, as provided in NRS 645.830, and the licensee shall not be required to make payment of the license fee for the current year.

3. Any licensee seeking to qualify for reinstatement, as provided in subsections 1 and 2, shall present a certified copy of his or her honorable discharge or certificate of satisfactory service to the Real Estate Division.

[33.5:150:1947; added 1955, 18]—(NRS A 1963, 674)

NRS 645.605 Certificate authorizing out-of-state licensed broker to cooperate with broker in Nevada: Issuance; fee; regulations. The Administrator shall have authority to issue certificates authorizing out-of-state licensed brokers to cooperate with Nevada brokers, and the Commission shall have authority to promulgate rules and regulations establishing the conditions under which such certificates shall be issued and cancelled, all subject to the provisions and penalties of this chapter. The Real Estate Division shall charge a fee for the issuance of such certificate as provided in NRS 645.830.

(Added to NRS by 1965, 1407)

NRS 645.6051 Broker required to maintain record of work performed on residential property; contents of record.

1. A person licensed pursuant to this chapter as a real estate broker, real estate broker-salesperson or real estate salesperson shall maintain a record of all work performed on a residential property that the person assists a client in scheduling pursuant to subsection 12 of NRS 624.031.

2. The record required by subsection 1 must include, without limitation:

(a) The name of any person licensed pursuant to chapter 624 of NRS who performs such work;

(b) The date on which the work was performed;

(c) A copy of any written contract to perform the work; and

(d) A copy of any invoice prepared in connection with the work.

3. As used in this section, "residential property" has the meaning ascribed to it in NRS 624.031.

(Added to NRS by 2013, 580; A 2017, 3965)

PROPERTY MANAGERS

NRS 645.6052 Permit to engage in property management: Persons eligible; requirements; instruction; expiration; renewal; regulations.

1. A person who is licensed pursuant to this chapter as a real estate broker, real estate broker-salesperson or real estate salesperson may apply to the Real Estate Division for a permit to engage in property management.
2. An applicant for a permit must:
 - (a) Furnish proof satisfactory to the Division that the applicant has successfully completed at least 24 classroom hours of instruction in property management; and
 - (b) Comply with all other requirements established by the Commission for the issuance of a permit.
3. A permit expires, and may be renewed, at the same time as the license of the holder of the permit.
4. An applicant for the renewal of a permit must:
 - (a) Furnish proof satisfactory to the Division that the applicant has successfully completed at least 3 of the hours of the continuing education required for the renewal of his or her license pursuant to the regulations adopted by the Commission pursuant to NRS 645.575 in an approved educational course, seminar or conference concerning property management; and
 - (b) Comply with all other requirements established by the Commission for the renewal of a permit.
5. The Commission may adopt such regulations as it determines are necessary to carry out the provisions of this section. The regulations may, without limitation:
 - (a) Establish additional requirements for the issuance or renewal of a permit.
 - (b) Establish fees for the issuance and renewal of a permit and fees to pay the costs of:
 - (1) Any examination for a permit, including any costs which are necessary for the administration of such an examination.
 - (2) Any investigation of an applicant's background.
 - (c) Set forth standards of education for the approval of a course of instruction to qualify an applicant for a permit.
 (Added to NRS by 1997, 954; A 2003, 1292; 2007, 1542)

NRS 645.6054 Permit to engage in property management: Requirements for certain organizations.

1. To engage in the business of property management in this State:
 - (a) A partnership shall designate one of its members;
 - (b) A corporation shall designate one of its officers or employees;
 - (c) A limited-liability company shall designate its manager; and
 - (d) A broker who conducts business as a sole proprietor shall designate a person who is licensed under the broker,
 - ↳ to submit an application for a permit to engage in property management. The partnership, corporation, limited-liability company or sole proprietor shall not engage in the business of property management unless the person so designated has been issued a permit to engage in property management by the Real Estate Division.
2. If the person designated to apply for a permit pursuant to subsection 1 meets the qualifications for a permit set forth in NRS 645.6052, the Division shall issue to that person a permit to engage in property management on behalf of the partnership, corporation, limited-liability company or sole proprietor, and thereupon the person may perform all the acts of a property manager contemplated by this chapter.
3. A person to whom a permit has been issued pursuant to this section may act as a property manager pursuant to the permit only on behalf of the partnership, corporation, limited-liability company or sole proprietor, and not on his or her own behalf. If that person ceases to be connected or associated with the partnership, corporation, limited-liability company or sole proprietor, the partnership, corporation, limited-liability company or sole proprietor shall designate another person who meets the qualifications for a permit set forth in NRS 645.6052 to hold the permit on behalf of the partnership, corporation, limited-liability company or sole proprietor.
4. Any member, officer or employee of a partnership, corporation or limited-liability company, other than the person designated as the property manager pursuant to subsection 1, who wishes to engage in the business of property management must apply in his or her own name individually for a separate permit to engage in property management. Pursuant to such a permit, the member, officer or employee of a partnership, corporation or limited-liability company may act as a property manager only as an officer or agent of the partnership, corporation or limited-liability company, and not on his or her own behalf.
 (Added to NRS by 1997, 955)

NRS 645.6055 Designated property managers: Requirements; qualifications; duties.

1. If a real estate broker does not hold a permit to engage in property management but intends to have property management activities conducted at an office, the real estate broker must:
 - (a) Appoint a person, who has the qualifications required by this section, as the designated property manager for the office to supervise the property management activities conducted at the office; and
 - (b) Submit notice of the appointment to the Division.
2. The designated property manager for an office must be a natural person who:
 - (a) Holds a license as a real estate broker or real estate broker-salesperson;
 - (b) Holds a permit to engage in property management; and
 - (c) Has 2 years active experience, within the 4 years immediately preceding the date of the appointment, in conducting property management activities in the United States as a licensed real estate broker, real estate broker-salesperson or real estate salesperson.
3. While acting as the designated property manager for an office, the person:
 - (a) Must comply with the provisions of NRS 645.6052 to 645.6058, inclusive, and all other applicable provisions of this chapter; and
 - (b) Is subject to all the remedies and penalties provided for in this chapter.
 (Added to NRS by 2003, 1287)

NRS 645.6056 Property management agreements: Requirements; contents.

1. A real estate broker who holds a permit to engage in property management shall not act as a property manager unless the broker has first obtained a property management agreement signed by the broker and the client for whom the broker will manage the property.

2. A property management agreement must include, without limitation:

(a) The term of the agreement and, if the agreement is subject to renewal, provisions clearly setting forth the circumstances under which the agreement may be renewed and the term of each such renewal;

(b) A provision for the retention and disposition of deposits of the tenants of the property during the term of the agreement and, if the agreement is subject to renewal, during the term of each such renewal;

(c) The fee or compensation to be paid to the broker;

(d) The extent to which the broker may act as the agent of the client;

(e) If the agreement is subject to cancellation, provisions clearly setting forth the circumstances under which the agreement may be cancelled. The agreement may authorize the broker or the client, or both, to cancel the agreement with cause or without cause, or both, under the circumstances set forth in the agreement; and

(f) If the broker intends to provide asset management services for the client, a provision indicating the extent to which the broker will provide those services. As used in this paragraph, "client" has the meaning ascribed to it in NRS 645H.060.

(Added to NRS by 1997, 955; A 2003, 932; 2011, 2832)

NRS 645.6058 Disposition of fees, penalties and fines received by Division; delegation of authority of Division to hearing officer or panel.

1. Except as otherwise provided in subsection 3, all fees, penalties and fines received by the Division pursuant to the provisions of NRS 645.6052 to 645.6058, inclusive, must be deposited with the State Treasurer for credit to the Division. The money must be used by the Division for the administration of the provisions of NRS 645.6052 to 645.6058, inclusive.

2. The Division may delegate to a hearing officer or panel its authority to take any disciplinary action against property managers, impose and collect fines pursuant to the disciplinary action and deposit the money with the State Treasurer for credit to the Division.

3. If a hearing officer or panel is not authorized to take disciplinary action pursuant to subsection 2, the Division shall deposit the money collected from the imposition of penalties and fines collected from property managers with the State Treasurer for credit to the State General Fund. The Division may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay an attorney's fee or the costs of an investigation, or both.

(Added to NRS by 1997, 956; A 2003, 1293)

DISCIPLINARY AND OTHER ACTIONS

NRS 645.610 Investigation of actions of licensees and other persons. The Administrator may investigate the actions of any real estate broker, broker-salesperson, salesperson, owner-developer or any person who acts in any such capacity within this State.

[Part 20:150:1947; 1943 NCL § 6396.20]—(NRS A 1963, 675; 1975, 1551; 1979, 1548)

NRS 645.615 Duty to report certain convictions and pleas to Division.

1. A licensee, property manager or owner-developer shall notify the Division in writing if he or she is convicted of, or enters a plea of guilty, guilty but mentally ill or nolo contendere to:

(a) A felony relating to the practice of the licensee, property manager or owner-developer; or

(b) Any crime involving fraud, deceit, misrepresentation or moral turpitude.

2. A licensee, property manager or owner-developer shall submit the notification required by subsection 1:

(a) Not more than 10 days after the conviction or entry of the plea of guilty, guilty but mentally ill or nolo contendere; and

(b) When submitting an application to renew a license, permit or registration issued pursuant to this chapter.

(Added to NRS by 2007, 1539)—(Substituted in revision for NRS 645.995)

NRS 645.620 Maintenance by Division of record of complaints, investigations and denials of applications. The Division shall maintain in each district office a public docket or other record in which it shall record from time to time as made:

1. The rulings or decisions upon all complaints filed with that district office.

2. All investigations instituted by that district office in the first instance, upon or in connection with which any hearing has been held, or in which the licensee charged has made no defense.

3. Denials of applications made to that district office for examination or licensing.

[Part 23:150:1947; 1943 NCL § 6396.23]—(NRS A 1963, 675; 1979, 1548; 1995, 163)

NRS 645.625 Certain records relating to complaint or investigation deemed confidential; certain records relating to disciplinary action deemed public records.

1. Except as otherwise provided in this section and NRS 239.0115, a complaint filed with the Division alleging a violation of this chapter, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential and may be disclosed in whole or in part only as necessary in the course of administering this chapter or to a licensing board or agency or any other governmental agency, including, without limitation, a law enforcement agency, that is investigating a person who holds a license, permit or registration issued pursuant to this chapter.

2. A complaint or other document filed with the Commission to initiate disciplinary action and all documents and information considered by the Commission when determining whether to impose discipline are public records.

(Added to NRS by 2003, 3464; A 2005, 1292; 2007, 1542, 2147)

NRS 645.630 Authorized disciplinary action; grounds for disciplinary action; orders imposing discipline deemed public records.

1. The Commission may require a licensee, property manager or owner-developer to pay an administrative fine of not more than \$10,000 for each violation he or she commits or suspend, revoke, deny the renewal of or place conditions upon his or her license, permit or registration, or impose any combination of those actions, at any time if the licensee, property manager or owner-developer has, by false or fraudulent representation, obtained a license, permit or registration, or the licensee, property manager or owner-developer, whether or not acting as such, is found guilty of:

- (a) Making any material misrepresentation.
- (b) Making any false promises of a character likely to influence, persuade or induce.
- (c) Accepting a commission or valuable consideration as a real estate broker-salesperson or salesperson for the performance of any of the acts specified in this chapter or chapter 119 or 119A of NRS from any person except the licensed real estate broker with whom he or she is associated or the owner-developer by whom he or she is employed.
- (d) Representing or attempting to represent a real estate broker other than the broker with whom he or she is associated, without the express knowledge and consent of the broker with whom he or she is associated.
- (e) Failing to maintain, for review and audit by the Division, each brokerage agreement and property management agreement governed by the provisions of this chapter and entered into by the licensee.
- (f) Failing, within a reasonable time, to account for or to remit any money which comes into his or her possession and which belongs to others.
- (g) If he or she is required to maintain a trust account:
 - (1) Failing to balance the trust account at least monthly; and
 - (2) Failing to submit to the Division an annual accounting of the trust account as required in NRS 645.310.
- (h) Commingling the money or other property of his or her clients with his or her own or converting the money of others to his or her own use.
- (i) In the case of a broker-salesperson or salesperson, failing to place in the custody of his or her licensed broker or owner-developer, as soon as possible, any deposit or other money or consideration entrusted to him or her by any person dealing with him or her as the representative of his or her licensed broker.
- (j) Accepting other than cash as earnest money unless that fact is communicated to the owner before his or her acceptance of the offer to purchase and that fact is shown in the receipt for the earnest money.
- (k) Upon acceptance of an agreement, in the case of a broker, failing to deposit any check or cash received as earnest money before the end of the next banking day unless otherwise provided in the purchase agreement.
- (l) Inducing any party to a brokerage agreement, property management agreement, agreement of sale or lease to break it in order to substitute a new brokerage agreement, property management agreement, agreement of sale or lease with the same or another party if the inducement to make the substitution is offered to secure personal gain to the licensee or owner-developer.

2. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

[Part 20:150:1947; 1943 NCL § 6396.20]—(NRS A 1957, 338; 1963, 332; 1965, 1407; 1971, 248; 1975, 1551; 1979, 1549; 1981, 1612; 1983, 222; 1985, 1268; 1993, 890; 1995, 2076; 1997, 959; 2001, 522; 2003, 933, 3464, 3482; 2007, 1543)

NRS 645.633 Additional grounds for disciplinary action: Improper trade practices; violations of certain orders, agreements, laws and regulations; criminal offenses; other unprofessional and improper conduct; reciprocal discipline; violations relating to property management; log of complaints.

1. The Commission may take action pursuant to NRS 645.630 against any person subject to that section who is guilty of any of the following acts:

- (a) Willfully using any trade name, service mark or insigne of membership in any real estate organization of which the licensee is not a member, without the legal right to do so.
- (b) Violating any order of the Commission, any agreement with the Division, any of the provisions of this chapter, chapter 116, 119, 119A, 119B, 645A or 645C of NRS or any regulation adopted pursuant thereto.
- (c) Paying a commission, compensation or a finder's fee to any person for performing the services of a broker, broker-salesperson or salesperson who has not secured a license pursuant to this chapter. This subsection does not apply to payments to a broker who is licensed in his or her state of residence.
- (d) A conviction of, or the entry of a plea of guilty, guilty but mentally ill or nolo contendere to:
 - (1) A felony relating to the practice of the licensee, property manager or owner-developer; or
 - (2) Any crime involving fraud, deceit, misrepresentation or moral turpitude.
- (e) Guaranteeing, or having authorized or permitted any person to guarantee, future profits which may result from the resale of real property.
- (f) Failure to include a fixed date of expiration in any written brokerage agreement or failure to leave a copy of such a brokerage agreement or any property management agreement with the client.
- (g) Accepting, giving or charging any undisclosed commission, rebate or direct profit on expenditures made for a client.

(h) Gross negligence or incompetence in performing any act for which the person is required to hold a license pursuant to this chapter, chapter 119, 119A or 119B of NRS.

(i) Any other conduct which constitutes deceitful, fraudulent or dishonest dealing.

(j) Any conduct which took place before the person became licensed which was in fact unknown to the Division and which would have been grounds for denial of a license had the Division been aware of the conduct.

(k) Knowingly permitting any person whose license has been revoked or suspended to act as a real estate broker, broker-salesperson or salesperson, with or on behalf of the licensee.

(l) Recording or causing to be recorded a claim pursuant to the provisions of NRS 645.8701 to 645.8811, inclusive, that is determined by a district court to be frivolous and made without reasonable cause pursuant to NRS 645.8791.

2. The Commission may take action pursuant to NRS 645.630 against a person who is subject to that section for the suspension or revocation of a real estate broker's, broker-salesperson's or salesperson's license issued by any other jurisdiction.

3. The Commission may take action pursuant to NRS 645.630 against any person who:

(a) Holds a permit to engage in property management issued pursuant to NRS 645.6052; and

(b) In connection with any property for which the person has obtained a property management agreement pursuant to NRS 645.6056:

(1) Is convicted of violating any of the provisions of NRS 202.470;

(2) Has been notified in writing by the appropriate governmental agency of a potential violation of NRS 244.360, 244.3603 or 268.4124, and has failed to inform the owner of the property of such notification; or

(3) Has been directed in writing by the owner of the property to correct a potential violation of NRS 244.360, 244.3603 or 268.4124, and has failed to correct the potential violation, if such corrective action is within the scope of the person's duties pursuant to the property management agreement.

4. The Division shall maintain a log of any complaints that it receives relating to activities for which the Commission may take action against a person holding a permit to engage in property management pursuant to subsection 3.

(Added to NRS by 1979, 1533; A 1985, 1269, 1672; 1989, 1612; 1995, 2077, 2479; 1997, 591, 960; 1999, 1180; 2001, 1354; 2001 Special Session, 156; 2003, 934, 1502, 2718; 2007, 1475; 2015, 2778)

NRS 645.635 Additional grounds for disciplinary action: Unprofessional and improper conduct relating to real estate transactions. The Commission may take action pursuant to NRS 645.630 against any person subject to that section who is guilty of:

1. Offering real estate for sale or lease without the knowledge and consent of the owner or the owner's authorized agent or on terms other than those authorized by the owner or the owner's authorized agent.

2. Negotiating a sale, exchange or lease of real estate, or communicating after such negotiations but before closing, directly with a client if the person knows that the client has a brokerage agreement in force in connection with the property granting an exclusive agency, including, without limitation, an exclusive right to sell to another broker, unless permission in writing has been obtained from the other broker.

3. Failure to deliver within a reasonable time a completed copy of any purchase agreement or offer to buy or sell real estate to the purchaser or to the seller, except as otherwise provided in subsection 4 of NRS 645.254.

4. Failure to deliver to the seller in each real estate transaction, within 10 business days after the transaction is closed, a complete, detailed closing statement showing all of the receipts and disbursements handled by him or her for the seller, failure to deliver to the buyer a complete statement showing all money received in the transaction from the buyer and how and for what it was disbursed, or failure to retain true copies of those statements in his or her files. The furnishing of those statements by an escrow holder relieves the broker's, broker-salesperson's or salesperson's responsibility and must be deemed to be in compliance with this provision.

5. Representing to any lender, guaranteeing agency or any other interested party, verbally or through the preparation of false documents, an amount in excess of the actual sale price of the real estate or terms differing from those actually agreed upon.

6. Failure to produce any document, book or record in his or her possession or under his or her control, concerning any real estate transaction under investigation by the Division.

7. Failure to reduce a bona fide offer to writing where a proposed purchaser requests that it be submitted in writing, except as otherwise provided in subsection 4 of NRS 645.254.

8. Failure to submit all written bona fide offers to a seller when the offers are received before the seller accepts an offer in writing and until the broker has knowledge of that acceptance, except as otherwise provided in subsection 4 of NRS 645.254.

9. Refusing because of race, color, national origin, sex, sexual orientation, gender identity or expression, or ethnic group to show, sell or rent any real estate for sale or rent to qualified purchasers or renters.

10. Knowingly submitting any false or fraudulent appraisal to any financial institution or other interested person.

11. Any violation of NRS 645C.557.

(Added to NRS by 1979, 1533; A 1985, 1270; 1995, 2077; 2001, 2895; 2007, 1789; 2009, 1509; 2017, 1077)

NRS 645.645 Additional grounds for disciplinary action: Unprofessional and improper conduct relating to sale of insurance for home protection. The Commission may take action pursuant to NRS 645.630 against any person selling insurance for home protection, as defined in NRS 690B.100, under the authority of a license issued pursuant to this chapter who:

1. Makes a misrepresentation in the sale of insurance for home protection.

2. Misrepresents the provisions of the contract of insurance for home protection.

3. Misappropriates any fees or premiums collected for the insurance for home protection.

(Added to NRS by 1981, 1323)

NRS 645.647 Additional grounds for disciplinary action: Failure to pay money to Commission or Division. In addition to any other remedy or penalty, the Commission or the Division, as appropriate, may:

1. Refuse to issue a license, permit, certificate or registration to a person who has failed to pay money which the person owes to the Commission or the Division.
2. Refuse to renew, or suspend or revoke, the license, permit, certificate or registration of a person who has failed to pay money which the person owes to the Commission or the Division.

(Added to NRS by 2003, 1289)

NRS 645.648 Suspension of license for failure to pay child support or comply with certain subpoenas or warrants; reinstatement of license. [Effective until 2 years after the date of the repeal of 42 U.S.C. § 666, the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.]

1. If the Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license as a real estate broker, broker-salesperson or salesperson, the Division shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Division receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Division shall reinstate a license as a real estate broker, broker-salesperson or salesperson that has been suspended by a district court pursuant to NRS 425.540 if the Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

(Added to NRS by 1997, 2164; A 2005, 2807)

NRS 645.660 Knowledge of associate or employer of violation by licensee or employee; penalties.

1. Any unlawful act or violation of any of the provisions of this chapter by any licensee is not cause to suspend, revoke or deny the renewal of the license of any person associated with the licensee, unless it appears to the satisfaction of the Commission that the associate knew or should have known thereof. A course of dealing shown to have been persistently and consistently followed by any licensee constitutes prima facie evidence of such knowledge upon the part of the associate.

2. If it appears that a registered owner-developer knew or should have known of any unlawful act or violation on the part of a real estate broker, broker-salesperson or salesperson employed by the registered owner-developer, in the course of his or her employment, the Commission may suspend, revoke or deny the renewal of the registered owner-developer's registration and may assess a civil penalty of not more than \$5,000.

3. The Commission may suspend, revoke or deny the renewal of the license of a real estate broker and may assess a civil penalty of not more than \$5,000 against the broker if it appears he or she has failed to maintain adequate supervision of a salesperson or broker-salesperson associated with the broker and that person commits any unlawful act or violates any of the provisions of this chapter.

[Part 20:150:1947; 1943 NCL § 6396.20]—(NRS A 1975, 1552, 1642; 1979, 1551; 1981, 1612; 1985, 1271; 1993, 891; 2001, 523)

NRS 645.670 Effect on limited-liability company, partnership or corporation of revocation or suspension of license of manager, partner or officer; termination of suspension or reinstatement of license. In the event of the revocation or suspension of the license issued to a manager of a limited-liability company, a member of a partnership or to any officer of a corporation, the limited-liability company, partnership or corporation shall not conduct business unless the manager or member whose license has been revoked is severed and his or her interest in the limited-liability company or partnership and his or her share in its activities brought to an end, or if a corporation, the offending officer is discharged and has no further participation in its activities. The discharged or withdrawing manager, member or officer of such a limited-liability company, partnership or corporation may reassume his or her connection with, or be reengaged by the limited-liability company, partnership or corporation, upon termination of the suspension or upon reinstatement of his or her license.

[Part 20:150:1947; 1943 NCL § 6396.20]—(NRS A 1975, 1553; 1979, 1551; 1985, 1271; 1997, 170)

NRS 645.675 Investigations, disciplinary or other proceedings, fines and penalties not affected by expiration, revocation or voluntary surrender of license, permit or registration. The expiration or revocation of a license, permit or registration by operation of law or by order or decision of the Commission or a court of competent jurisdiction, or the voluntary surrender of a license, permit or registration by a real estate broker, real estate broker-salesperson, real estate salesperson, property manager or owner-developer does not:

1. Prohibit the Administrator, Commission or Division from initiating or continuing an investigation of, or action or disciplinary proceeding against, the real estate broker, real estate broker-salesperson, real estate salesperson, property manager or owner-developer as authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto; or

2. Prevent the imposition or collection of any fine or penalty authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto against the real estate broker, real estate broker-salesperson, real estate salesperson, property manager or owner-developer.

(Added to NRS by 2001, 521)

NRS 645.680 Revocation, suspension or denial of renewal of license, permit or registration: Complaint; notice of hearing.

1. The procedure set forth in this section and NRS 645.690 must be followed before the Commission revokes, suspends or denies the renewal of any license, permit or registration of an owner-developer issued pursuant to this chapter.

2. Upon the initiation of a complaint by the Administrator, the matter must be set for a hearing by the Administrator, who shall schedule a hearing before the Commission, and the licensee, permittee or owner-developer is entitled to be heard thereon in person or by counsel.

3. The Commission shall hold the hearing within 90 days after the filing of a complaint by the Administrator. The time of the hearing may be continued upon the motion of the Commission or at the discretion of the Commission, upon the written request of the licensee, permittee or owner-developer or of the Division for good cause shown.

4. The licensee, permittee or owner-developer must be given at least 30 days' notice in writing by the Division of the date, time and place of the hearing together with a copy of the complaint and copies of all communications, reports, affidavits or depositions in possession of the Division relevant to the complaint. The Division may present evidence obtained after the notice only if the Division shows that the evidence was not available after diligent investigation before the time notice was given to the licensee, permittee or owner-developer and that the evidence was given or communicated to the licensee, permittee or owner-developer immediately after it was obtained.

5. Notice is complete upon delivery personally to the licensee, permittee or owner-developer or by mailing by certified mail to the last known address of the licensee, permittee or owner-developer. If the licensee is a broker-salesperson or salesperson, the Division shall also notify the broker with whom he or she is associated, or the owner-developer by whom he or she is employed, by mailing an exact statement of the charges and the date, time and place of the hearing by certified mail to the owner-developer or broker's last known address.

[Part 21:150:1947; A 1955, 19]—(NRS A 1957, 339; 1963, 675; 1969, 95; 1971, 453; 1975, 1553; 1979, 1551; 1981, 1329; 1983, 166; 1985, 1271; 2001, 523)

NRS 645.685 Revocation, suspension or denial of renewal of license, permit or registration: Answer; limitations on time of commencing proceeding.

1. The licensee, permittee or owner-developer shall file an answer to the charges with the Commission not later than 30 days after service of the notice and other documents described in subsection 4 of NRS 645.680. The answer must contain an admission or denial of the allegations contained in the complaint and any defenses upon which the licensee, permittee or owner-developer will rely. If no answer is filed within the period described in this subsection, the Division may, after notice to the licensee, permittee or owner-developer served in the manner authorized in subsection 5 of NRS 645.680, move the Commission for the entry of a default against the licensee, permittee or owner-developer.

2. The answer may be served by delivery to the Commission, or by mailing the answer by certified mail to the principal office of the Division.

3. No proceeding to suspend, revoke or deny the renewal of any license or registration of an owner-developer may be maintained unless it is commenced by the giving of notice to the licensee, permittee or owner-developer within 5 years after the date of the act charged, whether of commission or omission, except:

(a) If the charges are based upon a misrepresentation, or failure to disclose, the period does not commence until the discovery of facts which do or should lead to the discovery of the misrepresentation or failure to disclose; and

(b) Whenever any action or proceeding is instituted to which the Division, licensee, permittee or owner-developer is a party and which involves the conduct of the licensee, permittee or owner-developer in the transaction with which the charges are related, the running of the 5-year period with respect to the institution of a proceeding pursuant to this chapter to suspend, revoke or deny the renewal of the license, permit or registration is suspended during the pendency of the action or proceeding.

(Added to NRS by 1979, 1534; A 1985, 1272; 1987, 517; 1989, 1613; 2001, 524; 2007, 1543)

NRS 645.690 Revocation, suspension or denial of renewal of license, permit or registration: Hearing; transcript.

1. The hearing on the charges must be held at such time and place as the Commission prescribes. The hearing may be held by the Commission or a majority thereof, and the hearing must be held, if the licensee, permittee or owner-developer so requests in writing, within the northern or southern district, as set forth in NRS 645.100, within which the principal place of business of the licensee, permittee or owner-developer is situated.

2. At the hearing, a stenographic transcript of the proceedings must be made if requested or required for judicial review. Any party to the proceedings desiring a transcript must be furnished with a copy upon payment to the Division of the reasonable cost of transcription.

[Part 21:150:1947; A 1955, 19]—(NRS A 1963, 1075; 1979, 1552; 1981, 1613; 1985, 1273; 2001, 524)

NRS 645.700 Power of Commission to administer oaths, certify acts and issue subpoenas; service of process.

1. The Commission, or any member thereof, shall have power to administer oaths, certify to all official acts, and to issue subpoenas for attendance of witnesses and the production of books and papers.

2. In any hearing or investigation in any part of the State the process issued by the Commission shall extend to all parts of the State and may be served by any person authorized to serve process of courts of record. The person serving any such process shall

receive such compensation as may be allowed by the Commission, not to exceed the fees prescribed by law for similar service, and such fees shall be paid in the same manner as provided in NRS 645.710 for the payment of the fees of witnesses.

[Part 22:150:1947; 1943 NCL § 6396.22]—(NRS A 1973, 1103)

NRS 645.710 Fees and mileage for witness.

1. Each witness who appears by order of the Commission is entitled to receive for his or her attendance the same fees and mileage allowed by law to a witness in civil cases, which amount must be paid by the party at whose request the witness is subpoenaed.

2. When any witness not otherwise required to attend, is subpoenaed by the Commission, his or her fees and mileage must be paid by the Division.

[Part 22:150:1947; 1943 NCL § 6396.22]—(NRS A 1979, 1553)

NRS 645.720 Enforcement of subpoenas.

1. The district court in and for the county in which any hearing may be held shall have the power to compel the attendance of witnesses, the giving of testimony and the production of books and papers as required by any subpoena issued by the Commission.

2. In case of the refusal of any witness to attend or testify or produce any papers required by such subpoena the Commission may report to the district court in and for the county in which the hearing is pending by petition, setting forth:

(a) That due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) That the witness has been subpoenaed in the manner prescribed in this chapter; and

(c) That the witness has failed and refused to attend or produce the papers required by subpoena before the Commission in the cause or proceeding named in the subpoena, or has refused to answer questions propounded to him or her in the course of such hearing,

↪ and asking an order of the court compelling the witness to attend and testify or produce the books or papers before the Commission.

3. The court, upon petition of the Commission, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than 10 days from the date of the order, and then and there show cause why the witness has not attended or testified or produced the books or papers before the Commission. A certified copy of the order shall be served upon the witness. If it shall appear to the court that the subpoena was regularly issued by the Commission, the court shall thereupon enter an order that the witness appear before the Commission at the time and place fixed in the order and testify or produce the required books or papers, and upon failure to obey the order the witness shall be dealt with as for contempt of court.

[Part 22:150:1947; 1943 NCL § 6396.22]

NRS 645.730 Depositions; taking of evidence in another state; rights of party to hearing.

1. The Commission may, in any hearing before it, cause the depositions of witnesses residing within or without the State to be taken in the manner prescribed by the Nevada Rules of Civil Procedure for like depositions in civil actions in the district courts of this State, and to that end may compel the attendance of witnesses and the production of books and papers.

2. The clerk of the district court in and for the county in which any hearing may be held by the Commission shall, upon the application of the Commission, issue commissions or letters rogatory to other states for the taking of evidence therein for use in any proceedings before the Commission.

3. Any party to any hearing before the Commission shall have the right to the attendance of witnesses in the party's behalf at such hearing or upon deposition as set forth in this section upon making request therefor to the Commission and designating the name and address of the person or persons sought to be subpoenaed.

[Part 22:150:1947; 1943 NCL § 6396.22]

NRS 645.740 Decision of Commission: Rendition; notice; effective date; stay of decision.

1. The Commission shall render an informal decision on any complaint within 15 days after the final hearing thereon and shall give notice in writing of the ruling or decision to the applicant or licensee affected thereby within 60 days after the final hearing thereon by certified mail to the last known address of the person to whom the notice is sent.

2. If the ruling is adverse to the licensee, the Commission shall also state in the notice the date upon which the ruling or decision becomes effective, which date must not be less than 30 days after the date of the notice.

3. The decision of the Commission may not be stayed by any appeal in accordance with the provisions of NRS 645.760, unless the district court so orders upon motion of the licensee, notice to the Division of the motion and opportunity for the Division to be heard.

4. An appeal from a decision of the district court affirming the revocation or suspension of a license does not stay the order of the Commission unless the district or appellate court, in its discretion and upon petition of the licensee, after notice and hearing orders such stay, and upon the filing of a bond for costs in the amount of \$1,000.

[Part 23:150:1947; 1943 NCL § 6396.23]—(NRS A 1965, 1409; 1969, 95; 1971, 454; 1973, 1103; 1979, 1553; 1985, 1273)

NRS 645.760 Decision final when in favor of licensee; judicial review of decision against licensee.

1. A ruling or decision of the Commission in any disciplinary action is final when in favor of the licensee.

2. If a ruling or decision is against the licensee, the licensee is entitled to judicial review of the ruling or decision in the manner provided by chapter 233B of NRS.

[Part 23:150:1947; 1943 NCL § 6396.23]—(NRS A 1963, 676; 1979, 1553; 1981, 1613; 1985, 1273; 1989, 1659)

NRS 645.770 Restrictions on issuance of new license, permit or registration after revocation. After the revocation of any license, permit or registration by the Commission as provided in this chapter, no new license, permit or registration may be issued to the same licensee, permittee or registrant, as appropriate, within 1 year after the date of the revocation, nor at any time thereafter except in the sole discretion of the Real Estate Division, and then only provided that the licensee, permittee or registrant satisfies all the requirements for an original license, permit or registration.

[Part 14:150:1947; A 1949, 433; 1943 NCL § 6396.14] + [24:150:1947; 1943 NCL § 6396.24]—(NRS A 1963, 677; 2005, 1292)

EXPIRATION AND RENEWAL OF LICENSES

NRS 645.780 Expiration of licenses; length of license periods; additional fees for electronic renewal.

1. Each license issued under the provisions of this chapter expires at midnight on the last day of the last month of the applicable license period for the license.

2. The initial license period for an original license as a real estate broker, broker-salesperson or salesperson is a period of 12 consecutive months beginning on the first day of the first calendar month after the original license is issued by the Division. Thereafter, each subsequent license period is a period of 24 consecutive months beginning on the first day of the first calendar month after a renewal of the license is issued by the Division for the subsequent license period.

3. For all other licenses, the license period is a period of 24 consecutive months beginning on the first day of the first calendar month after the license or any renewal of the license is issued by the Division, unless a specific statute:

(a) Provides for a different license period; or

(b) Expressly authorizes a different license period to be provided for by regulation.

4. The Division may:

(a) Create and maintain a secure website on the Internet through which each license, permit, certificate or registration issued pursuant to the provisions of this chapter may be renewed; and

(b) For each license, permit, certificate or registration renewed through the use of a website created and maintained pursuant to paragraph (a), charge a fee in addition to any other fee provided for pursuant to this chapter which must not exceed the actual cost to the Division for providing that service.

[Part 19:150:1947; A 1949, 433; 1955, 77]—(NRS A 1963, 334; 1969, 565; 1973, 1104; 1975, 1554; 1977, 1316; 2003, 1294; 2007, 584; 2009, 1939; 2015, 2781)

NRS 645.785 Effect of failure to renew license or permit; increased fee for late renewal.

1. If a licensee fails to apply for a renewal of his or her license before the date of the expiration thereof, no license may be issued to the licensee except upon another application for an original license, except that within 1 year of such expiration a renewal may be issued upon payment of a fee in the amount of \$100, in addition to the amount otherwise required for renewal.

2. If a licensee fails to apply for a renewal of his or her permit before the date of the expiration thereof, no permit may be issued to the licensee except upon another application for an original permit, except that within 1 year of such expiration a renewal may be issued upon payment of a fee in the amount of \$20, in addition to the amount otherwise required for renewal and compliance with any other requirement for renewal pursuant to NRS 645.6052 or 645.863.

[Part 19:150:1947; A 1949, 433; 1955, 77]—(NRS A 1975, 1555; 2013, 1025)

FEES

NRS 645.830 Fees; regulations.

1. The following fees must be charged by and paid to the Division:

For each original real estate broker's, broker-salesperson's or corporate broker's license	\$105
For each original real estate salesperson's license.....	85
For each original branch office license.....	120
For real estate education, research and recovery to be paid at the time an application for an original license is filed.....	40
For real estate education, research and recovery to be paid at the time an application for renewal of a license is filed.....	40
For each renewal of a real estate broker's, broker-salesperson's or corporate broker's license	180
For each renewal of a real estate salesperson's license.....	140
For each renewal of a real estate branch office license.....	110
For each penalty for late filing of a renewal for a broker's, broker-salesperson's or corporate broker's license	95
For each penalty for late filing of a renewal for a salesperson's license.....	75
For each change of name or address.....	20
For each transfer of a real estate salesperson's or broker-salesperson's license and change of association or employment.....	20
For each duplicate license where the original license is lost or destroyed, and an affidavit is made thereof	20
For each change of broker status from broker to broker-salesperson.....	20
For each change of broker status from broker-salesperson to broker.....	40

For each reinstatement to active status of an inactive real estate broker's, broker-salesperson's or salesperson's license.....	20
For each reinstatement of a real estate broker's license when the licensee fails to give immediate written notice to the Division of a change of name or business location.....	30
For each reinstatement of a real estate salesperson's or broker-salesperson's license when he or she fails to notify the Division of a change of broker within 30 days of termination by previous broker	30
For each original registration of an owner-developer.....	125
For each annual renewal of a registration of an owner-developer.....	125
For each enlargement of the area of an owner-developer's registration.....	50
For each cooperative certificate issued to an out-of-state broker licensee for 1 year or fraction thereof	150
For each original accreditation of a course of continuing education.....	100
For each renewal of accreditation of a course of continuing education.....	50
For each annual approval of a course of instruction offered in preparation for an original license or permit	100

2. In addition to the fees imposed by subsection 1 and NRS 645.843, each applicant for the issuance or renewal of a real estate broker's, broker-salesperson's or salesperson's license issued pursuant to this chapter must pay to the Division a technology fee of \$15.

3. The fees prescribed by this section for courses of instruction offered in preparation for an original license or permit or for courses of continuing education do not apply to:

- (a) Any university, state college or community college of the Nevada System of Higher Education.
- (b) Any agency of the State.
- (c) Any regulatory agency of the Federal Government.

4. The Commission shall adopt regulations which establish the fees to be charged and collected by the Division to pay the costs of any investigation of a person's background.

[Part 19:150:1947; A 1949, 433; 1955, 77—(NRS A 1957, 340; 1959, 396; 1963, 1075; 1965, 1409; 1967, 1046; 1975, 1554, 1642; 1977, 1316; 1979, 1080, 1554; 1981, 1035, 1614; 1985, 1274; 1989, 1613; 1993, 420, 941, 2292; 1995, 163; 2001, 2895; 2003, 1295; 2005, 372; 2009, 1939; 2015, 2782; 2021, 3533)

REAL ESTATE EDUCATION, RESEARCH AND RECOVERY FUND

NRS 645.841 "Fund" defined. As used in NRS 645.841 to 645.8494, inclusive, "Fund" means the Real Estate Education, Research and Recovery Fund.

(Added to NRS by 1967, 1043)

NRS 645.842 Creation; use; balances; interest and income.

1. The Real Estate Education, Research and Recovery Fund is hereby created as a special revenue fund.
2. A balance of not less than \$300,000 must be maintained in the Fund, to be used for satisfying claims against persons licensed under this chapter, as provided in NRS 645.841 to 645.8494, inclusive. Any balance over \$300,000 remaining in the Fund at the end of any fiscal year must be set aside and used:

- (a) By the Administrator, after approval of the Commission, for real estate education and research; or
- (b) For any other purpose authorized by the Legislature.

3. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund.

(Added to NRS by 1967, 1043; A 1973, 1763; 1979, 119; 1981, 1615; 2003, 1296; 2005, 665; 2010, 26th Special Session, 24)

NRS 645.843 Payment of additional fee by licensee for augmentation of Fund.

1. Upon application for or renewal of every real estate broker's, broker-salesperson's and salesperson's license, every licensed broker, broker-salesperson and salesperson shall pay in addition to the original or renewal fee, a fee for real estate education, research and recovery. The additional fee must be deposited in the State Treasury for credit to the Real Estate Education, Research and Recovery Fund, and must be used solely for the purposes provided in NRS 645.841 to 645.8494, inclusive.

2. Owner-developers need not contribute to the Fund.

(Added to NRS by 1967, 1044; A 1969, 566; 1973, 1105, 1764; 1975, 1643; 1977, 1318; 1979, 119, 1555; 1981, 1615; 1985, 1275)

NRS 645.844 Recovery from Fund: Procedure; grounds; amount; hearing.

1. Except as otherwise provided in subsection 2, when any person obtains a final judgment in any court of competent jurisdiction against any licensee or licensees pursuant to this chapter, upon grounds of fraud, misrepresentation or deceit with reference to any transaction for which a license is required pursuant to this chapter, that person, upon termination of all proceedings, including appeals in connection with any judgment, may file a verified petition in the court in which the judgment was entered for an order directing payment out of the Fund in the amount of the unpaid actual damages included in the judgment, but not more than \$25,000 per judgment. The liability of the Fund does not exceed \$100,000 for any person licensed pursuant to this chapter, whether the person is licensed as a limited-liability company, partnership, association or corporation or as a natural person, or both. The petition must state the grounds which entitle the person to recover from the Fund.

2. A person who is licensed pursuant to this chapter may not recover from the Fund for damages which are related to a transaction in which the person acted in his or her capacity as a licensee.

3. A copy of the:

- (a) Petition;
- (b) Judgment;
- (c) Complaint upon which the judgment was entered; and
- (d) Writ of execution which was returned unsatisfied,

↪ must be served upon the Administrator and the judgment debtor and affidavits of service must be filed with the court.

4. Upon the hearing on the petition, the petitioner must show that:

- (a) The petitioner is not the spouse of the debtor, or the personal representative of that spouse.
- (b) The petitioner has complied with all the requirements of NRS 645.841 to 645.8494, inclusive.

(c) The petitioner has obtained a judgment of the kind described in subsection 1, stating the amount thereof, the amount owing thereon at the date of the petition, and that the action in which the judgment was obtained was based on fraud, misrepresentation or deceit of the licensee in a transaction for which a license is required pursuant to this chapter.

(d) A writ of execution has been issued upon the judgment and that no assets of the judgment debtor liable to be levied upon in satisfaction of the judgment could be found, or that the amount realized on the sale of assets was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due.

(e) The petitioner has made reasonable searches and inquiries to ascertain whether the judgment debtor possesses real or personal property or other assets, liable to be sold or applied in satisfaction of the judgment, and after reasonable efforts that no property or assets could be found or levied upon in satisfaction of the judgment.

(f) The petitioner has made reasonable efforts to recover damages from each and every judgment debtor.

(g) The petition has been filed no more than 1 year after the termination of all proceedings, including reviews and appeals, in connection with the judgment.

5. The provisions of this section do not apply to owner-developers.

(Added to NRS by 1967, 1044; A 1973, 1764; 1975, 1555; 1979, 1555; 1981, 1615; 1985, 1276; 1987, 1048; 1997, 170; 2005, 666)

NRS 645.845 Administrator may answer petition for recovery; effect of judgment; compromise of claim.

1. Whenever the court proceeds upon a petition as provided in NRS 645.844, the Administrator may answer and defend any such action against the Fund on behalf of the Fund and may use any appropriate method of review on behalf of the Fund. The judgment debtor may answer and defend any such action on his or her own behalf.

2. Unless the judgment was entered by default, consent or stipulation or the case was uncontested, the judgment set forth in the petition is prima facie evidence but the findings of fact therein are not conclusive for the purposes of NRS 645.841 to 645.8494, inclusive.

3. The Administrator may, subject to court approval, compromise a claim based upon the application of a petitioner. The Administrator shall not be bound by any prior compromise of the judgment debtor.

(Added to NRS by 1967, 1044; A 1985, 1277)

NRS 645.846 Court order requiring payment from Fund. If the court finds after the hearing that the claim should be levied against the portion of the Fund allocated for the purpose of carrying out the provisions of NRS 645.841 to 645.8494, inclusive, the court shall enter an order directed to the Administrator requiring payment from the Fund of whatever sum it finds to be payable upon the claim pursuant to the provisions of and in accordance with the limitations contained in NRS 645.841 to 645.8494, inclusive.

(Added to NRS by 1967, 1045)

NRS 645.847 Automatic suspension of license upon payment from Fund; conditions for reinstatement of license. If the Administrator pays from the Fund any amount in settlement of a claim or towards satisfaction of a judgment against a licensee, the licensee's license issued pursuant to this chapter and chapter 119 of NRS must be automatically suspended upon the effective date of an order by the court authorizing payment from the Fund. The license of the broker, broker-salesperson or salesperson may not be reinstated and no other license may be granted to him or her pursuant to this chapter until he or she has repaid in full, plus interest at a rate equal to the prime rate at the largest bank in Nevada, as ascertained by the Commissioner of Financial Institutions, on January 1 or July 1, as the case may be, immediately preceding the date of judgment, plus 2 percent, the amount paid from the Fund on his or her account. Interest is computed from the date payment from the Fund was made by the Administrator and the rate must be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied.

(Added to NRS by 1967, 1045; A 1973, 1765; 1979, 1556; 1981, 1616; 1985, 1277; 1987, 942)

NRS 645.848 Distribution of payment from Fund if claims exceed maximum liability of Fund; order of payment of claims if balance of Fund insufficient; interest; use of certain money deposited in Fund.

1. Whenever claims are filed against the Fund which total more than the maximum liability for the acts of one licensee, the maximum liability of the Fund for each licensee must be distributed among the claimants in a ratio that their respective claims bear to the total of all claims, or in any other manner that the court may find equitable.

2. The distribution must be made without regard to the order of priority in which claims were filed or judgments entered.

3. Upon petition of the Administrator, the court may require all claimants and prospective claimants to be joined in one action so that the respective rights of all claimants may be equitably deter-

4. If, at any time, the money deposited in the Fund and allotted for satisfying claims against licensees is insufficient to satisfy any authorized claim or portion thereof, the Administrator shall, when sufficient money has been deposited in the Fund, satisfy the unpaid claims or portions thereof, in the order that the claims or portions thereof were originally filed, plus accumulated interest at the rate of 6 percent per annum. Any sums received by the Division pursuant to NRS 645.847 and 645.8491 must be deposited in the State Treasury for credit to the account for education and research in the Fund.

(Added to NRS by 1967, 1045; A 1973, 1765; 1975, 1556; 1979, 1556; 1985, 1277)

NRS 645.8491 Administrator subrogated to rights of judgment creditor; deposit of money recovered. When the Administrator has paid from the Fund any money to the judgment creditor, the Administrator is subrogated to all other rights of the judgment creditor to the extent of the amount paid and any amount and interest so recovered by the Administrator on the judgment must be deposited in the State Treasury for credit to the Fund.

(Added to NRS by 1967, 1045; A 1985, 1278)

NRS 645.8492 Waiver of rights. The failure of a person to comply with any of the provisions of NRS 645.841 to 645.8494, inclusive, shall constitute a waiver of any rights hereunder.

(Added to NRS by 1967, 1045; A 1973, 1765)

NRS 645.8494 Disciplinary action against licensee not restricted. Nothing contained in NRS 645.841 to 645.8494, inclusive, limits the authority of the Commission to take disciplinary action against a licensee for a violation for any of the provisions of this chapter, or of the rules and regulations of the Commission, nor shall the repayment in full of all obligations to the Fund by any licensee nullify or modify the effect of any other disciplinary proceeding brought pursuant to the provisions of this chapter or the rules and regulations promulgated thereunder.

(Added to NRS by 1967, 1046)

BUSINESS BROKERS

NRS 645.863 Permit to engage in business as business broker: Persons eligible; requirements; continuing education; expiration; renewal; regulations.

1. A person who is licensed as a real estate broker, real estate broker-salesperson or real estate salesperson pursuant to this chapter may apply to the Real Estate Division for a permit to engage in business as a business broker.

2. An applicant for a permit must:

(a) Provide proof satisfactory to the Real Estate Division that the applicant has successfully completed at least 24 hours of instruction relating to business brokerage; and

(b) Comply with any other requirements for the issuance of a permit established by the Commission.

3. A permit expires on the same date as the license of the holder of the permit expires. A permit may be renewed at the time that a person licensed pursuant to this chapter applies for renewal of his or her license.

4. An applicant for the renewal of a permit must:

(a) Provide proof satisfactory to the Real Estate Division that the applicant has successfully completed at least 3 hours of continuing education required for the renewal of his or her license pursuant to the regulations adopted by the Commission pursuant to NRS 645.575 in an approved educational course, seminar or conference relating to business brokerage.

(b) Comply with any other requirements for renewal of a permit established by the Commission.

5. The Commission shall adopt such regulations as are necessary to carry out the provisions of this section. The regulations must include, without limitation, provisions that establish:

(a) Requirements for the issuance or renewal of a permit.

(b) Fees for:

(1) The issuance or renewal of a permit;

(2) The cost of any examination required of an applicant for a permit, including, without limitation, any costs which are necessary for the administration of an examination; and

(3) The cost of any investigation of an applicant for a permit.

(c) Standards of education for the approval of a course of instruction to qualify an applicant for the issuance or renewal of a permit.

(Added to NRS by 2005, 646; A 2007, 1544)

NRS 645.865 Permit to engage in business as business broker: Requirements for certain organizations.

1. To engage in business as a business broker in this State:

(a) A partnership shall designate one of its members;

(b) A corporation shall designate one of its officers or employees;

(c) A limited-liability company shall designate its manager; and

(d) A real estate broker who conducts business as a sole proprietor shall designate himself or herself or a person who is licensed under the real estate broker,

↪ to submit an application for a permit pursuant to NRS 645.863. The partnership, corporation, limited-liability company or sole proprietor shall not engage in business as a business broker unless the person so designated has been issued such a permit.

2. If the person designated to apply for a permit meets the qualifications for a permit set forth in NRS 645.863, the Real Estate Division shall issue to that person a permit to engage in business as a business broker on behalf of the partnership, corporation, limited-liability company or sole proprietor.

3. A person to whom such a permit has been issued may act as a business broker pursuant to the permit only on behalf of the partnership, corporation, limited-liability company or sole proprietor, and not on his or her own behalf. If that person ceases to be connected or associated with the partnership, corporation, limited-liability company or sole proprietor, the partnership, corporation, limited-liability company or sole proprietor shall designate another person who meets the qualifications for a permit set forth in NRS 645.863 to hold the permit on behalf of the partnership, corporation, limited-liability company or sole proprietor.

4. Any member, officer or employee of a partnership, corporation, limited-liability company or sole proprietor, other than the person designated as the business broker pursuant to subsection 1, who wishes to engage in business as a business broker must apply in his or her own name for a permit. Pursuant to such a permit, the member, officer or employee of a partnership, corporation, limited-liability company or sole proprietor may act as a business broker only as an officer, agent or employee of the partnership, corporation, limited-liability company or sole proprietor, and not on his or her own behalf.

(Added to NRS by 2005, 647)

NRS 645.867 Designated business brokers: Requirements; qualifications; duties.

1. If a real estate broker does not hold a permit to engage in business as a business broker but intends to have the activities of a business broker conducted at an office, the real estate broker must:

(a) Appoint a person, who has the qualifications required by this section, as the designated business broker for the office to supervise the activities of a business broker conducted at the office; and

(b) Submit notice of the appointment to the Division.

2. The designated business broker for an office must be a natural person who:

(a) Holds a license as a real estate broker or real estate broker-salesperson;

(b) Holds a permit to engage in business as a business broker; and

(c) Has 2 years active experience, within the 4 years immediately preceding the date of the appointment, in conducting the activities of a business broker in the United States as a licensed real estate broker, real estate broker-salesperson or real estate salesperson.

3. While acting as the designated business broker for an office, the person:

(a) Must comply with all applicable provisions of this chapter; and

(b) Is subject to all the remedies and penalties provided for in this chapter.

(Added to NRS by 2005, 647)

BROKERAGE AGREEMENTS INVOLVING COMMERCIAL REAL ESTATE

General Provisions

NRS 645.8701 Definitions. As used in NRS 645.8701 to 645.8811, inclusive, unless the context otherwise requires, the words and terms defined in NRS 645.8705 to 645.8741, inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 1999, 1174)

NRS 645.8705 "Brokerage agreement" defined. "Brokerage agreement" means a written contract between an owner and a real estate broker in which the owner agrees to pay a commission to the real estate broker for services provided by the broker relating to the disposition of commercial real estate as specified in the agreement.

(Added to NRS by 1999, 1174)

NRS 645.8711 "Commercial real estate" defined. "Commercial real estate" means any real estate located in this State. The term does not include:

1. Improved real estate that consists of not more than four residential units;

2. Unimproved real estate for which not more than four residential units may be developed or constructed pursuant to any zoning regulations or any development plan applicable to the real estate; or

3. A single-family residential unit, including a condominium, townhouse or home within a subdivision, if the unit is sold, leased or otherwise conveyed unit by unit, regardless of whether the unit is part of a larger building or parcel that consists of more than four units.

(Added to NRS by 1999, 1174)

NRS 645.8715 "Commission" defined. "Commission" means any fee or other compensation agreed upon by a real estate broker and an owner specified in a brokerage agreement.

(Added to NRS by 1999, 1175)

NRS 645.8721 "Disposition" defined. "Disposition" means a voluntary conveyance or other transfer of title or any interest of an owner in any commercial real estate specified in a brokerage agreement.

(Added to NRS by 1999, 1175)

NRS 645.8725 “Escrow” defined. “Escrow” has the meaning ascribed to it in NRS 645A.010.
(Added to NRS by 1999, 1175; A 2011, 3595; 2015, 2790)

NRS 645.8731 “Escrow agent” defined. “Escrow agent” has the meaning ascribed to it in NRS 645A.010.
(Added to NRS by 1999, 1175; A 2011, 3595; 2015, 2790)

NRS 645.8735 “Owner” defined. “Owner” means a person who holds legal title to or any interest in any commercial real estate that is described in a brokerage agreement, including, without limitation, any assignee in interest and any agent of a person. The term does not include a mortgagee, trustee under or beneficiary of a deed of trust or an owner or holder of a claim that encumbers any real estate or any improvement on that real estate.
(Added to NRS by 1999, 1175)

NRS 645.8741 “Owner’s net proceeds” defined. “Owner’s net proceeds” means the gross receipts to which an owner is entitled upon the disposition of any commercial real estate specified in a brokerage agreement. The term does not include:

1. Any money that is required to pay an encumbrance, claim or lien that has priority over a claim recorded pursuant to the provisions of NRS 645.8775 other than an encumbrance, claim or lien that the person to whom the commercial real estate is conveyed or otherwise transferred authorizes to remain after the disposition of the real estate; or
 2. Any costs incurred by the owner to close escrow for that commercial real estate.
- (Added to NRS by 1999, 1175)

Rights, Duties and Liabilities Relating to Commissions

NRS 645.8761 Broker has claim upon owner’s net proceeds for earned commissions; conditions and limitations on enforcement of claim; waiver; inapplicability to third-party claims; obligation to close escrow unaffected by claim.

1. A real estate broker has a claim upon the owner’s net proceeds from the disposition of commercial real estate for any commission earned by the real estate broker pursuant to a brokerage agreement. For the purposes of this subsection, a commission shall be deemed to be earned when the real estate broker has performed his or her duties pursuant to the brokerage agreement.

2. The claim belongs to the real estate broker named in the brokerage agreement and not to an employee or independent contractor of the real estate broker.

3. A claim that is recorded pursuant to the provisions of NRS 645.8775:

- (a) Is a claim upon personal property and does not attach to the title of any real property.
- (b) May be waived if, on or before the date the brokerage agreement is executed, the real estate broker signs a written waiver of the real estate broker’s right to enforce the claim. The waiver must be printed in uppercase letters and must be limited to one transaction. A person other than the real estate broker may not waive the rights of the real estate broker pursuant to this section, regardless of whether that person may execute and bind the real estate broker to a brokerage agreement.
- (c) May not be enforced by a person other than the real estate broker and the owner.

4. A claim of a third party may not be brought or otherwise adjudicated pursuant to the provisions of NRS 645.8701 to 645.8811, inclusive.

5. The recording or enforcement of a claim by a real estate broker pursuant to the provisions of NRS 645.8701 to 645.8811, inclusive, does not relieve the owner of his or her obligation to close escrow for any commercial real estate.

(Added to NRS by 1999, 1175)

NRS 645.8765 Requirements for broker to enforce claim: Written notice to owner and escrow agent; effect of failure to provide notice; exceptions.

1. Except as otherwise provided in subsection 3, if a real estate broker wishes to enforce a claim pursuant to the provisions of NRS 645.8701 to 645.8811, inclusive, the real estate broker shall, within 7 days after a commission is earned by the real estate broker pursuant to a brokerage agreement, provide a written notice of the claim to:

- (a) The owner of the commercial real estate specified in the brokerage agreement; and
- (b) The escrow agent closing the transaction for the commercial real estate.

2. A real estate broker who fails to provide a notice of a claim within the period specified in subsection 1 may not enforce the claim pursuant to the provisions of NRS 645.8701 to 645.8811, inclusive.

3. A real estate broker is not required to provide a written notice of a claim to an escrow agent pursuant to this section if the identity of the escrow agent is unknown to the real estate agent at the time the notice is provided by the real estate broker to the owner pursuant to paragraph (a) of subsection 1.

(Added to NRS by 1999, 1176)

NRS 645.8771 Requirements for broker to enforce claim: Information required in notice; verification by oath; acknowledgment.

1. A notice of claim specified in NRS 645.8765 must include:

- (a) The name of the owner of the commercial real estate;
- (b) The name of the person who executed the brokerage agreement, if other than the owner;
- (c) The name, business name, if any, and the license number of the real estate broker;
- (d) The amount claimed by the real estate broker;

- (e) A detailed description of the commercial real estate; and
 - (f) A copy of the brokerage agreement pursuant to which the real estate broker claims a commission.
2. The notice must:
- (a) Be verified by the oath of the real estate broker who provides the notice; and
 - (b) Include an acknowledgment by the real estate broker.
- (Added to NRS by 1999, 1176)

NRS 645.8775 Duty of owner to confirm or deny claim; effect of confirming claim; effect of denying claim or failing to respond; recording of claim by broker.

1. If an owner is served with a notice of a claim pursuant to NRS 645.8765, the owner shall, within 5 days after service of the notice but not later than 7 days before the disposition of the commercial real estate:

- (a) Confirm or deny the claim set forth in the notice; and
- (b) Notify, in writing, the real estate broker who provided the notice to the owner.

2. If the owner confirms the claim and notifies the real estate broker of that fact pursuant to subsection 1, the owner may instruct the escrow agent for the commercial real estate to pay to the real estate broker the amount claimed by the real estate broker in the notice of the claim.

3. If the owner fails to notify the real estate broker within the period specified in subsection 1 or notifies the real estate broker that the owner denies the claim, the real estate broker may record the notice of the claim in the office of the county recorder where the commercial real estate or any portion of the commercial real estate is located.

(Added to NRS by 1999, 1176)

NRS 645.8781 Duties of escrow agent upon notice of claim.

1. Except as otherwise provided in this subsection, if:
- (a) An escrow agent receives a notice of a claim pursuant to NRS 645.8765;
 - (b) A notice of claim is recorded pursuant to NRS 645.8775; or
 - (c) An escrow agent has actual notice of a claim specified in paragraph (b),

↪ the escrow agent shall reserve from the owner's net proceeds an amount that is equal to the amount claimed by the real estate broker in his or her recorded claim. If the amount of the owner's net proceeds is insufficient to satisfy the amount of the claim, the escrow agent shall reserve the entire amount of the owner's net proceeds. In determining whether the amount of the owner's net proceeds is insufficient to satisfy the amount of the claim, the escrow agent may consider any encumbrance, claim or lien that has priority over the claim of the real estate broker pursuant to NRS 645.8795.

2. If the escrow agent determines that the amount of the owner's net proceeds is insufficient to satisfy the amount of the claim, the escrow agent:

- (a) Shall, within 3 days after making that determination but not later than the close of escrow, notify the real estate broker of that fact in writing; and
- (b) Shall not release to the owner any portion of the owner's net proceeds unless the escrow agent receives a copy of the written agreement executed by the owner and the real estate broker authorizing the escrow agent to release those proceeds to the owner.

3. Except as otherwise provided in paragraph (b) of subsection 2 and NRS 645.8791, if an owner's net proceeds or any portion of an owner's net proceeds are reserved pursuant to this section, the escrow agent who reserves those proceeds shall not release the proceeds to any person until the rights of the owner and the real estate broker are determined pursuant to NRS 645.8791.

4. A reservation of an owner's net proceeds or any portion of an owner's net proceeds pursuant to this section does not relieve the owner of the obligation to close escrow for the commercial real estate.

(Added to NRS by 1999, 1177)

NRS 645.8785 Deposit of proceeds with district court; discharge of escrow agent from further liability concerning proceeds.

1. If:
- (a) A notice of a claim is recorded pursuant to NRS 645.8775;
 - (b) An escrow agent has reserved an owner's net proceeds or any portion of an owner's net proceeds pursuant to NRS 645.8781;
- and

(c) Escrow for the disposition of the commercial real estate has closed,
 ↪ the escrow agent may, in accordance with the provisions of NRS 645A.177, deposit with the district court of the county where the claim is recorded the amount of the owner's net proceeds reserved by him or her pursuant to NRS 645.8781.

2. If an escrow agent deposits an owner's net proceeds with a district court pursuant to subsection 1, the escrow agent is discharged from any further liability concerning those proceeds.

(Added to NRS by 1999, 1177)

NRS 645.8791 Civil action concerning claim: Issuance of order to broker to appear and show cause; effect of failure to appear; hearings; release of proceeds; frivolous claims; compensatory damages; award of costs and attorney's fees to prevailing party.

1. If a claim is recorded pursuant to NRS 645.8775, the owner against whom the claim is recorded may:

- (a) File a civil action concerning the claim in the district court of the county where the commercial real estate or a portion of the commercial real estate is located; and

(b) At the time the summons is issued or at any time before the complaint is answered by the real estate broker, apply to the district court for an order directing the real estate broker to appear before the court to show cause why the claim should not be dismissed.

2. If the court issues an order directing the real estate broker to appear before the court, the order must:

(a) State that, if the real estate broker fails to appear at the time and place specified in the order, the claim will be dismissed with prejudice pursuant to subsection 3;

(b) Specify a time and date on which the court will conduct a hearing on the matter; and

(c) Establish a period within which the owner must serve a notice of the order on the real estate broker and the escrow agent.

3. If the real estate broker fails to appear at the time and place specified in the order issued pursuant to subsection 2, the court shall issue an order:

(a) Dismissing the claim with prejudice;

(b) Cancelling the notice of the claim recorded pursuant to NRS 645.8775; and

(c) Requiring the real estate broker to record in the office of the county recorder of the county where the notice of the claim is recorded a copy of the order of cancellation issued pursuant to paragraph (b).

↳ An order issued pursuant to this subsection must state that the cancellation of the notice of the claim has the same effect as an expungement of that notice.

4. If a hearing is conducted pursuant to this section, the court shall consider the showing made by the parties at the hearing and shall make a preliminary determination of which party, with reasonable probability, is entitled to the amount of the owner's net proceeds claimed by the broker pending final adjudication of the claims of the parties.

5. If, after the hearing, the district court determines there is a reasonable probability that:

(a) The real estate broker is entitled to the amount of the owner's net proceeds claimed by him or her, the court shall, if those proceeds:

(1) Have been deposited with the court by the escrow agent pursuant to NRS 645.8785, release the proceeds to the real estate broker; or

(2) Have not been deposited with the court by the escrow agent pursuant to that section, order the escrow agent to release the proceeds to the real estate broker; or

(b) The owner is entitled to the amount of the owner's net proceeds claimed by the real estate broker, the court shall, if those proceeds:

(1) Have been deposited with the court by the escrow agent pursuant to NRS 645.8785, release the proceeds to the owner; or

(2) Have not been deposited with the court by the escrow agent, order the escrow agent to release the proceeds to the owner.

6. If the owner believes the claim is frivolous and is made without reasonable cause, the owner may include in the application submitted pursuant to subsection 1 a request for an order directing the real estate broker to appear and show cause why the claim should not be dismissed on those grounds. If the court issues such an order, any hearing conducted pursuant to that order must be conducted in the manner provided in NRS 108.2275. In addition to any remedy set forth in that section, the court may award compensatory damages to the owner.

7. The prevailing party in any civil action filed or hearing conducted pursuant to this section is entitled to receive:

(a) Any costs incurred by that party for the civil action or hearing; and

(b) A reasonable attorney's fee.

8. Proceedings conducted pursuant to this section do not affect any rights or remedies otherwise available to the owner or the real estate broker.

(Added to NRS by 1999, 1178)

NRS 645.8795 Priority of recorded claim.

1. Except as otherwise provided in subsection 2, a claim that is recorded pursuant to the provisions of NRS 645.8775 has priority over any other encumbrance, claim or lien, if the claim of the real estate broker is recorded before the encumbrance, claim or lien.

2. The provisions of subsection 1 do not apply to a lien recorded pursuant to the provisions of NRS 108.221 to 108.246, inclusive.

(Added to NRS by 1999, 1179)

NRS 645.8801 Release of recorded claim. If a real estate broker records a claim pursuant to the provisions of NRS 645.8775 and that claim is paid or otherwise satisfied pursuant to that section, the real estate broker shall, within 3 days after the claim is paid or otherwise satisfied, record a written release of that claim. The release must be recorded in the office of the county recorder where the claim was recorded.

(Added to NRS by 1999, 1179)

NRS 645.8805 Service of notice. Any notice that is required to be served pursuant to the provisions of NRS 645.8701 to 645.8811, inclusive, must be served in the manner provided in NRS 108.227.

(Added to NRS by 1999, 1179)

NRS 645.8811 Escrow agents: Immunity; collection of fees for services. An escrow agent:

1. Is not liable in any civil action for any action taken to comply with the provisions of NRS 645.8701 to 645.8811, inclusive.

2. May charge and collect a fee from an owner or real estate broker for any services provided by the escrow agent to the owner or real estate broker pursuant to NRS 645.8701 to 645.8811, incl. 230-

(Added to NRS by 1999, 1179)

PROHIBITED ACTS; PENALTIES; ENFORCEMENT

NRS 645.990 Unlawful acts; penalties.

1. A person who:
 - (a) Obtains or attempts to obtain a license pursuant to this chapter by means of intentional misrepresentation, deceit or fraud; or
 - (b) Sells or attempts to sell in this State any interest in real property by means of intentional misrepresentation, deceit or fraud,is guilty of a category D felony and shall be punished as provided in NRS 193.130. In addition to any other penalty, the court shall order the person to pay restitution.
2. Any licensee, permittee or owner-developer who commits an act described in NRS 645.630, 645.633 or 645.635 shall be punished by a fine of not more than \$5,000 for each offense.
3. A person who violates any other provision of this chapter, if a natural person, is guilty of a gross misdemeanor, and if a limited-liability company, partnership, association or corporation, shall be punished by a fine of not more than \$2,500.
4. Any officer or agent of a corporation, or member or agent of a limited-liability company, partnership or association, who personally participates in or is an accessory to any violation of this chapter by the limited-liability company, partnership, association or corporation, is subject to the penalties prescribed in this section for natural persons.
5. The provisions of this section do not release a person from civil liability or criminal prosecution pursuant to the general laws of this State.
6. The Administrator may prefer a complaint for violation of NRS 645.230 before any court of competent jurisdiction and may take the necessary legal steps through the proper legal officers of this State to enforce the provisions thereof.
7. Any court of competent jurisdiction may try any violation of this chapter, and upon conviction, the court may revoke or suspend the license of the person so convicted, in addition to imposing the other penalties provided in this section.
[29:150:1947; 1943 NCL § 6396.29]—(NRS A 1963, 678; 1967, 644; 1979, 1557; 1981, 1330; 1983, 223; 1985, 1278; 1993, 891; 1995, 1312; 1997, 171; 2001, 524; 2003, 3465)

NRS 645.993 Unlawful to file documents that are false or contain willful, material misstatement of fact; penalty.

1. It is unlawful for any person to file with the Administrator, the Division or the Commission any notice, statement, complaint or other document required under the provisions of this chapter which is false or which contains any willful, material misstatement of fact.
2. A person who violates any provision of this section is guilty of a gross misdemeanor.
(Added to NRS by 2003, 1289)

CHAPTER 645 - REAL ESTATE BROKERS AND SALESPERSONS

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GENERAL PROVISIONS

NAC 645.005 Definitions. (NRS 645.190) As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 645.007 to 645.055, inclusive, have the meanings ascribed to them in those sections.

[Real Estate Adv. Comm’n, part § I, eff. 10-31-75] — (NAC A by Real Estate Comm’n by R146-99, 1-21-2000; R031-04, 11-30-2004; R123-06, 6-1-2006; R165-07, 4-17-2008)

NAC 645.007 “Active experience” defined. (NRS 645.190, 645.343) “Active experience” for the purposes of NRS 645.343 means experience gained while engaged in those activities described in subsections 1 and 2 of NRS 645.030 and NRS 645.035 and 645.040 for at least 30 hours a week during at least 48 weeks of any 12-month period.

(Added to NAC by Real Estate Comm’n, eff. 1-21-81; A by R146-99, 1-21-2000)

NAC 645.010 “Active status” defined. (NRS 645.190) “Active status” means that a person holds a current license, is otherwise in good standing with the Division and may engage in the real estate business.

[Real Estate Adv. Comm’n, § I subsec. 1, eff. 10-31-75]

NAC 645.011 “Administrator” defined. (NRS 645.190) “Administrator” means the Real Estate Administrator.

(Added to NAC by Real Estate Comm’n by R146-99, eff. 1-21-2000)

NAC 645.0115 “Advisory committee” defined. (NRS 645.190) “Advisory committee” means a committee established pursuant to NAC 645.490.

(Added to NAC by Real Estate Comm’n by R146-99, eff. 1-21-2000)

NAC 645.013 “Approved course” defined. (NRS 645.190) “Approved course” means a course of education that has been approved as a course for continuing education pursuant to NAC 645.455 or as a course for postlicensing education pursuant to NAC 645.4444.

(Added to NAC by Real Estate Comm’n by R031-04, eff. 11-30-2004)

NAC 645.017 “Branch office” defined. (NRS 645.190) “Branch office” means an office operated by a licensed real estate broker or corporation, separate from the principal location of the broker, for the purpose of engaging in a general real estate business. It does not include a sales office within the same or a nearby community which is used only for sales activities pertaining to the development.

[Real Estate Adv. Comm’n, § I subsec. 12 + § VI subsec. 17, eff. 12-20-75]

NAC 645.020 “Commission” defined. “Commission” means the Real Estate Commission.
(Supplied in codification)

NAC 645.021 “Distance education” defined. (NRS 645.190) “Distance education” means instruction that is delivered by video, computer, television, correspondence, the Internet or other electronic means of communication, or any combination thereof, in such a manner that the person supervising or providing the instruction and the student receiving the instruction are separated by distance or by time, or by both distance and time.

(Added to NAC by Real Estate Comm’n by R031-04, eff. 11-30-2004)

NAC 645.022 “Division” defined. “Division” means the Real Estate Division of the Department of Business and Industry.

(Supplied in codification)

NAC 645.025 “Employment” defined. (NRS 645.190) “Employment” means the relationship between a salesperson and the broker with whom the salesperson is associated. It includes any employee-employer relationship as well as any independent contractor relationship.

[Real Estate Adv. Comm’n, § I subsec. 4, eff. 10-31-75]

NAC 645.0255 “Exclusive agency listing agreement” defined. (NRS 645.190) “Exclusive agency listing agreement” means an agreement between a broker and a seller or lessor that:

1. Meets the requirements of NRS 645.320;

2. Grants the broker the exclusive right to represent the seller or lessor in the sale or lease of any property; and

3. Provides the broker with the expectation of receiving compensation if the broker or any other person produces a purchaser or tenant in accordance with the terms of the exclusive agency listing agreement or if the property is sold or leased during the term of the exclusive agency listing agreement, unless the property is sold or leased solely through the efforts of the seller or lessor or to a person who is specifically exempted under the exclusive agency listing agreement.

(Added to NAC by Real Estate Comm'n by R165-07, eff. 4-17-2008)

NAC 645.026 “Exclusive buyer’s brokerage agreement” defined. (NRS 645.190) “Exclusive buyer’s brokerage agreement” means an agreement between a broker and a purchaser or tenant that:

1. Meets the requirements of NRS 645.320;

2. Grants the broker the exclusive right to represent the purchaser or tenant in the purchase or lease of any property; and

3. Provides the broker with the expectation of receiving compensation in accordance with the terms specified in the exclusive buyer’s brokerage agreement or if any property is purchased or leased by the purchaser or tenant during the term of the exclusive buyer’s brokerage agreement, unless the property is specifically exempted in the exclusive buyer’s brokerage agreement.

(Added to NAC by Real Estate Comm'n by R165-07, eff. 4-17-2008)

NAC 645.0265 “Exclusive right to sell or lease listing agreement” defined. (NRS 645.190) “Exclusive right to sell or lease listing agreement” means an agreement that:

1. Meets the requirements of NRS 645.320;

2. Grants the broker the exclusive right to represent the seller or lessor in the sale or lease of any property; and

3. Provides the broker with the expectation of receiving compensation if the broker, the seller or any other person produces a purchaser or tenant in accordance with the terms specified in the exclusive right to sell or lease listing agreement or if the property is sold or leased during the term of the exclusive right to sell or lease listing agreement to any person other than a person who is specifically exempted under the exclusive right to sell or lease listing agreement.

(Added to NAC by Real Estate Comm'n by R165-07, eff. 4-17-2008)

NAC 645.027 “Franchise” defined. (NRS 645.190) “Franchise” means an agreement, whether expressed or implied, oral or written, between two or more persons by which:

1. The holder is granted the right to engage in the business of offering, selling or distributing goods or services under a marketing plan or system prescribed in substantial part by the grantor;

2. The operation of the holder’s business pursuant to such a plan or system is substantially associated with the grantor’s trademark, service mark, trade name, logotype, advertising or other commercial symbol which identifies the grantor or its affiliate; and

3. The holder is required to pay, directly or indirectly, a fee for this right.

[Real Estate Adv. Comm'n, § I subsec. 13, eff. 12-30-76] — (NAC A by Real Estate Comm'n, 8-21-81; 8-26-83)

NAC 645.040 “Inactive renewed status” defined. (NRS 645.190) “Inactive renewed status” means that a licensee holds a current unsuspended or unrevoked license, but has cancelled the license and may not transact any real estate business until the licensee reinstates the license to

active status. When a licensee is on inactive renewed status, the Division shall keep his or her license.

[Real Estate Adv. Comm'n, § I subsec. 6, eff. 10-31-75]

NAC 645.042 “Involuntarily inactivate” defined. (NRS 645.190) “Involuntarily inactivate” means to transfer a license from active status to inactive renewed status at the initiative of the Division and not at the request of the licensee.

[Real Estate Adv. Comm'n, § I subsec. 7, eff. 10-31-75] — (NAC A by Real Estate Comm'n by R031-04, 11-30-2004)

NAC 645.043 “Licensee” defined. (NRS 645.190) “Licensee” means any person who holds a license as a real estate broker, broker-salesperson or salesperson pursuant to chapter 645 of NRS.

(Added to NAC by Real Estate Comm'n, eff. 12-16-82)

NAC 645.045 “Owner-developer” defined. (NRS 645.190) “Owner-developer” has the meaning ascribed to it by NRS 645.018.

[Real Estate Adv. Comm'n, § I subsec. 8, eff. 10-31-75]

NAC 645.046 “Postlicensing education” defined. (NRS 645.190) “Postlicensing education” means the postlicensing curriculum of continuing education that, pursuant to NRS 645.575, a person is required to complete within the first year after his or her initial licensing.

(Added to NAC by Real Estate Comm'n by R031-04, eff. 11-30-2004)

NAC 645.047 “Principal place of business” defined. (NRS 645.190) “Principal place of business” means the principal office of a licensed real estate broker which he or she uses to conduct a general real estate business.

[Real Estate Adv. Comm'n, § I subsec. 11, eff. 12-20-75]

NAC 645.050 “Reinstatement” defined. (NRS 645.190) “Reinstatement” means the return to active status.

[Real Estate Adv. Comm'n, § I subsec. 9, eff. 10-31-75]

NAC 645.051 “Sign” defined. (NRS 645.190) “Sign” means to affix a signature to a record.

(Added to NAC by Real Estate Comm'n by R123-06, eff. 6-1-2006)

NAC 645.0515 “Signature” defined. (NRS 645.190) “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 or herself and adopt or accept a record. The term includes, without limitation, an electronic signature as defined in NRS 719.100.

(Added to NAC by Real Estate Comm'n by R123-06, eff. 6-1-2006)

NAC 645.052 “Single-family residence” defined. (NRS 645.018, 645.190) “Single-family residence,” for the purposes of NRS 645.018, includes, without limitation, an attached residential dwelling, a condominium, a cooperative apartment, a manufactured home and a townhouse unit.

(Added to NAC by Real Estate Comm'n, eff. 8-1; A by R031-04, 11-30-2004)

NAC 645.055 “Voluntary cancellation” defined. (NRS 645.190) “Voluntary cancellation” means the transferring of a license from active status to inactive renewed status by a licensee.

[Real Estate Adv. Comm’n, § I subsec. 10, eff. 10-31-75]

NAC 645.070 Severability of provisions. (NRS 645.190) If any provision of these regulations, or the application thereof to any person, thing, or circumstance is held invalid, such invalidity does not affect the provisions or application of these regulations which can be given effect without the invalid provision or application, and to this end the provisions of these regulations are declared to be severable.

[Real Estate Adv. Comm’n, § II subsec. 2, eff. 10-31-75] — (Substituted in revision for NAC 645.920)

ADMINISTRATION

NAC 645.075 Distribution of booklet concerning certain disclosures required in sale of residential property. (NRS 645.190, 645.194)

1. The Division shall make copies of the booklet prepared pursuant to NRS 645.194 available to licensees using one or more of the following methods of distribution:

(a) Making a printable version of the booklet available on the Internet website maintained by the Division.

(b) Providing an electronic copy of the booklet to each approved sponsor of real estate education courses.

(c) Authorizing any person to reproduce the most recent version of the booklet without obtaining the approval of the Division.

(d) Providing to schools or instructors approved by the Commission printed copies of the booklet for use in courses to fulfill the educational requirements for issuance of an original license pursuant to chapter 645 of NRS, courses for postlicensing education and courses for continuing education which are devoted to the legal aspects of real estate.

(e) Providing at no cost not more than 10 printed copies of the booklet upon request at an office of the Division, if a sufficient supply of booklets is available at the office.

(f) Mailing a printed copy of the booklet to any licensee upon the request of the licensee.

(g) Any other method of distribution deemed appropriate by the Division.

2. Upon the request of any person at an office of the Division, the Division shall provide the person a printed copy of the booklet prepared pursuant to NRS 645.194.

(Added to NAC by Real Estate Comm’n by R090-09, eff. 4-20-2010)

NAC 645.080 Investigations of background: Fee. (NRS 645.190, 645.6052, 645.830) The fee for the investigation of the background of an applicant, licensee, certificate holder, registrant or permit holder will not exceed the actual cost to conduct the investigation.

(Added to NAC by Real Estate Comm’n by R050-04, eff. 8-25-2004)

NAC 645.085 Check or draft returned to Division for lack of payment: Sanctions; fee. (NRS 645.190)

1. If a person submits a check or draft to the Division to obtain a certificate, approval, accreditation or other type of authorization to engage in an activity for which authorization is required pursuant to this chapter, or chapter 645 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, 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, 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.

(Added to NAC by Real Estate Comm'n by R031-04, eff. 11-30-2004)

NAC 645.095 Denial of application, license or permit; proof of moral character; appeal. (NRS 645.190, 645.285, 645.330, 645.400, 645.6052)

1. The Division may deny any application for registration as an owner-developer, a license or a permit issued by the Division pursuant to this chapter or chapter 645 of NRS for any reason which is sufficient to deny a license pursuant to NRS 645.330 or when one or more of the following conditions exist:

(a) The application is not in proper form;

(b) The application is not accompanied by the required fees;

(c) The accompanying forms are incomplete or otherwise unsatisfactory;

(d) The application contains a false statement;

(e) Other deficiencies appear in the application;

(f) An investigation fails to show affirmatively that the applicant possesses the necessary qualifications, including, without limitation, good moral character and financial responsibility;

(g) The applicant has willfully acted or attempted to act in violation of chapter 113, 116, 119, 119A, 645, 645A, 645C or 645D of NRS or the regulations adopted pursuant thereto, or has willfully aided and abetted another to act or attempt to act in violation of those chapters or regulations;

(h) The check used in paying the required fees for the registration, license or permit is not honored by the financial institution upon which it is drawn; or

(i) If the application is for registration as an owner-developer, the applicant fails to verify that he or she is a licensed contractor in this State.

2. The Administrator may require proof of the applicant's moral character. In determining that character, the Administrator shall consider:

(a) The results of the Division's investigation of matters stated in the application and other matters that have come to the attention of the Division as a result of the investigation of the Division;

(b) Any history of arrest and conviction of the applicant;

(c) The nature and history of the business of the applicant; and

(d) Any past failure of the applicant to comply with any applicable requirements of chapter 113, 116, 119, 119A, 645, 645A, 645C or 645D of NRS.

3. An applicant whose application is denied by the Division may appeal the denial to the Commission in the manner set forth in NRS 645.440. If the Commission reverses the original decision and determines that the petitioner qualifies for registration, a license or a permit, the

application may be accepted as of the date the application was originally submitted or the date on which the fee for the registration, license or permit was paid, whichever is later. The Division shall not charge an additional fee.

4. If the Division denies an application pursuant to this section, the Division will not refund any fees paid pursuant to that application.

(Added to NAC by Real Estate Comm'n by R111-01, eff. 12-17-2001)

LICENSES, CERTIFICATES AND EXAMINATIONS

NAC 645.100 Applicant for license as real estate salesperson: Minimum age; requirements. (NRS 645.190, 645.330, 645.400) An applicant for a license as a real estate salesperson must:

1. Be at least 18 years of age; and
2. Include with an application submitted to the Division pursuant to NRS 645.350:
 - (a) His or her fingerprint card as required pursuant to NRS 645.355;
 - (b) Proof that the applicant has satisfied the educational requirements for a license as a real estate salesperson as set forth in NRS 645.343;
 - (c) In accordance with NRS 645.358, the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520;
 - (d) Proof that the applicant has received a passing grade as described in NAC 645.220 on the examination for the license;
 - (e) The verified statement required by NRS 645.350;
 - (f) Any information required pursuant to NAC 645.150, including, without limitation, proof of honesty, truthfulness and good reputation; and
 - (g) The required fees.

(Added to NAC by Real Estate Comm'n by R111-01, eff. 12-17-2001)

NAC 645.101 Applicant for license as real estate broker-salesperson: Requirements. (NRS 645.190, 645.400) An applicant for a license as a real estate broker-salesperson must satisfy the requirements for a license as a real estate salesperson as set forth in NAC 645.100 except the educational requirements set forth in paragraph (b) of subsection 2 of NAC 645.100. In lieu of providing proof that he or she has satisfied the educational requirements for a license as a real estate salesperson, the applicant must include with an application submitted to the Division pursuant to NRS 645.350 proof that he or she has satisfied the educational requirements for a license as a real estate broker-salesperson as set forth in NRS 645.343.

(Added to NAC by Real Estate Comm'n by R111-01, eff. 12-17-2001)

NAC 645.102 Applicant for license as real estate broker: Requirements. (NRS 645.190, 645.400)

1. Before a person who wishes to apply for a license as a real estate broker submits an application for the license pursuant to NRS 645.350, the person must obtain approval of his or her financial condition from the Division pursuant to NAC 645.120.

2. An applicant for a license as a real estate broker must satisfy the requirements for a license as a real estate salesperson as set forth in NAC 645.100 except the educational requirements set forth in paragraph (b) of subsection 2 of NAC 645.100. In lieu of providing proof that he or she has satisfied the educational requirements for a license as a real estate salesperson, the applicant must include with an application submitted to the Division pursuant to NRS 645.350 proof that he or she

has satisfied the educational requirements for a license as a real estate broker as set forth in NRS 645.343.

3. In addition to satisfying the requirements set forth in subsection 2, an applicant for a license as a real estate broker must include with the application he or she submits to the Division pursuant to NRS 645.350 proof that the applicant has satisfied the experience requirements for a license as a real estate broker as set forth in subsection 4 of NRS 645.330.

(Added to NAC by Real Estate Comm'n by R111-01, eff. 12-17-2001; A by R025-10, 12-16-2010)

NAC 645.105 Preparation of application. (NRS 645.190, 645.400) Each application must be completed personally by the applicant. Members of the Commission or employees of the Division are expressly prohibited from helping a person prepare his or her license application.

[Real Estate Adv. Comm'n, § III part subsec. 1 § subsec. 2, eff. 10-31-75] — (NAC A by Real Estate Comm'n, 8-26-83)

NAC 645.115 Application by partnership, limited-liability company or corporation. (NRS 645.190, 645.400) If an applicant for a license is a partnership, limited-liability company or corporation, the applicant must file with the Division a certified or verified copy of the partnership agreement, articles of organization or articles of incorporation, as appropriate.

[Real Estate Adv. Comm'n, § III subsec. 5, eff. 10-31-75] — (NAC A by Real Estate Comm'n, 8-21-81; 6-3-86; R031-04, 11-30-2004)

NAC 645.120 Financial condition of applicant for license as real estate broker. (NRS 645.190, 645.400)

1. Before a person who wishes to apply for a license as a real estate broker submits an application for the license pursuant to NRS 645.350, the Division shall consider the financial condition of the person and require the person to submit to the Division the following financial information:

- (a) The person's current employer and the employer's address;
- (b) The person's checking accounts with amounts;
- (c) The person's savings accounts with amounts; and
- (d) Such other information concerning the person's finances as the Division deems pertinent.

2. A person may not apply for a license as a real estate broker unless the person has submitted to the Division the information required by this section and the Division has approved the financial condition of the person.

[Real Estate Adv. Comm'n, § III subsec. 1 par. a, eff. 10-31-75] — (NAC A by Real Estate Comm'n, 8-21-81; R031-04, 11-30-2004; R025-10, 12-16-2010)

NAC 645.140 Requirement of instruction. (NRS 645.190, 645.343, 645.345, 645.400)

1. An applicant for an original license must submit a certificate from an accredited educational institution or an institution approved by the Commission as proof that the applicant has successfully completed the course or courses of instruction required in NRS 645.343. If the applicant states in his or her application that he or she has completed any of the courses at a university or community college the applicant must have the college or university furnish the Division with a transcript of his or her record. The Division may allow substitution of those courses already completed and may

require additional instruction as is necessary to complete the course of instruction required in NRS 645.343.

2. Mere attendance in a classroom does not constitute successful completion of a course.

3. Proof of active experience as a real estate salesperson must be made on a form provided by the Division and attested by the applicant's broker or brokers.

4. For the purposes of subsection 4 of NRS 645.343, the substitution of each 2 years' active experience for 16 semester units of college level courses applies to experience as a real estate salesperson or broker in this State, any other state or the District of Columbia. No substitution may be made for any period which is less than 2 years.

[Real Estate Adv. Comm'n, § III subsecs. 21-23, eff. 1-4-78; A 4-20-78] — (NAC A by Real Estate Comm'n, 8-21-81; 12-16-82; 8-26-83; 4-27-84)

NAC 645.141 Requirement of active experience. (NRS 645.190, 645.400)

1. The Division will require a verified statement from an employing broker or a real estate broker-salesperson who is acting as manager of a principal or branch office pursuant to NAC 645.178 indicating extended experience of any licensee associated with the broker or broker-salesperson in order to determine the extent of experience the licensee has gained while associated with the broker or broker-salesperson.

2. This information must be reported on a form provided by the Division which must request the following information:

(a) The period of association with the broker or broker-salesperson.

(b) The average number of hours worked per week for, or under the supervision of, the broker or broker-salesperson.

(c) Any other information concerning the activities of the licensee which should be considered as contributing towards the licensee's experience while associated with the broker or broker-salesperson.

(Added to NAC by Real Estate Comm'n, eff. 8-21-81; A by R097-14, 4-4-2016)

NAC 645.150 Investigation of financial responsibility of applicant for license as real estate broker; proof of good character of any applicant. (NRS 645.190, 645.400)

1. The Division may investigate the financial responsibility of each applicant for a license as a real estate broker. If the Division determines that an applicant is not financially responsible, it may require that the applicant be licensed as a real estate broker-salesperson until he or she meets the requirements of financial responsibility as determined by the Commission. The Division may require an applicant for a license as a real estate broker to submit a credit report to the Division at his or her own expense.

2. An applicant for a license as a real estate broker shall be deemed financially responsible if the applicant can show liquid assets sufficient to maintain an office for at least 180 days. The applicant's cash on hand must be on deposit at least 90 days before the date of the application. Anyone denied a license for lack of financial responsibility does not waive his or her right to appeal pursuant to NRS 645.440 by acceptance of a license as a real estate broker-salesperson.

3. The Administrator may require other proof of the honesty, truthfulness and good reputation of any applicant, including the officers and directors of any corporation, or the members of any partnership or association making an application, before accepting an application for a license.

4. As used in this section, "liquid assets" means assets that are the equivalent of cash or easily converted into cash. The term:

(a) Includes, without limitation, money in a checking, savings or money market account and certificates of deposit.

(b) Does not include a line of credit.

[Real Estate Adv. Comm'n, § III subsecs. 12 & 13, eff. 10-31-75] — (NAC A by Real Estate Comm'n, 8-21-81; A by Real Estate Div., 3-1-96; A by Real Estate Comm'n by R111-01, 12-17-2001; R031-04, 11-30-2004; R025-10, 12-16-2010)

NAC 645.175 Licensing of branch offices. (NRS 645.050, 645.190, 645.530)

1. The real estate broker to whom the license is issued is responsible for all branch offices operated by the real estate broker.

2. A license for a branch office may only be issued in the name in which the real estate broker is licensed to conduct business at his or her main office.

3. A supervisor of a branch office may not manage more than one branch office.

4. A branch office is not required to establish a trust account, but if one is established, one of the signatures required on the account must be that of the supervisor of the branch office.

[Real Estate Adv. Comm'n, § VI subsecs. 9-12 & 14, eff. 12-20-75] — (NAC A by Real Estate Comm'n by R111-01, 12-17-2001)

NAC 645.177 Supervision of branch office. (NRS 645.050, 645.190)

1. Every branch office of a real estate broker must be under the supervision of a broker or a broker-salesperson who, within the preceding 4 years, has had 2 years of active experience as a broker, broker-salesperson, or salesperson in the United States.

2. While supervising a branch office, a broker-salesperson has all the duties of and is subject to the penalties applicable to a broker under chapter 645 of NRS and this chapter.

[Real Estate Adv. Comm'n, § VI subsec. 7, eff. 12-20-75] — (NAC A 12-16-82; A by Real Estate Div., 3-1-96)

NAC 645.178 Management of principal and branch offices. (NRS 645.050, 645.190)

1. A real estate broker-salesperson with at least 2 years of active experience within the immediately preceding 4 years of having a licensed status may act as an office manager for the principal office or a branch office operated by a real estate broker.

2. A real estate broker-salesperson who is acting as manager of a principal or branch office must notify the Division that he or she is acting in that capacity.

(Added to NAC by Real Estate Comm'n, eff. 8-21-81; A by Real Estate Div., 3-1-96; A by Real Estate Comm'n by R111-01, 12-17-2001)

NAC 645.180 Cooperative certificate: Application. (NRS 645.190, 645.605)

1. A real estate broker who is licensed in another state and wishes to work in cooperation with a Nevada real estate broker must apply to do so on a form provided by the Division. The application must be accompanied by:

(a) A copy of his or her current license issued in the other state;

(b) A history of his or her employment for the past 10 years;

(c) Information identifying him or her and the Nevada broker with whom the applicant wishes to cooperate;

(d) Information identifying the client whom the applicant will be representing;

(e) Information identifying the real property which will be the subject of the transaction conducted under the cooperative certificate;

(f) A history of any disciplinary, criminal or other legal proceeding involving the real estate salesperson or broker-salesperson who will be working for the applicant under the cooperative certificate;

(g) A list of other cooperative agreements currently in effect with the Nevada broker;

(h) A photograph of the applicant;

(i) A copy of the license of the real estate salesperson or broker-salesperson who will be working for the applicant; and

(j) A statement of consent by the Nevada broker to the cooperative agreement.

2. The Nevada broker and out-of-state broker must verify the truth of the contents of the application.

3. The application must be completed personally by the out-of-state broker, and no licensed Nevada broker or employee of the Division may assist in the preparation of any part of the application.

4. The required fee must be paid at the time of filing. If the Administrator does not issue the certificate as applied for, the fee will not be refunded.

5. The applicant must furnish proof satisfactory to the Administrator that:

(a) The applicant has a current active real estate broker's license or certificate issued by another state or territory of the United States or the District of Columbia;

(b) The jurisdiction which issued the license or certificate is the jurisdiction in which his or her principal place of business is located; and

(c) The applicant is in good standing with the authority which issued the license or certificate.

6. A person who resides in this State and holds a real estate license issued by another state is not eligible to hold a cooperative certificate or act on behalf of a holder of a certificate.

7. The Administrator may require proof of the applicant's moral character. In determining that character, the Administrator may consider:

(a) The results of the Division's investigation of matters stated in the application and other matters that have come to the attention of the Division as a result of the investigation;

(b) Any history of arrest and conviction of the applicant;

(c) The nature and history of the business of the applicant; and

(d) Any past failure of the applicant to comply with:

(1) Any requirement of chapter 113, 116, 119, 119A, 645, 645A, 645C or 645D of NRS or any other specific statute that is applicable to real estate transactions;

(2) Any similar statutory or regulatory requirement of another jurisdiction that is applicable to real estate transactions; or

(3) Any order imposing penalties that was issued by the licensing authority of another jurisdiction and was in effect at the time the applicant applied for the cooperative certificate.

[Real Estate Adv. Comm'n, § XI, eff. 10-31-75] — (NAC A by Real Estate Comm'n, 8-21-81; 12-16-82; 4-27-84; R111-01, 12-17-2001; R031-04, 11-30-2004; R097-14, 4-4-2016)

NAC 645.183 Cooperative certificate: Denial, cancellation, suspension or revocation; appeal. (NRS 645.190, 645.605)

1. The Administrator may deny an application for a cooperative certificate for any reason which is sufficient to deny an application for a license, permit or registration pursuant to NAC 645.095 or to initiate disciplinary proceedings pursuant to NRS 645.630 to 645.645, inclusive.

2. An applicant whose application for a cooperative certificate has been denied by the Administrator or an out-of-state real estate broker whose cooperative certificate has been cancelled,

suspended or revoked by the Administrator may appeal the denial, cancellation, suspension or revocation to the Commission in the manner set forth in NRS 645.440. The Commission will review the decision by the Administrator in the manner set forth in NRS 645.440, except that the hearing need not be held at a time or place other than that set for the next regular meeting of the Commission.

3. If the Commission reverses a decision by the Administrator to deny an application for a cooperative certificate and determines that the petitioner qualifies for a certificate, the application may be accepted as of the date the application was originally submitted or the date on which the fee for the certificate was paid, whichever is later. The Division shall not charge an additional fee.

[Real Estate Adv. Comm'n, § XIII, eff. 10-31-75] — (NAC A by Real Estate Comm'n, 8-21-81; 4-27-84; R111-01, 12-17-2001)

NAC 645.185 Cooperative certificate: Use of certificate. (NRS 645.050, 645.190, 645.605)

1. A certificate authorizing an out-of-state broker to cooperate with a Nevada broker is valid for the earlier of 12 months after the date of issuance or the completion or termination of the single transaction identified in the application for the certificate and expires automatically when the transaction has been completed or has been terminated. The fee paid for the issuance covers only that period or transaction, as applicable. The certificate is not transferable.

2. A Nevada broker working with an out-of-state broker holding such a certificate shall immediately report any change in his or her license status or address or the license status or address of the out-of-state broker to the Division. Any violation of this subsection subjects the certificate to revocation.

3. If, at any time during which a cooperative certificate is in effect, the out-of-state broker or the Nevada broker wishes to terminate the relationship, he or she must give written notice of the termination to the Division and the broker with whom he or she has been cooperating and the out-of-state broker shall immediately surrender his or her certificate to the Division.

4. If the license of the out-of-state broker expires or is inactivated, suspended, revoked or cancelled, the out-of-state broker shall immediately give written notice to the Division of each Nevada broker with whom he or she is cooperating and surrender his or her cooperative certificate to the Division.

5. The Administrator may not issue a cooperative certificate to an out-of-state association, partnership or corporation which is licensed as a broker. Only a natural person who is a broker may be issued such a certificate.

6. When acting under a cooperative certificate, an out-of-state broker shall work through the cooperating Nevada broker or a licensee associated with a Nevada broker. The Nevada broker is in charge of the transaction from beginning to end.

7. Any money received in a cooperative transaction may be handled only by the cooperating Nevada broker in accordance with NRS 645.310.

8. Each out-of-state broker, while cooperating with a Nevada broker, is governed by the provisions of this chapter and chapter 645 of NRS. Any violation of such a provision by the out-of-state broker subjects his or her cooperative certificate and the Nevada broker's license to fine or suspension, or both, or revocation. By accepting a cooperative certificate, the out-of-state broker shall be deemed to have appointed the Nevada broker as his or her agent for service of all notices and process in any proceeding initiated by the Division pursuant to chapter 645 of NRS related to the transaction for which the cooperative certificate was issued.

9. A cooperating out-of-state broker may authorize only one broker-salesperson or one salesperson employed by him or her to act in his or her behalf. The authorization must be on a form supplied by the Division, and a copy must be sent to the Division before the authorized representative of the out-of-state broker may conduct any transaction. The authorized representative shall carry the completed form with him or her whenever the authorized representative is in Nevada for the purpose of conducting his or her real estate business.

10. An out-of-state broker may cooperate with more than one Nevada broker and a Nevada broker may cooperate with more than one out-of-state broker. Each arrangement is considered a separate agreement for which the appropriate form must be completed and submitted, the appropriate fee paid and a separate cooperative certificate obtained.

11. An out-of-state broker may not use a cooperating broker's certificate as authority to sell or attempt to sell real estate in Nevada on behalf of the owner of that real estate. Such a certificate may be used only for the purpose of allowing the out-of-state broker or salesperson to represent a person other than a resident of Nevada in the purchase of real estate in Nevada.

[Real Estate Adv. Comm'n, § XII, eff. 10-31-75] — (NAC A by Real Estate Comm'n, 8-21-81; 12-16-82; 4-27-84; R031-04, 11-30-2004; R097-14, 4-4-2016)

NAC 645.205 Availability of handbook on examinations. (NRS 645.190) An applicant may obtain the handbook on candidate examinations that is currently approved by the Division at an office of the Division at no cost.

[Real Estate Adv. Comm'n, § IV subsecs. 1, 3 & 4, eff. 10-31-75] — (NAC A by Real Estate Comm'n, 8-21-81; R146-99, 1-21-2000; R031-04, 11-30-2004)

NAC 645.207 Fee for examination. (NRS 645.190, 645.410) The fee for an examination for an original license or the reinstatement of a license as a real estate broker, broker-salesperson or salesperson is \$100.

(Added to NAC by Real Estate Comm'n by R111-01, eff. 12-17-2001; A by R031-04, 11-30-2004)

NAC 645.210 Scope of examination. (NRS 645.190, 645.460) The examination for salespersons may be a different examination from the examination for brokers. Each of the examinations will consist of questions covering any or all of the following subjects:

1. Principles:
 - (a) Contract law;
 - (b) Real estate law and conveyancing;
 - (c) Listing property and services to the seller;
 - (d) Selling property and services to the buyer; and
 - (e) Deposits.
2. Practices:
 - (a) Land economics and appraising;
 - (b) Land descriptions;
 - (c) Financing and insurance;
 - (d) Mathematics;
 - (e) Escrows and closings;
 - (f) Subdivisions and developments;
 - (g) Property management;
 - (h) Environmental issues; and

(i) Tax issues that affect real estate ownership.

3. Procedures and ethics:

(a) NRS 113.060 to 113.150, inclusive, 116.4109 and 116.41095, and chapters 119, 119A, 119B and 645 of NRS and the regulations adopted pursuant to them;

(b) Federal laws, including, without limitation:

(1) Fair Housing Act, 42 U.S.C. §§ 3601 et seq.;

(2) Interstate Land Sales Full Disclosure Act, 15 U.S.C. §§ 1701 et seq.;

(3) Truth in Lending Act, 15 U.S.C. §§ 1601 et seq.;

(4) Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq.;

(5) Real Estate Settlement Procedures Act, 12 U.S.C. §§ 2601 et seq.;

(6) Equal Credit Opportunity Act, 15 U.S.C. §§ 1691 et seq.; and

(7) The Residential Lead-Based Paint Exposure Reduction Act of 1992, 42 U.S.C. §§ 4851 et seq.; and

(c) Real estate brokerage and ethics, professional responsibility, fair practice and the duties listed in any form prepared by the Division pursuant to NRS 645.193. A copy of a form prepared by the Division pursuant to NRS 645.193 may be obtained from the Division.

[Real Estate Adv. Comm'n, § IV subsec. 2, eff. 10-31-75] — (NAC A by Real Estate Comm'n by R146-99, 1-21-2000)

NAC 645.215 Length and confidentiality of examination. (NRS 645.190) The examination period must not exceed 4 hours without prior written consent of the Division. An applicant may not retain any examination materials. Examinations must not be made public except as provided in NRS 645.180.

[Real Estate Adv. Comm'n, § IV subsec. 5, eff. 10-31-75] — (NAC A by Real Estate Comm'n by R146-99, 1-21-2000; R031-04, 11-30-2004)

NAC 645.220 Passing grade on examination. (NRS 645.190) To pass an examination, an applicant must achieve a grade of at least 75 percent on each section of the examination.

[Real Estate Adv. Comm'n, § IV subsec. 6, eff. 10-31-75; A 2-20-76] — (NAC A by Real Estate Comm'n by R031-04, 11-30-2004)

NAC 645.225 Period for acceptance of results of examination. (NRS 645.190) The Division shall only accept results of an examination taken during the 12 months, to the day, immediately preceding the date of application for a license.

[Real Estate Adv. Comm'n, § IV subsecs. 7 & 10 eff. 10-31-75] — (NAC A by Real Estate Comm'n, 8-21-81; 6-3-86; R031-04, 11-30-2004)

NAC 645.230 Examination aids. (NRS 645.190)

1. The use or possession of any unfair methods or notes, the giving or receiving of aid of any kind, or the failure to obey instructions during the examination will result in a denial of the application and license.

2. A silent, cordless, electronic calculator may be used by an applicant during the examination if the calculator:

(a) Is not programmable;

(b) Does not have the capability to print on paper tape; and

(c) Does not have a keyboard containing the alphabet.

[Real Estate Adv. Comm'n, § IV subsec. 8, eff. 10-31-75] — (NAC A by Real Estate Comm'n, 8-21-81; R031-04, 11-30-2004)

NAC 645.305 Change in license. (NRS 645.190, 645.570)

1. Within 10 days after a change of his or her association with a real estate broker, other than termination, or a change of his or her name, business location or status, the licensee shall:

(a) Submit a request to the Division to change his or her license on a form provided by the Division; and

(b) Pay the required fees.

2. If a licensee requests a change and pays the required fee, the receipt issued by the Division constitutes a temporary working permit pending receipt of the requested license.

3. A real estate broker may change his or her status to that of a real estate broker-salesperson by filing an application on a form supplied by the Division.

4. Licensees associated with a real estate broker licensed pursuant to chapter 645 of NRS as a manager of a limited-liability company, member of a partnership or officer of a corporation are not considered to have changed their association with the real estate broker if the corporation, limited-liability company or partnership designates a new real estate broker to act in the capacity of a manager of the limited-liability company, member of the partnership or officer of the corporation on or before the last date that the former real estate broker works in that capacity.

[Real Estate Adv. Comm'n, § V subsecs. 1, 2 & 8, eff. 10-31-75] — (NAC A by Real Estate Comm'n, 8-21-81; R111-01, 12-17-2001; R031-04, 11-30-2004)

NAC 645.310 Real estate broker-salesperson or salesperson: Termination of association or employment with real estate broker or owner-developer. (NRS 645.190, 645.580)

1. If a real estate broker-salesperson or salesperson terminates, for any reason, his or her association with the real estate broker with whom he or she is associated, or his or her employment with the owner-developer by whom he or she is employed, the real estate broker or owner-developer shall, in addition to complying with the requirements of NRS 645.580, file with the Division:

(a) A notice of termination on a form provided by the Division; and

(b) Any other pertinent information the Division requests.

2. A real estate broker-salesperson or salesperson whose association or employment with a real estate broker or owner-developer is terminated may personally deliver his or her broker-salesperson or salesperson license to the Division on behalf of the real estate broker or owner-developer if the real estate broker-salesperson or salesperson, at the time he or she submits the license, also submits to the Division the original notice of termination that has been completed and signed by the real estate broker or owner-developer. The original notice of termination must include the signature of the broker or owner-developer, as appropriate, in any designated area on the notice which is required to be completed for the personal delivery of the license.

3. If a real estate broker or owner-developer does not comply with subsections 1 and 2 and NRS 645.580 in a timely manner, the licensee may apply for an administrative termination on a form provided by the Division.

[Real Estate Adv. Comm'n, § V subsec. 5, eff. 10-31-75] — (NAC A by Real Estate Comm'n, 8-21-81; R111-01, 12-17-2001; R031-04, 11-30-2004)

NAC 645.313 Proof of compliance with requirements for continuing education requisite to renewal of license. (NRS 645.190, 645.575) -249- Division shall not renew the license of an

active broker, broker-salesperson or salesperson unless the Division has received proof of compliance with the requirements for continuing education set forth in NRS 645.575 and the regulations adopted pursuant thereto.

[Real Estate Adv. Comm'n, § V subsec. 27, eff. 4-20-78] — (NAC A by Real Estate Comm'n, 5-14-96; R097-14, 4-4-2016) — (Substituted in revision for NAC 645.390)

NAC 645.315 Renewal of license: Failure to file application before license expires. (NRS 645.190, 645.577, 645.785) If a licensee fails to file an application for the renewal of his or her license before it expires, the licensee shall not engage in the business of real estate until the license is reinstated. To have his or her license reinstated, the licensee must:

1. Apply on the appropriate form;
2. Pay the required fees;
3. If required, pass the examination; and
4. Submit any other information required by the Administrator, including, without limitation, current fingerprint cards.

[Real Estate Adv. Comm'n, § V subsec. 11, eff. 10-31-75; A and renumbered as subsec. 9, 2-20-76] — (NAC A by Real Estate Comm'n by R111-01, 12-17-2001; R031-04, 11-30-2004)

NAC 645.320 Inactive renewed status: Placement; renewal of license required. (NRS 645.190, 645.577)

1. A licensee may be placed on inactive renewed status by applying to the Division on the appropriate form. The licensee is not entitled to a refund of any part of the fees paid for the unexpired term of his or her license.

2. A licensee who is on inactive renewed status must apply for renewal of his or her license on or before each anniversary of the license.

[Real Estate Adv. Comm'n, § V part subsecs. 9 & 10, eff. 10-31-75; A and renumbered as subsecs. 10 & 11, 2-20-76]

NAC 645.325 Inactive renewed status: Requirements for reinstatement. (NRS 645.190) Except as otherwise provided in NAC 645.345:

1. A licensee who is in good standing with the Division and whose license is on inactive renewed status may apply to the Division to have his or her license reinstated to active status. The application must:

- (a) Be on a form supplied by the Division;
- (b) Be accompanied by the required fees;
- (c) Contain evidence that the licensee has paid the required fee for the Real Estate Education, Research and Recovery Fund;
- (d) If the application is for reinstatement of a real estate broker's license, be accompanied by a completed financial statement that is prepared on the form prescribed by the Division;
- (e) Contain evidence that requirements for continuing education have been met; and
- (f) Include any other information required by the Administrator, including, without limitation, current fingerprint cards.

2. If a license has been on inactive renewed status for more than 2 years, the licensee must, in addition to fulfilling the requirements of subsection 1:

- (a) Show, to the Administrator's satisfaction, that he or she has the competency to engage in the business of real estate; and

(b) Complete an examination, including payment of the appropriate examination fees, and attain a score of at least 75 percent.

3. If the licensee fails the examination, he or she may retake the examination after paying the appropriate examination fee.

4. A license placed on inactive status for the holder's failure to comply with NRS 645.570 or for any of the reasons listed in NRS 645.577 remains inactive until an application for reinstatement has been approved by the Division.

[Real Estate Adv. Comm'n, § V part subsecs. 9 & 12, eff. 10-31-74; A and renumbered as subsecs. 12 & 13, 2-20-76] — (NAC A by Real Estate Comm'n, 8-21-81; 12-16-82; 4-27-84; 6-3-86; R111-01, 12-17-2001; R031-04, 11-30-2004)

NAC 645.330 Review of application for reinstatement. (NRS 645.190) In reviewing the application for reinstatement, the Division shall apply the same standards as are applied for original applicants. The Division shall determine whether the application is accepted or denied within 10 days after the later of:

1. The determination by the Division that the applicant has passed the examination, if required; and

2. The receipt by the Division of the following, if required:

(a) The FBI report;

(b) A completed financial statement that is prepared on a form prescribed by the Division;

(c) The required fees and forms; and

(d) Such other information as may be requested by the Division.

[Real Estate Adv. Comm'n, § V subsec. 14, eff. 2-20-76] — (NAC A by Real Estate Comm'n by R111-01, 12-17-2001; R031-04, 11-30-2004)

NAC 645.335 Appeal from a denial of a request for reinstatement. (NRS 645.190) If the Division denies an application for any reason, the licensee may appeal the denial pursuant to the provisions of NRS 645.440.

[Real Estate Adv. Comm'n, § V subsec. 15, eff. 2-20-76] — (NAC A by Real Estate Comm'n, 8-21-81)

NAC 645.340 Activation of license after approval of reinstatement. (NRS 645.190) The licensee must activate his or her license within 30 days after receiving notice from the Division that his or her application for reinstatement has been approved.

[Real Estate Adv. Comm'n, § V subsec. 9 par. c, eff. 10-31-75]

NAC 645.345 Failure of broker to renew license. (NRS 645.190)

1. If a real estate broker fails to renew his or her license, the license of a licensee with whom he or she is associated who has renewed that license will immediately be placed on inactive renewed status. A licensee associated with the real estate broker may:

(a) Within 30 calendar days, apply for a transfer to the association of another real estate broker, and pay any required fees; or

(b) If the real estate broker with whom the licensee was associated reinstates and renews his or her license within 30 calendar days, reactivate his or her license with that real estate broker.

2. If the licensee fails to reassociate with a broker within 30 days after the license of the broker with whom the licensee was associated became inactive, the licensee may only reinstate his or her license pursuant to NAC 645.325.

[Real Estate Adv. Comm'n, § V subsec. 13, eff. 10-31-75] — (NAC A by Real Estate Comm'n by R111-01, 12-17-2001; R031-04, 11-30-2004)

NAC 645.350 Involuntary inactivation, suspension or revocation of broker's license; expiration of license upon death of licensee; death of person acting as broker of brokerage. (NRS 645.050, 645.190)

1. If the license of a real estate broker is involuntarily inactivated, suspended or revoked, the real estate broker shall deliver his or her license to the Division with the license of each licensee with whom he or she is associated. A licensee who is associated with the real estate broker may, upon proper application and payment of the required fee, transfer to the association of another real estate broker. No refund will be made when a license is involuntarily inactivated, suspended or revoked.

2. Upon the death of a licensee, the license held by that licensee automatically expires.

3. Upon the death of a person who was licensed as a real estate broker and who was acting as the broker of a brokerage, a person who is licensed as a real estate broker in the State of Nevada may submit to the Division an affidavit stating that he or she will act as the broker of that brokerage for not more than 60 days after the death of the person who was acting as the broker of the brokerage. Notice of such an appointment must be submitted to the Division, in writing, within 7 business days after the death of the person who was acting as the broker of the brokerage.

[Real Estate Adv. Comm'n, § V subsec. 14, eff. 10-31-75] — (NAC A by Real Estate Comm'n by R111-01, 12-17-2001; R031-04, 11-30-2004; R123-06, 6-1-2006)

NAC 645.355 Loss of license. (NRS 645.190) If a license must be surrendered and it is not, the licensee shall file an affidavit with the Division showing that the license has been lost, destroyed or stolen. The affidavit must contain the licensee's promise to return the license if it is recovered.

[Real Estate Adv. Comm'n, § V subsec. 15, eff. 10-31-75] — (NAC A by Real Estate Comm'n, 8-21-81)

NAC 645.360 Involuntary inactivation of license: Grounds; reinstatement of license. (NRS 645.190)

1. The Division may involuntarily inactivate a license if:

(a) A real estate broker has discontinued business at the address at which he or she is registered;
(b) A licensee is no longer associated with a real estate broker under whom he or she is shown to be licensed;

(c) A licensee, whether active or inactive, fails to inform the Division within 10 days after a change in the address of his or her business;

(d) A licensee has not paid the renewal fee;

(e) A licensee fails to comply with subsection 2 of NRS 645.580 in a timely manner; or

(f) A licensee fails to submit a request to the Division as required by NAC 645.305 to change his or her license within 10 days after the licensee changes his or her name, business location or status.

2. A licensee whose license is involuntarily inactivated pursuant to this section must satisfy the applicable requirements for reinstatement as set forth in NAC 645.325 to have his or her license reinstated.

[Real Estate Adv. Comm'n, § V subsec. 16, eff. 10-31-75] — (NAC A by Real Estate Comm'n, 4-27-84; R111-01, 12-17-2001; R031-04, 11-30-2004)

NAC 645.380 Brokers designated by certain business organizations; members or officers of certain business organizations acting as brokers; service of certain business organizations as salespersons or broker-salespersons. (NRS 645.050, 645.190, 645.385, 645.400)

1. A broker designated by a partnership, limited-liability company or corporation pursuant to NRS 645.370 or a broker who has obtained a license pursuant to NRS 645.380 may also obtain an individual license to act on his or her own behalf. To obtain an individual license, a broker must complete and submit forms as supplied by the Division and must pay an original license fee and any other required fees.

2. The Division will issue an additional license to such a broker and subject him or her to the same rights and duties as any other licensed Nevada broker. He or she may maintain an office separate from the offices of the partnership, limited-liability company or corporation and shall maintain separate records and a separate trust account so that the business of the partnership, limited-liability company or corporation remains separate from his or her independent business.

3. The partnership, limited-liability company or corporation must submit a statement, on a form supplied by the Division, indicating that it is fully aware of the intention of the broker to maintain an independent business.

4. Revocation, suspension, or any other penalty of the Commission or the Division applies to both licenses of a broker who is licensed pursuant to this section.

5. A partnership, limited-liability company or corporation may not serve as a salesperson or broker-salesperson except as otherwise provided by a specific statute.

6. A broker who is licensed individually and as a partnership, limited-liability company or corporation, even though he or she has been issued two licenses by the Division, is considered to be only one licensee for the purposes of disciplinary action or claims against the Real Estate Education, Research and Recovery Fund.

[Real Estate Adv. Comm'n, § V subsec. 20, eff. 10-31-75] — (NAC A by Real Estate Comm'n, 8-21-81; 4-27-84; A by Real Estate Div., 3-31-94; R126-04, 10-31-2005)

EDUCATION IN REAL ESTATE

General Provisions

NAC 645.400 “School” defined. (NRS 645.190, 645.343, 645.575) For the purposes of NAC 645.400 to 645.467, inclusive, “school” includes:

1. Any university, school or community college which is a part of the Nevada System of Higher Education, or any other university or college bearing the same or an equivalent accreditation.

2. Any professional school or college licensed by the Nevada Commission on Postsecondary Education.

[Real Estate Adv. Comm'n, § X subsec. 3, eff. 10-31-75; A and renumbered as subsec. A par. 3, 1-4-78] — (NAC A by Real Estate Comm'n by R031-04, 11-30-2004; R097-14, 4-4-2016)

REVISER'S NOTE.

The regulation of the Real Estate Commission filed with the Secretary of State on April 4, 2016 (LCB File No. R097-14), which amended this section, contains the following provisions not included in NAC:

“Sec. 19. 1. The Real Estate Commission will not apply the amendatory provisions of this regulation to prevent a licensee from receiving credit for a course which the licensee completed before April 4, 2016.

2. As used in this section, “licensee” has the meaning ascribed to it in NAC 645.043.”

NAC 645.403 Approval of school: Application. (NRS 645.190, 645.343) A school that wishes to offer a course to meet the educational requirements for original licensing under chapter

645 of NRS must apply to the Commission annually for approval on a form prescribed by the Division and pay the appropriate fees. The application must include, without limitation:

1. The name and address of the school;
2. The type of school and a description of its facilities;
3. Information concerning the ownership of the school, including the business organization and the names and addresses of all directors, principals, officers and others having interests as owners;
4. A list of the instructors, including, without limitation, any guest lecturers;
5. A list of the courses to be offered and the title, objectives and topical syllabus for each course;
6. A proposed schedule of each course for 1 year that includes, without limitation, the dates, times and locations of each class;
7. An explanation for how each course meets the educational requirements for original licensing;
8. The allotment of time for each subject;
9. If a course is a distance education course, any information required by the Commission to determine whether the course satisfies the requirements of NAC 645.443;
10. The titles, authors, publishers, dates of publication and editions of all required textbooks;
11. A copy of any manual, handout or other course material to be used by the instructor or students;
12. A copy of each examination to be used and the correct answer for each question;
13. A statement of:
 - (a) The purpose of the school;
 - (b) The fees to be charged;
 - (c) The days, times and locations of classes;
 - (d) The number of quizzes and examinations;
 - (e) The grading systems, including the methods of testing and standards of grading;
 - (f) The requirements for attendance; and
 - (g) The location of the students' records;
14. A statement as to whether the school or any instructor employed by the school has been disciplined by any governmental agency in this or any other state; and
15. A statement of the requirement that to pass a course, a student must earn at least 75 percent of the points possible for the entire course.

(Added to NAC by Real Estate Comm'n, eff. 12-16-82; A by R031-04, 11-30-2004; R123-06, 6-1-2006; R097-14, 4-4-2016)

REVISER'S NOTE.

The regulation of the Real Estate Commission filed with the Secretary of State on April 4, 2016 (LCB File No. R097-14), which amended this section, contains the following provisions not included in NAC:

- "Sec. 19. 1. The Real Estate Commission will not apply the amendatory provisions of this regulation to prevent a licensee from receiving credit for a course which the licensee completed before April 4, 2016.
2. As used in this section, "licensee" has the meaning ascribed to it in NAC 645.043."

NAC 645.404 Approval of school: Conditions of approval; evidence of licensure required from certain schools. (NRS 645.190, 645.343)

1. If a school has applied for and received the Commission's approval to offer courses to meet requirements for licensure under chapter 645 of NRS, the school shall, as a condition of the approval:

(a) Maintain a record of each student's attendance and certification in any of those courses for 7 years after the student's enrollment and shall have such records open to inspection by the Division, upon its request, during the school's business hours.

(b) Upon a transferring student's request, furnish the school to which the student is transferring a copy of his or her attendance record and certification for each of those courses which he or she has completed.

(c) Upon a student's request, furnish the Division a transcript of the record of his or her grades and attendance.

2. A school that does not meet the definition of a "school" set forth in subsection 1 of NAC 645.400 must provide evidence to the Division that the school is licensed to operate by the Commission on Postsecondary Education.

(Added to NAC by Real Estate Comm'n, eff. 12-16-82; A 12-27-91; R097-14, 4-4-2016)

REVISER'S NOTE.

The regulation of the Real Estate Commission filed with the Secretary of State on April 4, 2016 (LCB File No. R097-14), which amended this section, contains the following provisions not included in NAC:

"Sec. 19. 1. The Real Estate Commission will not apply the amendatory provisions of this regulation to prevent a licensee from receiving credit for a course which the licensee completed before April 4, 2016.

2. As used in this section, "licensee" has the meaning ascribed to it in NAC 645.043."

NAC 645.407 Approval of school: Notice of material change in information provided in application; annual renewal of approval; denial of renewal. (NRS 645.190, 645.343)

1. Within 15 days after the occurrence of any material change in the information provided by the school in its application pursuant to NAC 645.403 which would affect its approval by the Commission, the school shall give the Division written notice of that change.

2. To qualify for annual renewal of approval by the Commission, a school must submit to the Commission before July 1:

(a) A written certification, in a form prescribed by the Division, declaring that the school has met all applicable requirements of this chapter;

(b) A sworn statement, in a form prescribed by the Division, declaring that the information contained in the original application is current or, if it is not current, a list of all material changes; and

(c) Payment of the appropriate fee for each course for which renewal is being sought.

3. The Commission may deny renewal of approval to any school that does not meet the standards required by this chapter.

4. Within 60 days after a decision is made to deny renewal of approval, the Commission must give written notice of the decision and the basis for that decision by certified mail to the last known address of the school.

(Added to NAC by Real Estate Comm'n, eff. 12-16-82; A 4-27-84; A by R031-04, 11-30-2004)
— (Substituted in revision for NAC 645.446)

NAC 645.410 Approved schools: General requirements for certification of students. (NRS 645.190, 645.343)

1. Except as otherwise provided in NAC 645.412, a school which the Commission has approved to give a course fulfilling the educational requirements for original licensing shall require each student to attend the required number of hours of instruction and take at least two examinations in the course as a condition of receiving certification for the course.

2. The school may certify only the number of hours for which the course has been approved by the Commission.

3. The entire course must be completed by the applicant or licensee to satisfy the licensing requirements.

4. For the purposes of this section:

(a) An "hour of instruction" means 50 minutes or more; and

(b) One semester credit is equal to 15 hours of instruction.

[Real Estate Adv. Comm'n, § X part subsec. 8, eff. 10-31-75; A and renumbered as subsec. C pars. 5 & 6, 1-4-78; § X subsec. C par. 10, eff. 4-20-78] — (NAC A by Real Estate Comm'n, 8-21-81; 12-16-82; 12-27-89; R031-04, 11-30-2004)

NAC 645.412 Approved schools: Certification of students taking courses by correspondence. (NRS 645.190, 645.343) If the Commission approves a school to give a course of study which fulfills the educational requirements for an original license and the school offers the course by correspondence, the school shall:

1. Require each student to:

(a) Take a closed-book final examination with a proctor present at a location designated by the school in its application for approval filed with the Commission;

(b) Take two progress examinations or quizzes in addition to the final examination;

(c) Prove his or her identity before the student is allowed to take any examination; and

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

2. Certify the completion of only the number of hours for which the course has been approved by the Commission. A portion of a course does not satisfy the requirements for a license.

(Added to NAC by Real Estate Comm'n, eff. 12-27-89)

NAC 645.420 Approved schools: Misrepresentation in advertising prohibited. (NRS 645.190, 645.343) A school approved by the Commission shall not make any misrepresentation in its advertising about any course of instruction which it offers to fulfill requirements for licensing under this chapter.

[Real Estate Adv. Comm'n, § X subsec. C par. 9, eff. 1-4-78] — (NAC A by Real Estate Comm'n, 12-16-82)

NAC 645.425 Approved schools: Instructors; guest lecturers; statement required in advertisements. (NRS 645.190, 645.343) A school which conducts courses approved by the Commission:

1. May employ as instructors of those courses only persons who meet the qualifications set forth in NAC 645.426.

2. Shall limit noncertificated guest lecturers who are experts in the related fields to a total of 9 instructional hours per approved course.

3. Shall include a statement that the school is approved by the Commission on all advertisements of the school.

[Real Estate Adv. Comm'n, § X subsec. C par. 7, eff. 1-4-78] — (NAC A by Real Estate Comm'n, 8-21-81; 12-16-82; 12-27-89; R146-99, 1-21-2000; R031-04, 11-30-2004)

NAC 645.426 Instructors: Requirements for and restrictions on approval; appeal of denial of approval; periodic review and evaluation. (NRS 645.190, 645.343, 645.575)

1. An instructor must have written approval from the Division before teaching an approved course.

2. An applicant for approval as an instructor must apply on a form prescribed by the Division.

3. The Division shall not, without the approval of the Commission, approve a person as an instructor if the person:

(a) Has been disciplined by the Commission or the Division acting on behalf of the Commission:

(1) Within the immediately preceding 5 years; or

(2) More than one time; or

(b) Has been determined in an administrative or judicial proceeding to have violated any statute, rule, regulation or order pertaining to real estate in this or any other state.

4. A person may be approved as an instructor to teach an approved course relating to his or her principal occupation if:

(a) The person has:

(1) A bachelor's degree or a more advanced degree, plus at least 2 years of full-time experience, in the field in which he or she will be providing instruction;

(2) Teaching experience of at least 75 hours in the field in which he or she will be providing instruction within the 3 years immediately preceding the date of the person's application for approval plus at least 3 years of full-time experience in that field;

(3) At least 6 years of full-time experience in the field in which the person will be providing instruction; or

(4) Any combination of at least 6 years of college-level course work and full-time experience in the field in which the person will be providing instruction;

(b) The person has a good reputation for honesty, integrity and trustworthiness; and

(c) The person submits to the Division satisfactory documentation of his or her qualifications and a resume outlining his or her experience, education and teaching experience in the field in which the person will be providing instruction.

5. If the Division denies an application for approval as an instructor, the applicant may appeal the decision of the Division by filing an appeal with the Commission not later than 30 days after the date on which the applicant received notification of the denial of the application for approval as an instructor.

6. If the applicant files a timely appeal, the Commission will, as soon as practicable, hold a hearing concerning the denial of the application for approval as an instructor at a regularly scheduled meeting of the Commission and will:

(a) Affirm the decision of the Division to deny the application for approval as an instructor;

(b) Approve the instructor for a limited period and under such conditions as the Commission deems appropriate; or

(c) Reverse the decision of the Division to deny the application for approval as an instructor.

7. The Division shall periodically review and evaluate each approved instructor.

(Added to NAC by Real Estate Comm'n by R031-04, eff. 11-30-2004; A by R123-06, 6-1-2006)

NAC 645.427 Instructors: Withdrawal of approval. (NRS 645.190, 645.343, 645.575)

1. The Administrator may withdraw the approval of an instructor who:

(a) Does an inadequate job of teaching the subject matter of a course as evidenced by student evaluations or an audit conducted by the Division.

(b) Has been determined in any administrative or judicial proceeding to have violated any statute, rule, regulation or order pertaining to real estate.

(c) Has been convicted of, or entered a plea of guilty or nolo contendere to, any crime involving fraud, deceit, misrepresentation or moral turpitude; or

(d) Engages in inappropriate behavior in the classroom as evidenced by an audit conducted by the Division.

2. Before withdrawing approval of the instructor of a course, the Administrator must notify the sponsor of the course of his or her intent to withdraw approval of the instructor. The notice must include the specific reasons upon which the Administrator is basing the decision to withdraw the approval of the instructor. Not later than 30 days after the date on which he or she receives the notice, a sponsor may provide a written response to the Administrator that clearly sets forth the reasons why the approval of the instructor should not be withdrawn and outlining any corrective measures that the sponsor will undertake. After the 30-day period has elapsed, the Administrator shall review the notice and any response submitted by the sponsor and shall:

(a) Withdraw approval of the instructor;

(b) Allow the instructor to remain approved if certain specific enumerated conditions are met; or

(c) Allow the continued approval of the instructor.

↳ If the Administrator decides to withdraw approval of the instructor, the withdrawal of approval of the instructor becomes effective upon the mailing of the Administrator's decision to the sponsor of the course taught by the instructor by certified mail, return receipt requested, to the sponsor's last known business address.

3. If the Administrator withdraws approval of an instructor, the Division shall give credit to a student for completing the course if the student began the course before the sponsor received written notice of the withdrawal of approval of the instructor.

4. The sponsor may appeal the decision of the Administrator to withdraw approval of an instructor by filing an appeal with the Commission not later than 30 days after the date on which the withdrawal of the approval of the instructor becomes effective.

5. If the sponsor files a timely appeal, the Commission will, as soon as practicable, hold a hearing concerning the withdrawal of approval of the instructor at a regularly scheduled meeting and will:

(a) Affirm the decision of the Administrator to withdraw approval of the instructor;

(b) Suspend approval of the instructor for a limited period and under such conditions as the Commission deems appropriate; or

(c) Reverse the decision of the Administrator to withdraw approval of the instructor.

(Added to NAC by Real Estate Comm'n by R031-04, eff. 11-30-2004)

NAC 645.428 Instructors: Duties. (NRS 645.190, 645.343, 645.575)

1. An instructor shall ensure that:

(a) Class sessions are commenced in a timely manner and are conducted for the full amount of time that is approved; and

(b) Each course is taught according to the course plan and instructor guide that was approved by the Commission, including the furnishing to students of appropriate student materials.

2. An instructor shall conduct himself or herself in a professional and courteous manner when performing his or her instructional duties and shall conduct classes in a manner that demonstrates the following basic teaching skills:

(a) The ability to present instruction in a thorough, accurate, logical, orderly and understandable manner, to utilize illustrative examples as appropriate and to respond appropriately to questions from students;

(b) The ability effectively to utilize varied instructional techniques in addition to lectures, including, without limitation, class discussion, role-playing and other techniques;

(c) The ability to utilize varied instructional aids effectively to enhance learning;

(d) The ability to maintain an appropriate learning environment and effective control of a class; and

(e) The ability to interact with adult students in a positive manner that:

(1) Encourages students to learn;

(2) Demonstrates an understanding of varied student backgrounds;

(3) Avoids offending the sensibilities of students; and

(4) Avoids personal criticism of any other person, agency or organization.

(Added to NAC by Real Estate Comm'n by R031-04, eff. 11-30-2004)

NAC 645.430 Satisfaction of requirement for course in principles of real estate to obtain original license as broker or broker-salesperson. (NRS 645.190, 645.343) The course in principles, practices, ethics, law and procedures which is required for a salesperson's license under subsection 1 of NRS 645.343 and was approved by the Commission before November 1, 1977, fulfills the requirement under subsection 2 of NRS 645.343 for a course of 3 semester units in the principles of real estate for an original broker's or broker-salesperson's license.

[Real Estate Adv. Comm'n, § X subsec. C par. 8, eff. 1-4-78] — (NAC A by Real Estate Comm'n, 12-16-82)

NAC 645.435 Course required to obtain original license as salesperson. (NRS 645.190, 645.343)

1. A course of instruction in real estate principles, practices, procedures, law and ethics which is designed to meet the educational requirements of an applicant for an original license as a salesperson must consist of:

(a) At least 90 hours of classroom lectures; or

(b) The equivalent in a correspondence or extension course.

2. The content of the course must be divided among subjects listed in NAC 645.210, including:

(a) At least 45 hours on the principles and practices of real estate, which must include:

(1) Brokerage and laws of agency, 21 hours.

(2) Valuation and economics, 12 hours.

(3) Finance, 12 hours.

(b) At least 45 hours on the law of property and the regulation of brokers and salespersons and the ethics of selling real estate, which must include:

(1) Ownership, transfer and use of property, 25 hours.

(2) Chapters 113, 116, 119, 119A, 645, 645C and 645D of NRS and the regulations adopted pursuant thereto, 18 hours.

(3) Applied practice and statutory disclosures, 2 hours.

[Real Estate Adv. Comm'n, § X subsecs. 1 & 2, eff. 10-31-75; A and renumbered subsec. A pars. 1 & 2, 1-4-78] — (NAC A by Real Estate Comm'n, 8-21-81; 12-16-82; 6-3-86; R031-04, 11-30-2004)

NAC 645.437 Approval of course in broker management required to obtain original license as broker or broker-salesperson; exception. (NRS 645.190, 645.343)

1. Except as otherwise provided in subsection 3, a course of instruction in broker management that is designed to fulfill the educational requirements for issuance of an original license which are described in paragraph (d) of subsection 2 of NRS 645.343 must be approved by the Commission.

2. To be approved by the Commission, a course in broker management must include, without limitation:

(a) Six hours of instruction relating to office policy and procedure, risk management, errors and omissions, controlled business arrangements, compensation, employee-employer relationships and the status of independent contractors;

(b) Three hours of instruction relating to creating business plans;

(c) Three hours of instruction on forms used by real estate brokerages for real estate transactions;

(d) Six hours of instruction that provides an overview of programs for financing real estate transactions, including, without limitation, terminology relating to such programs, the cost of transactions, customary transaction closing costs, and transaction cost and net sheets;

(e) Six hours of instruction in state and local laws;

(f) Six hours of instruction on federal laws governing real estate transactions;

(g) Six hours of instruction on professional relationships between agents and their clients;

(h) Three hours of instruction on valuation of real estate and general principles of economics; and

(i) Six hours of instruction on emerging trends and practices.

3. The Commission will accept, without prior approval, a course of instruction in broker management that is offered by any university, school or community college of the Nevada System of Higher Education, or any other university or college bearing the same or equivalent accreditation, if the course includes, at a minimum, the hours and subjects of instruction set forth in paragraphs (a) to (i), inclusive, of subsection 2.

(Added to NAC by Real Estate Comm'n by R092-00, 8-29-2000, eff. 1-1-2001; A by R031-04, 11-30-2004; R097-14, 4-4-2016)

REVISER'S NOTE.

The regulation of the Real Estate Commission filed with the Secretary of State on April 4, 2016 (LCB File No. R097-14), which amended this section, contains the following provisions not included in NAC:

"Sec. 19. 1. The Real Estate Commission will not apply the amendatory provisions of this regulation to prevent a licensee from receiving credit for a course which the licensee completed before April 4, 2016.

2. As used in this section, "licensee" has the meaning ascribed to it in NAC 645.043."

NAC 645.440 Courses required for original licensing: Approval of school. (NRS 645.190, 645.343)

1. Except as otherwise provided in subsection 2, before any school offers or conducts a course of instruction designed to fulfill the educational requirements for issuance of an original license under chapter 645 of NRS, the school must be approved by the Commission.

2. Unless the course is a course in broker management, the Commission will accept such a course from:

(a) Any university, school or community college of the Nevada System of Higher Education, or other university or college bearing the same or equivalent accreditation.

(b) The American Society of Appraisers, the Appraisal Institute or the International Association of Assessing Officers for courses in real estate appraisal consisting of not less than 45 hours of

instruction. Forty-five hours of instruction shall be deemed to be the equivalent of 3 semester credits in appraisal.

[Real Estate Adv. Comm'n, § X subsec. B par. 1, eff. 1-4-78; § X subsec. F part par. 7, eff. 4-20-78] — (NAC A by Real Estate Comm'n, 8-21-81; 12-16-82; 12-27-91; R092-00, 8-29-2000, eff. 1-1-2001; R031-04, 11-30-2004; R097-14, 4-4-2016)

REVISER'S NOTE.

The regulation of the Real Estate Commission filed with the Secretary of State on April 4, 2016 (LCB File No. R097-14), which amended this section, contains the following provisions not included in NAC:

"Sec. 19. 1. The Real Estate Commission will not apply the amendatory provisions of this regulation to prevent a licensee from receiving credit for a course which the licensee completed before April 4, 2016.

2. As used in this section, "licensee" has the meaning ascribed to it in NAC 645.043."

NAC 645.441 Courses required for original licensing: Unacceptable courses. (NRS 645.190, 645.343)

1. The Division shall not accept an applicant's completion of any course which is designed to prepare students for examination, commonly known as a "cram course," as fulfillment of the educational requirements for the applicant's original licensing.

2. None of the following kinds of courses will be accepted from an applicant as fulfillment of the education which is required by subsections 1 to 4, inclusive, of NRS 645.343 for original licensing:

(a) Courses designed to develop or improve clerical, office or business skills that are not related to the activities described in NRS 645.030, 645.035 and 645.040, such as typing, shorthand, operation of business machines, the use of computers, the use of computer software, improvement of memory, or writing of letters and reports; or

(b) Business courses in advertising or psychology.

3. The Division shall not accept a course in broker management required pursuant to paragraph (d) of subsection 2 of NRS 645.343 unless the course and the school that offers the course have been approved by the Commission.

(Added to NAC by Real Estate Comm'n, eff. 12-16-82; A by R092-00, 8-29-2000, eff. 1-1-2001; R031-04, 11-30-2004)

NAC 645.442 Real estate examination: Restrictions on persons associated with school. (NRS 645.190, 645.343)

1. An owner, instructor, or affiliate of a school approved by the Commission or other person associated with the school shall not take a real estate examination conducted by the Division or its agent unless he or she first submits to the Division:

(a) A written statement that his or her purpose in taking the examination is to fulfill one of the requirements for obtaining a license; and

(b) A written agreement to apply for a license upon passing the examination.

2. Such a school or anyone associated with its operation shall not:

(a) Solicit information from any person for the purpose of discovering past questions asked on any such examination; or

(b) Distribute to any person a copy of the questions or otherwise communicate to the person the questions without the prior written approval of the owner of the copyright to the questions.

(Added to NAC by Real Estate Comm'n, eff. 12-16-82)

NAC 645.443 Approval of distance education course. (NRS 645.190, 645.575)

1. A person who requests approval of a distance education course must demonstrate to the satisfaction of the Commission that the proposed distance education course satisfies the following requirements:

(a) The course must be designed to ensure that students actively participate in the instructional process by utilizing techniques that require substantial interaction with the instructor, other students or a computer program. If the subject matter of the course is such that the learning objectives for the course cannot be reasonably accomplished without direct interaction between the instructor and the students, the course design must provide for such interaction.

(b) If the course does not provide students with the opportunity for continuous audio and visual communication with the instructor during the presentation of the course, the course must utilize testing and remedial processes appropriate to ensure mastery of the subject matter of the course by the students.

(c) If the course involves self-paced study, the course must be designed so that the time required for a student of average ability to complete the course is within the number of hours for which the course is approved, and the sponsor of the course shall utilize a system which ensures that students have actually performed all tasks designed to ensure participation and mastery of the subject matter of the course by the students.

(d) The proposed methods of instruction used in the course must be appropriate to the proposed learning objectives of the course, and the scope and depth of the instructional materials must be consistent with the proposed learning objectives.

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

(f) An approved instructor must be reasonably available to respond timely to questions asked by students concerning the subject matter of the course and to direct students to additional sources of information. For the purposes of this paragraph, a response by an approved instructor shall be deemed timely if the response is made within 2 business days after the question is submitted.

(g) The sponsor of the course shall provide students with an orientation or information package which contains all information that the Division requires to be provided to students and all necessary information about the course, including, without limitation, information concerning fees and refund policies, subject matter and learning objectives, procedures and requirements for satisfactory completion, any special requirements with regard to computer hardware and software or other equipment, and instructor and technical support. The sponsor shall make available to students technical support relating to the use of any computer hardware or software, or other equipment or technology needed to complete the course.

(h) The sponsor of the course shall utilize procedures which reasonably ensure that a student who receives continuing education credit for completing the course actually performed all the work required to complete the course. If the course involves independent study by students, such procedures must include, without limitation, the opportunity for direct contact by the sponsor with the student at the student's home or business via the telephone or electronic mail and a signed statement by the student certifying that he or she personally completed all course work. The sponsor shall retain such signed statements and records of student contact together with all other course records the sponsor must maintain.

2. A sponsor seeking approval of a computer-based distance education course must submit a complete copy of the course to the Division in the medium to be used and, if requested, must make available, at a date and time satisfactory to the Division and at the sponsor's expense, all equipment and software necessary to enable the Division to [.]with the course. In the case of an Internet-based

course, the sponsor shall provide the Division with access to the course via the Internet at no charge at a date and time satisfactory to the Division.

3. In determining whether to approve a distance education course pursuant to this section, the Commission will consider whether:

- (a) The course consists of at least 3 hours of instruction;
- (b) Students are required to complete a written examination proctored by a person acceptable to the Division or using a secure electronic method acceptable to the Division; and
- (c) The course is presented by an accredited college or university that offers distance education in other disciplines, or whether the course design and method of delivery has been accredited by an accrediting agency which accredits distance education and which is approved by the Commission. For an accrediting agency to be approved by the Commission for the purposes of this paragraph, the accrediting agency must use the following considerations when making its determination on whether to accredit a distance education course:

- (1) The mission statement of the sponsor of the course;
- (2) The minimum design of the course and the procedures for updating the course;
- (3) The interactivity of the instruction with the students;
- (4) Whether the instruction provided in the course teaches mastery of the course material;
- (5) The support services that are available to students;
- (6) The medium through which the course is delivered to students;
- (7) A time study of the range of instructional hours for which a course should be approved or accredited;

- (8) For each module of instruction, whether there is:
 - (I) At least one learning objective for the module of instruction;
 - (II) A structured learning method to enable the student to achieve each such learning objective;

- (III) A method of assessment of the student's performance during the module of instruction; and

- (IV) A method of remediation pursuant to which a student who, based on the assessment of his or her performance, is determined to be deficient in his or her mastery of the course material may repeat the module until the student understands the course material; and

- (9) Whether a complete syllabus or student manual, or both, for all courses or programs is provided in written form and includes accurate and clearly stated information about admissions, progression, completion, criteria, dismissal and any applicable licensing requirements.

(Added to NAC by Real Estate Comm'n by R031-04, eff. 11-30-2004)

NAC 645.4432 Duties of sponsor of approved course; period and renewal of approval of course; review and audit by Division; grounds for withdrawal of or refusal to renew approval of course; disciplinary action against licensee who sponsors approved course. (NRS 645.190, 645.575)

- 1. The sponsor of an approved course:
 - (a) Shall not allow a licensee to pass the course by taking an examination without having the required attendance;
 - (b) Shall admit authorized personnel of the Division to audit and evaluate the presentation of the course;
 - (c) Shall notify the Division within 15 days after making any material change in the course; and

(d) Shall not present a course for the main purpose of selling products and shall limit the announcement of products during the course to not more than 1 minute for each credit hour.

2. The Commission's approval of:

- (a) A course to meet the educational requirements for an original license;
- (b) A course for postlicensing education; and
- (c) A course for continuing education,

→ is effective for 1 year after the original approval or a renewal.

3. The school or sponsor must apply for renewal on a form provided by the Division and describe on that form any changes in the course. An application for renewal must be filed at least 2 weeks before the previous approval expires. If the school or sponsor does not timely file the application for renewal, the school or sponsor must apply for an original approval.

4. Each approved course and instructor is subject to review and audit by the Division. If the Division conducts such a review or audit, the sponsor shall make available to the Division all records requested which are necessary to the review.

5. The Division shall renew the approval of a course if the information concerning the course has been updated and there is no material change in the content of the course.

6. Each of the following acts and conditions is a ground for the Commission to withdraw or refuse to renew its approval of a course:

- (a) The curriculum or instruction, as shown by evaluations or audits, is of poor quality.
- (b) The violation of any provision of this chapter relating to continuing education.
- (c) The course is not taught within the last period for which the course is approved.
- (d) The sponsor of the course has made a false statement or has presented any false information in connection with an application for the approval of the course, the renewal of such approval or the approval of the sponsor.
- (e) The sponsor of the course or any official or instructor employed by the sponsor has refused or failed to comply with any provision of this chapter or chapter 645 of NRS.
- (f) The sponsor of the course or any official or instructor employed by the sponsor has provided false or incorrect information in connection with any report the sponsor is required to submit to the Commission.

(g) The sponsor of the course has engaged in a pattern of consistently cancelling scheduled courses.

(h) The sponsor of the course has remitted to the Commission in payment for required fees a check which was dishonored by a bank.

(i) An instructor employed by the sponsor of an approved course fails to conduct approved courses in a manner that demonstrates possession of the teaching skills described in this chapter.

(j) A court of competent jurisdiction has found the sponsor of the approved course or any official or instructor employed by the sponsor to have violated, in connection with the offering of education courses, any applicable federal or state law or regulation:

- (1) Prohibiting discrimination on the basis of disability;
- (2) Requiring places of public accommodation to be in compliance with prescribed standards relating to accessibility; or
- (3) Requiring that courses related to licensing or certification for professional or trade purposes be offered in a place and manner accessible to persons with disabilities.

(k) The sponsor of the course or any official or instructor employed by the sponsor has been disciplined by the Commission or any other occupational licensing agency in this State or any other jurisdiction.

(l) The sponsor of the course or any official or instructor employed by the sponsor has collected money for an educational course but has refused or failed to provide the promised instruction.

7. A licensee who is the sponsor of an approved course is subject to disciplinary action pursuant to this chapter for any dishonest, fraudulent or improper conduct by the licensee, or an instructor of the approved course employed by the licensee, in connection with activities related to the approved course.

[Real Estate Adv. Comm'n, § X subsec. F pars. 13 & 14, 4-20-78] — (NAC A by Real Estate Comm'n, 8-21-81; 12-16-82; 4-27-84; 6-3-86; A by Real Estate Div., 3-1-96; A by Real Estate Comm'n by R031-04, 11-30-2004) — (Substituted in revision for NAC 645.465)

NAC 645.4434 Approved courses: Withdrawal of approval. (NRS 645.190, 645.575)

1. If the Administrator determines, whether pursuant to student evaluations, to an audit or investigation conducted by the Division, or otherwise, that an approved course does not meet the standards for such a course set forth in this chapter, the Administrator shall notify the sponsor of the course of his or her intent to withdraw approval of the course. The notice must include the specific reasons upon which the Administrator is basing the decision to withdraw approval of the course. Not later than 30 days after the date on which he or she receives the notice, the sponsor may provide a written response to the Administrator that clearly sets forth the reasons why approval of the course should not be withdrawn and outlining any corrective measures that the sponsor will undertake. After the 30-day period has elapsed, the Administrator shall review the notice and any response submitted by the sponsor and:

- (a) Withdraw approval of the course;
- (b) Allow the course to remain approved if certain specific enumerated conditions are met; or
- (c) Allow the continued approval of the course.

↪ If the Administrator decides to withdraw approval of the course, the withdrawal of approval of the course becomes effective upon the mailing of the Administrator's decision to withdraw approval to the sponsor by certified mail, return receipt requested to the sponsor's last known business address.

2. If the Administrator withdraws approval of a course, the Division shall give credit to a student for completing the course if the student began the course before the sponsor received written notice of the withdrawal of approval of the course.

3. The sponsor may appeal the decision of the Administrator to withdraw approval of a course by filing an appeal with the Commission not later than 30 days after the date on which the withdrawal of the approval of the course becomes effective.

4. If the sponsor files a timely appeal, the Commission will, as soon as practicable, hold a hearing concerning the withdrawal of approval of the course at a regularly scheduled meeting and will:

- (a) Affirm the decision of the Administrator to withdraw approval of the course;
- (b) Suspend approval of the course for a limited period and under such conditions as the Commission deems appropriate; or
- (c) Reverse the decision of the Administrator to withdraw approval of the course.

(Added to NAC by Real Estate Comm'n by R031-04, eff. 11-30-2004; A by R097-14, 4-4-2016)

REVISER'S NOTE.

The regulation of the Real Estate Commission filed with the Secretary of State on April 4, 2016 (LCB File No. R097-14), which amended this section, contains the following provisions not included in NAC:

"Sec. 19. 1. The Real Estate Commission will not apply the amendatory provisions of this regulation to prevent a licensee from receiving credit for a course which the licensee completed before April 4, 2016.

2. As used in this section, "licensee" has the meaning ascribed to it in NAC 645.043."

NAC 645.4436 Approved courses: Reapproval. (NRS 645.190, 645.575) Except as otherwise provided in this section, the Division shall reapprove an approved course if no material changes in the course have occurred since the course was last approved or reapproved. If the course is designated as presenting an update on law and legislation, the Division shall reapprove the course only once.

(Added to NAC by Real Estate Comm'n by R031-04, eff. 11-30-2004; A by R097-14, 4-4-2016)

REVISER'S NOTE.

The regulation of the Real Estate Commission filed with the Secretary of State on April 4, 2016 (LCB File No. R097-14), which amended this section, contains the following provisions not included in NAC:

"Sec. 19. 1. The Real Estate Commission will not apply the amendatory provisions of this regulation to prevent a licensee from receiving credit for a course which the licensee completed before April 4, 2016.

2. As used in this section, "licensee" has the meaning ascribed to it in NAC 645.043."

NAC 645.4438 Approved courses: Award of certificate of completion and inclusion of name on roster of attendees. (NRS 645.190, 645.575)

1. To receive a certificate of completion for an approved course and have his or her name included on the roster of attendees which the sponsor of the course submits to the Division pursuant to paragraph (b) of subsection 4 of NAC 645.455, a student must:

(a) Direct his or her attention to the instruction being provided and refrain from engaging in activities unrelated to the instruction; and

(b) Refrain from engaging in activities which are distracting to other students or the instructor, or which otherwise disrupt the orderly conduct of a class, including, without limitation, the use of cellular telephones, laptop computers, tablet computers or other electronic devices.

2. An instructor:

(a) Shall deny the award of a certificate of completion to a student who fails to satisfy the conditions set forth in subsection 1; and

(b) Shall not include the name of the student on the roster of attendees which the sponsor of the course submits to the Division pursuant to paragraph (b) of subsection 4 of NAC 645.455.

3. If an instructor denies the award of a certificate of completion to a student, the student may, within 30 days after that denial, file a written request with the Administrator to review the matter. If the written request contains allegations which, if true, would qualify the applicant to receive a certificate of completion and credit for completing the course, the Administrator shall set the matter for an informal hearing before him or her to be conducted as soon as practicable.

(Added to NAC by Real Estate Comm'n by R031-04, eff. 11-30-2004; A by R097-14, 4-4-2016)

REVISER'S NOTE.

The regulation of the Real Estate Commission filed with the Secretary of State on April 4, 2016 (LCB File No. R097-14), which amended this section, contains the following provisions not included in NAC:

"Sec. 19. 1. The Real Estate Commission will not apply the amendatory provisions of this regulation to prevent a licensee from receiving credit for a course which the licensee completed before April 4, 2016.

2. As used in this section, "licensee" has the meaning ascribed to it in NAC 645.043."

NAC 645.444 Approved courses: Evaluation by students. (NRS 645.190, 645.575)

1. Each approved course and each instructor of an approved course must be evaluated by students on a form prescribed by the Division and provided by the sponsor during every course offering.

2. The sponsor shall:

(a) Arrange for the collection of the completed evaluations by a person other than the instructor of the approved course; and

(b) Mail or deliver copies of the completed evaluations to the Division within 10 working days after the last day of class for the course.

(Added to NAC by Real Estate Comm'n by R031-04, 11-30-2004, eff. 10-1-2005)

Postlicensing Education

NAC 645.4442 Courses required for first-time licensees; exempt licensees; standards for courses; effect of noncompliance. (NRS 645.190, 645.343, 645.575, 645.630, 645.633)

1. Except as otherwise provided in subsection 2, each first-time licensee shall take a prescribed postlicensing course of education that focuses on practical applications of real estate transactions. The postlicensing course:

(a) Must not repeat the content of the course work required to meet the educational requirements for an original license;

(b) Must constitute the education required to be completed by a licensee within the first year immediately after initial licensing pursuant to NRS 645.575;

(c) Must be offered in modules;

(d) Must be provided through live instruction in which the licensee and the instructor are in the same room, except that first-time licensees who live in a rural area may, with the prior written approval of the Division, take the postlicensing course as an interactive or televideo course that involves interaction with the instructor and other students; and

(e) Must provide the Division with proof of completion within the first year immediately after initial licensing.

2. The requirement for postlicensing education set forth in subsection 1 does not apply to a first-time licensee who:

(a) Holds a real estate license issued by another state or territory of the United States, or the District of Columbia, on the date on which the first-time licensee obtains a real estate license issued by the State of Nevada;

(b) Held a license as a real estate broker, real estate broker-salesperson or real estate salesperson issued by the State of Nevada within the 5 years immediately preceding the date on which the first-time licensee obtained a license as a real estate salesperson; or

(c) Is licensed as a real estate broker-salesperson and obtained the qualifications for licensure as a real estate broker-salesperson pursuant to the provisions of subsection 4 of NRS 645.343.

3. The postlicensing course may include material that has not previously been approved or allowed for continuing education credit. Courses approved for postlicensing education will not be accepted or approved as a course for continuing education.

4. The curriculum for postlicensing education must contain at least 15 modules that include, without limitation:

(a) Real estate contracts, including the writing and presenting of a purchase agreement and qualifying prospects;

(b) The listing process, market analysis and inspections;

(c) Communication, technology and records management, including time management, goal setting and devising a plan of action;

(d) Buyer representation, including the buyer's brokerage contract, fiduciary duties, disclosures, cooperation between agents and new-home tracts;

(e) Professional conduct, etiquette and ethics: -267-

(f) Advertising, including Regulation Z of the Truth in Lending Act of the Federal Trade Commission issued by the Board of Governors of the Federal Reserve System, 12 C.F.R. Part 226, fair housing, the multiple-listing service, Internet websites and electronic mail;

(g) Proceeds of sale, costs of sale and cost sheets;

(h) Agency relationships;

(i) Land;

(j) Regulatory disclosures, including disclosures required by federal, state and local governments;

(k) Property management and the management of common-interest communities;

(l) Escrow, title and closing processes;

(m) Financing;

(n) Negotiation; and

(o) Tax opportunities and liabilities related to the client.

5. Each first-time licensee must complete an additional 12 hours of continuing education within the first 2 years immediately after initial licensing. The additional 12 hours of continuing education:

(a) Must include 3 hours in each of the following areas:

(1) Agency relationships;

(2) Nevada law, with an emphasis on recent statutory and regulatory changes;

(3) Contracts; and

(4) Ethics.

(b) Must be provided through live instruction in which the licensee and the instructor are in the same room, except that first-time licensees who live in a rural area may, with the prior written approval of the Division, take the additional continuing education course as an interactive or televideo course that involves interaction with the instructor and other students.

6. A first-time licensee who fails to comply with the requirements for postlicensing education set forth in this section is subject to immediate involuntary inactivation of the license by the Division and an administrative fine in the amount set forth in subsection 1 of NAC 645.695.

7. As used in this section, "rural area" means any area which is more than 100 miles from a city in this State whose population is 40,000 or more.

(Added to NAC by Real Estate Comm'n by R031-04, 11-30-2004, eff. 1-1-2006; A by R123-06, 6-1-2006; R093-10, 5-30-2012)

REVISER'S NOTE.

The regulation of the Real Estate Commission filed with the Secretary of State on May 30, 2012 (LCB File No. R093-10), which amended this section, contains the following provisions not included in NAC:

"1. The amendatory provisions of section 1 of this regulation [NAC 645.4442] apply only to first-time licensees whose licenses expire on or after July 1, 2012.

2. The amendatory provisions of section 3 of this regulation [NAC 645.448] apply only to licensees whose licenses expire on or after July 1, 2013.

3. The amendatory provisions of section 4 of this regulation [NAC 645.695] apply only to:

(a) A first-time licensee whose license expires on or after July 1, 2012.

(b) A licensee whose license expires on or after July 1, 2013."

NAC 645.4444 Approval and accreditation of courses; certificate of completion. (NRS 645.190, 645.575)

1. An application for the approval of a course for postlicensing education must be submitted to the Division on a form provided by the Division for review and presentation to the Commission.

2. The Commission will not grant retroactive approval for a course in postlicensing education.

3. The Commission will grant credit for a course for postlicensing education if the course meets the requirements set forth in subsection 4 of NAC 645.4442 and the sponsor of the course:

- (a) Certifies the attendance of the licensees who take the course for credit.
- (b) Maintains for at least 4 years a record of attendance which contains the following information with respect to each licensee who has taken the course for credit:
 - (1) The name of the licensee in attendance and the number of his or her license;
 - (2) The title and number of the course;
 - (3) The hours of instruction attended and the dates of attendance by the licensee; and
 - (4) A statement that the licensee has successfully completed the course.
- (c) Assures the Commission that an approved instructor will preside throughout the course.
- (d) Requires each licensee who takes the course to:
 - (1) Take a closed-book final examination with a proctor present at a location designated by the sponsor in its application for approval filed with the Division and to receive a score of at least 75 percent to pass the course;
 - (2) Prove his or her identity before the licensee is allowed to take any examination; and
 - (3) Complete the entire course to receive credit for taking the course.
- (e) Gives credit for only the number of hours for which the course has been approved by the Commission to a licensee who completes the course.
- (f) Publishes a policy for retaking an examination which a licensee has failed.

4. If a course for postlicensing education has been approved, the sponsor of the course shall provide a certificate of completion to the licensee upon his or her completion of the course. The certificate must contain:

- (a) The name of the sponsor;
- (b) The name of the licensee and his or her license number;
- (c) The title of the course and the number of hours for which the course has been approved;
- (d) The dates of instruction;
- (e) The number assigned to the course by the Division and a statement that the course was approved by the Commission;
- (f) The signature of the person who is authorized to sign for the sponsor; and
- (g) A statement indicating that the licensee fulfilled the requirements to pass the course.

(Added to NAC by Real Estate Comm'n by R031-04, 11-30-2004, eff. 7-1-2005; A by R097-14, 4-4-2016)

REVISER'S NOTE.

The regulation of the Real Estate Commission filed with the Secretary of State on April 4, 2016 (LCB File No. R097-14), which amended this section, contains the following provisions not included in NAC:

"Sec. 19. 1. The Real Estate Commission will not apply the amendatory provisions of this regulation to prevent a licensee from receiving credit for a course which the licensee completed before April 4, 2016.

2. As used in this section, "licensee" has the meaning ascribed to it in NAC 645.043."

NAC 645.4446 Information required on course materials; restriction on attendance. (NRS 645.190, 645.575)

1. If a course has been approved and is being offered for postlicensing education, the sponsor must state on all the course materials:

- (a) That the course is approved for postlicensing education in Nevada;
- (b) The number of hours of credit for postlicensing education for which the course is approved; and
- (c) The number of the sponsor assigned by the Division.

2. If a course offered by a sponsor that is a professional organization has been approved for postlicensing education, the sponsor shall not restrict attendance at the course to members of that organization.

(Added to NAC by Real Estate Comm'n by R031-04, 11-30-2004, eff. 7-1-2005)

NAC 645.4448 Notice of policy of sponsor concerning cancellations and refunds. (NRS 645.190, 645.575) Any advertising, promotional brochure or form for registration for a course for postlicensing education must contain, in writing, the policy of the sponsor concerning cancellations and refunds.

(Added to NAC by Real Estate Comm'n by R031-04, 11-30-2004, eff. 7-1-2005)

Continuing Education

NAC 645.445 General requirements for renewal or reinstatement of license. (NRS 645.190, 645.575)

1. To renew an active license, the licensee must provide the Division with proof that he or she has met the requirements set forth in NAC 645.448.

2. To reinstate a license which has been placed on inactive status, a person must provide the Division with proof that he or she has met the requirements set forth in NAC 645.448.

3. For the purpose of compliance with this section, 50 or more minutes of actual instruction constitutes a clock hour and initial licensing refers to the first issuance of a real estate license of any kind in Nevada.

[Real Estate Adv. Comm'n, § X subsec. F pars. 1-4 & 8, eff. 4-20-78] — (NAC A by Real Estate Comm'n, 8-21-81; 12-16-82; 4-27-84; 12-27-89; R093-10, 5-30-2012)

NAC 645.448 Specific requirements for renewal of license other than initial license and for reinstatement of license. (NRS 645.190, 645.575, 645.630, 645.633)

1. Except as otherwise provided in subsection 3, a real estate salesperson who wishes to renew his or her license must complete at least 48 hours of continuing education at approved educational courses, seminars or conferences during the license renewal period. Twenty-four of the hours must be completed before the end of each 2-year period. Each licensee must provide the Division with proof of completion before the end of each 2-year period. Not less than 12 of the hours in each 2-year period must be devoted to ethics, professional conduct or the legal aspects of real estate, including:

(a) Three hours in the area of agency relationships;

(b) Three hours in the area of Nevada law with an emphasis on recent statutory and regulatory changes;

(c) Three hours in the area of contracts; and

(d) Three hours in the area of ethics.

2. Except as otherwise provided in subsection 3, a real estate broker or real estate broker-salesperson who wishes to renew his or her license must complete at least 48 hours of continuing education at approved educational courses, seminars or conferences during the license renewal period. Twenty-four of the hours must be completed before the end of each 2-year period. Each licensee must provide the Division with proof of completion before the end of each 2-year period. Not less than 15 of the hours in each 2-year period must be devoted to ethics, professional conduct or the legal aspects of real estate, including:

(a) Three hours in the area of agency relationships;

(b) Three hours in the area of Nevada law with an emphasis on recent statutory and regulatory changes;

(c) Three hours in the area of contracts;

(d) Three hours in the area of ethics; and

(e) Three hours in the area of broker management.

3. The requirements for continuing education set forth in subsections 1 and 2 do not apply to the renewal of a license upon the expiration of the initial license.

4. If a license has been placed on inactive status and the licensee wishes to have the license reinstated, the licensee must comply with the following requirements:

(a) If the license was on inactive status for 1 year or less, all of which was during the period of the initial license, the licensee must complete the postlicensing course described in NAC 645.4442.

(b) If the license was on inactive status for more than 1 year but less than 2 years, any part of which was during the period of the initial license, the licensee must complete at approved educational courses, seminars or conferences:

(1) The postlicensing course described in NAC 645.4442; and

(2) At least 18 hours of continuing education. Not less than 12 of the hours must be devoted to ethics, professional conduct or the legal aspects of real estate, including:

(I) Three hours in the area of agency relationships;

(II) Three hours in the area of Nevada law with an emphasis on recent statutory and regulatory changes;

(III) Three hours in the area of contracts; and

(IV) Three hours in the area of ethics.

(c) If the license was on inactive status for 2 years or less, no part of which was during the period of the initial license, the licensee must complete at least 24 hours of continuing education at approved educational courses, seminars or conferences. Not less than 12 of the hours must be devoted to ethics, professional conduct or the legal aspects of real estate, including:

(1) Three hours in the area of agency relationships;

(2) Three hours in the area of current Nevada law with an emphasis on recent statutory and regulatory changes;

(3) Three hours in the area of contracts; and

(4) Three hours in the area of ethics.

(d) If the license was on inactive status for more than 2 years, any part of which was during the period of the initial license, the licensee must complete at approved educational courses, seminars or conferences:

(1) The postlicensing course described in NAC 645.4442; and

(2) At least 24 hours of continuing education. Not less than 12 of the hours must be devoted to ethics, professional conduct or the legal aspects of real estate, including:

(I) Three hours in the area of agency relationships;

(II) Three hours in the area of current Nevada law with an emphasis on recent statutory and regulatory changes;

(III) Three hours in the area of contracts; and

(IV) Three hours in the area of ethics.

(e) If the license was on inactive status for more than 2 years, no part of which was during the period of the initial license, the licensee must complete at least 48 hours of continuing education at approved educational courses, seminars or conferences. Not less than 24 of the hours must be devoted to ethics, professional conduct or the legal aspects of real estate, including:

- (1) Six hours in the area of agency relationships;
- (2) Six hours in the area of current Nevada law with an emphasis on recent statutory and regulatory changes;
- (3) Six hours in the area of contracts; and
- (4) Six hours in the area of ethics.

5. Not more than 3 hours of any of the required hours in each 2-year period set forth in this section for continuing education may be taken in courses for personal development.

6. At least 50 percent of the total hours of required continuing education set forth in this section must be taken through live instruction by a licensee.

7. A licensee who fails to comply with the requirements for continuing education set forth in this section is subject to immediate involuntary inactivation of the license by the Division and an administrative fine in the amount set forth in subsection 1 of NAC 645.695.

8. As used in this section, "initial license" means the license of a licensee who:

(a) Did not hold a real estate license issued by another state or territory of the United States, or the District of Columbia, on the date on which the licensee obtained a real estate license issued by the State of Nevada;

(b) Had not held a license as a real estate broker, real estate broker-salesperson or real estate salesperson issued by the State of Nevada within the 5 years immediately preceding the date on which the licensee obtained a license as a real estate salesperson; or

(c) Is licensed as a real estate broker-salesperson and obtained the qualifications for licensure as a real estate broker-salesperson pursuant to the provisions of subsection 2 of NRS 645.343.

(Added to NAC by Real Estate Comm'n by R031-04, 11-30-2004, eff. 1-1-2006; A by R123-06, 6-1-2006; R093-10, 5-30-2012)

REVISER'S NOTE.

The regulation of the Real Estate Commission filed with the Secretary of State on May 30, 2012 (LCB File No. R093-10), which amended this section, contains the following provisions not included in NAC:

"1. The amendatory provisions of section 1 of this regulation [NAC 645.4442] apply only to first-time licensees whose licenses expire on or after July 1, 2012.

2. The amendatory provisions of section 3 of this regulation [NAC 645.448] apply only to licensees whose licenses expire on or after July 1, 2013.

3. The amendatory provisions of section 4 of this regulation [NAC 645.695] apply only to:

(a) A first-time licensee whose license expires on or after July 1, 2012.

(b) A licensee whose license expires on or after July 1, 2013."

NAC 645.450 Standards for courses. (NRS 645.190, 645.575)

1. A course for continuing education must contain:

(a) Current information on real estate which will improve the professional knowledge of the licensee with regard to the areas described in subsection 2 and enable him or her to give better service to the public.

(b) Information that relates to Nevada laws and regulations relating to real estate transactions in this State.

2. The following areas are acceptable for courses in continuing education:

(a) Ethics of selling real estate;

(b) Legislative issues which concern the practice of real estate or licensees, including, without limitation, recent legislation and revisions to this chapter;

(c) The administration of real estate law and regulations, including licensing and enforcement;

(d) Real estate financing, including mortgages and other financing techniques;

- (e) The measurement and evaluation of the market for real estate, including evaluations of sites, market data and studies of feasibility;
- (f) The administration of real estate brokerage, including the management of the office, trust accounts and employees' contracts;
- (g) Real estate mathematics;
- (h) The management of real property, including residential and commercial leasing agreements, procedures for accounting and contracts for management;
- (i) The exchange of real property;
- (j) Planning and zoning for land use;
- (k) Real estate securities and syndications;
- (l) Accounting and taxation as applied to real property;
- (m) The development of land, including, without limitation, issues relating to the development or redevelopment of farms and ranches;
- (n) Agency and subjects related to agency;
- (o) The use of calculators and other technologies as applied to the practice of real estate;
- (p) The preparation of real estate contracts;
- (q) Personal development courses, including, without limitation, cross-cultural communications;
- (r) International real estate transactions;
- (s) Antitrust law;
- (t) Issues relating to consumer protection;
- (u) Disclosures required during the sale or lease of real property, including, without limitation, information required pursuant to NRS 116.4103, 116.4109 and 116B.760;
- (v) Commercial real estate; and
- (w) Environmental issues, including, without limitation, issues relating to energy and water conservation and environmental responsibility.

3. The Division may, upon application and on behalf of the Commission, approve a course conducted by any other school, professional society or organization if the Division finds that the course meets the standards established by the Commission for continuing education.

4. The following kinds of courses and activities do not meet the standards for continuing education:

- (a) A course that is designed to prepare students for examination, commonly known as a "cram course."
- (b) A course that is designed to develop or improve clerical, office or business skills that are not related to the activities described in NRS 645.030, 645.035 and 645.040, such as typing or keyboarding, shorthand, the operation of business machines, the use of computers, the use of computer software, speed-reading, the improvement of memory, and writing letters and reports.
- (c) A meeting for the promotion of sales, a program of office training, or other activity which is held as part of the general business of the licensee.
- (d) A course for the orientation of licensees, such as a course offered for that purpose through local real estate boards.
- (e) A course for the development of instructors.

5. The Division, on behalf of the Commission, will not approve more than:

- (a) Seven full hours of credit per day of instruction in a classroom course for continuing education if a final examination is not given; or

(b) Eight full hours of credit per day of instruction in a classroom course for continuing education if a final examination is given.

[Real Estate Adv. Comm'n, § X subsec. F pars. 5-7, eff. 4-20-78] — (NAC A by Real Estate Comm'n, 8-21-81; 12-16-82; 6-3-86; A by Real Estate Div., 11-30-87; 11-8-88; A by Real Estate Comm'n, 12-27-89; 5-14-96; R146-99, 1-21-2000; R031-04, 11-30-2004; R097-14, 4-4-2016)

REVISER'S NOTE.

The regulation of the Real Estate Commission filed with the Secretary of State on April 4, 2016 (LCB File No. R097-14), which amended this section, contains the following provisions not included in NAC:

"Sec. 19. 1. The Real Estate Commission will not apply the amendatory provisions of this regulation to prevent a licensee from receiving credit for a course which the licensee completed before April 4, 2016.

2. As used in this section, "licensee" has the meaning ascribed to it in NAC 645.043."

NAC 645.455 Approval and accreditation of courses; certificate of completion; appeal of denial of approval of course; hearing. (NRS 645.190, 645.575)

1. An application for the approval of a course for continuing education must be submitted to the Division on a form provided by the Division.

2. The Division, on behalf of the Commission, may grant retroactive approval for a course for continuing education.

3. The Division, on behalf of the Commission, will grant credit for a course for continuing education only if:

(a) The course consists of at least 3 hours of distance education or 1 hour of instruction in a classroom.

(b) For a course of instruction in a classroom, the sponsor of the course:

(1) Certifies the attendance of licensees who take the course for credit.

(2) Maintains for at least 4 years a record of attendance which contains the following information with respect to each licensee who has taken the course for credit:

(I) The name of the licensee in attendance and the number of his or her license.

(II) The title and number of the course.

(III) The hours of instruction attended and dates of attendance by the licensee.

(IV) A statement that the licensee has successfully completed the course, if applicable.

(3) Assures the Division that an approved instructor will preside throughout the course.

(c) For a course of distance education, the sponsor of the course:

(1) Requires each student to:

(I) Take a closed-book final examination with a proctor present at a location designated by the sponsor in its application for approval filed with the Division and receive a score of at least 75 percent to pass the course;

(II) Prove his or her identity before the student is allowed to take any examination;

(III) Complete an entire course to receive credit for taking the course; and

(IV) Complete each course within an established minimum and maximum time.

(2) Gives credit for only the number of hours for which the course has been approved by the Division to a licensee who has completed the course.

(3) Publishes a policy for retaking an examination which a licensee failed.

(4) Maintains for at least 4 years a record of completion of the course which contains the following information with respect to each licensee who has taken the course for credit:

(I) The name of the licensee who completes the course and the number of his or her license.

(II) The title and number of the course

(III) A statement that the licensee has successfully completed the course which includes, without limitation, the date that the course was completed and the number of hours completed.

4. If a course is approved, the sponsor shall:

(a) Provide a certificate of completion to the licensee upon his or her completion of the course.

The certificate must contain the:

(1) Name of the sponsor;

(2) Name of the licensee and his or her license number;

(3) Number of hours of credit for continuing education for which the course is approved;

(4) Dates of instruction for a course of instruction in a classroom;

(5) Date of completion of the course for a course of distance education;

(6) Title of the course or seminar;

(7) Number of the course assigned by the Division and a statement that the course was approved by the Division on behalf of the Commission;

(8) Signature of the person authorized to sign for the sponsor;

(9) A statement of whether the licensee successfully completed the course if an examination was given; and

(10) Manner in which instruction for the course was delivered.

(b) Within 3 business days after the completion of an approved course of continuing education, electronically submit to the Division, in a format provided by the Division, a roster which includes the name of each licensee or holder of a permit who successfully completed the course.

5. If the Division, on behalf of the Commission, denies an application for approval of a course of continuing education, the applicant may appeal the decision of the Division by filing an appeal with the Commission not later than 30 days after the date on which the applicant received notification of the denial of the application for approval of the course.

6. If an applicant files a timely appeal pursuant to subsection 5, the Commission will, as soon as practicable, hold a hearing concerning the denial of the application for approval of the course of continuing education at a regularly scheduled meeting of the Commission and will:

(a) Affirm the decision of the Division to deny the application for approval of the course; or

(b) Reverse the decision of the Division to deny the application for approval of the course.

[Real Estate Adv. Comm'n, § X subsec. F par. 10, eff. 4-20-78] — (NAC A by Real Estate Comm'n, 8-21-81; 12-16-82; 8-26-83; 12-27-89; 5-14-96; R146-99 & R186-99, 1-21-2000; R092-00, 8-29-2000; R031-04, 11-30-2004; R097-14, 4-4-2016)

REVISER'S NOTE.

The regulation of the Real Estate Commission filed with the Secretary of State on April 4, 2016 (LCB File No. R097-14), which amended this section, contains the following provisions not included in NAC:

"Sec. 19. 1. The Real Estate Commission will not apply the amendatory provisions of this regulation to prevent a licensee from receiving credit for a course which the licensee completed before April 4, 2016.

2. As used in this section, "licensee" has the meaning ascribed to it in NAC 645.043."

NAC 645.457 Information required on course materials; restriction of attendance. (NRS 645.190, 645.575)

1. If a course has been approved and is being offered for continuing education, the sponsor must state on all the course materials:

(a) That the course is approved for continuing education in Nevada;

(b) The number of hours of credit for continuing education for which the course is approved;

(c) The number of the sponsor assigned by the Division; and

(d) The manner in which instruction for the course will be delivered.

2. If a course offered by a sponsor that is a professional organization has been approved for continuing education, the sponsor shall not restrict attendance at the course to members of that organization.

(Added to NAC by Real Estate Comm'n, eff. 8-21-81; A 12-16-82; R031-04, 11-30-2004)

NAC 645.458 Notice of policy of sponsor concerning cancellations and refunds. (NRS 645.190, 645.575) Any advertising, promotional brochure or form for registration for a course for continuing education must contain, in writing, the policy of the sponsor concerning cancellations and refunds.

(Added to NAC by Real Estate Comm'n, eff. 6-3-86; A by R031-04, 11-30-2004)

NAC 645.463 Restrictions on receipt of credit for course. (NRS 645.190, 645.575)

1. A course may not be taken for credit to meet the requirements for continuing education more than once during a single licensing period.

2. Courses taken to satisfy requirements for renewal or reinstatement of a license must be completed within 2 years immediately before the latest date for renewing or reinstating the license.

3. A licensee may receive credit for continuing education only upon certification by the sponsor that the licensee has attended and completed at least 90 percent of the course.

4. The sponsor shall determine whether a final examination is required for the completion of a course.

(Added to NAC by Real Estate Comm'n, eff. 8-21-81; A 12-16-82; 8-26-83; 6-3-86; 12-27-89; R092-00, 8-29-2000; R031-04, 11-30-2004; R097-14, 4-4-2016)

REVISER'S NOTE.

The regulation of the Real Estate Commission filed with the Secretary of State on April 4, 2016 (LCB File No. R097-14), which amended this section, contains the following provisions not included in NAC:

"Sec. 19. 1. The Real Estate Commission will not apply the amendatory provisions of this regulation to prevent a licensee from receiving credit for a course which the licensee completed before April 4, 2016.

2. As used in this section, "licensee" has the meaning ascribed to it in NAC 645.043."

NAC 645.467 Credit for attendance at meeting of Commission. (NRS 645.190, 645.575)

1. The Commission will grant credit for continuing education, not to exceed 6 hours during a licensing period, to a licensee for attending a meeting of the Commission if:

(a) The meeting of the Commission for which credit for continuing education is being sought is not a hearing in which the licensee is participating as the result of a disciplinary action;

(b) The meeting of the Commission for which credit for continuing education is being sought lasts at least 3 hours; and

(c) The Commission certifies, for the purposes of providing credit for continuing education, the attendance of the licensee at the meeting.

2. If a licensee attends only part of a meeting of the Commission, the Division may determine the number of hours of credit, if any, that the licensee may receive for credit for continuing education pursuant to this section.

(Added to NAC by Real Estate Comm'n, eff. 4-27-84; A by Real Estate Div., 3-31-94; A by Real Estate Comm'n by R031-04, 11-30-2004; R123-06, 6-1-2006)

REAL ESTATE EDUCATION, RESEARCH AND RECOVERY FUND

NAC 645.470 Annual financial statement and budget. (NRS 645.190, 645.842)

1. Within 60 days after the close of the fiscal year, the Administrator shall deliver to the Commission a financial statement showing beginning balances, receipts, expenditures and ending balances of the Real Estate Education, Research and Recovery Fund in such detail as the Commission requires.

2. Before the first meeting of each fiscal year, the Commission will have a budget prepared for the yearly allocation of expenditures of the Fund from money available for research and education. The budget so prepared will be presented at the first meeting of the Commission in the fiscal year.

[Real Estate Adv. Comm'n, § XV, eff. 10-31-75] — (NAC A by Real Estate Comm'n, 6-3-86; R111-01, 12-17-2001; R031-04, 11-30-2004)

NAC 645.475 Request for showing that judgment debtor has been examined by person who files petition against Fund. (NRS 645.190, 645.844) For purposes of determining whether a person who has filed a petition against the Real Estate Education, Research and Recovery Fund has made reasonable searches and inquiries to ascertain whether the judgment debtor possesses real or personal property or other assets, liable to be sold or applied in satisfaction of the judgment, the Administrator shall request that the court require the petitioner to show that he or she has conducted an examination of the judgment debtor pursuant to NRS 21.270 to 21.340, inclusive, unless:

1. The judgment debtor cannot, with the exercise of due diligence, be found within the jurisdiction;

2. The judgment debtor has filed a petition in bankruptcy; or

3. There is good cause for not requiring the examination.

(Added to NAC by Real Estate Comm'n, eff. 6-3-86)

NAC 645.480 "Unpaid actual damages" interpreted. (NRS 645.190, 645.844) The Administrator shall interpret the phrase "unpaid actual damages" as it is used in NRS 645.844 to exclude any attorney's fees, prejudgment interest, or court costs related to the judgment upon which the petition is based.

(Added to NAC by Real Estate Div., eff. 3-31-94)

NAC 645.485 Compromise of claim. (NRS 645.190, 645.845)

1. In compromising a claim pursuant to NRS 645.845, the Administrator may prepare and enter into a stipulation with the petitioner and file a joint petition with the court.

2. Before the Administrator and the petitioner file such a joint petition, the Administrator shall advise the petitioner in writing that:

(a) The Division does not represent the interests of the petitioner; and

(b) The petitioner should seek the advice of independent legal counsel regarding the proposed compromise.

3. The Administrator shall compromise any claim and defend any action against the Real Estate Education, Research and Recovery Fund on behalf of the Fund in which a settlement has been agreed upon by the petitioner or paid to the petitioner, including, without limitation, any settlement by a third party that has been agreed upon by the petitioner or paid to the petitioner.

(Added to NAC by Real Estate Div., eff. 3-31-94; A by Real Estate Comm'n by R111-01, 12-17-2001)

ADVISORY COMMITTEE

NAC 645.490 Establishment and purpose; list of persons approved to serve; appointment of members; restrictions on service; allowance and expenses. (NRS 645.190)

1. The Commission may establish an advisory committee to assist the Commission with any matter that the Commission determines to be appropriate for submission to an advisory committee.

2. The Administrator may establish an advisory committee to assist the Administrator in:

(a) The evaluation of any educational course, seminar or conference; or

(b) The review of a matter that is the subject of an investigation conducted pursuant to NAC 645.680, if the licensee who is the subject of the investigation agrees to participate in an informal review of the matter with an advisory committee.

3. The Commission will create and maintain a list of persons who are approved by the Commission to serve on an advisory committee. The Commission will not include any person on the list unless that person meets the qualifications for appointment to the Commission set forth in subsection 3 of NRS 645.090.

4. If the Administrator or the Commission determines that an advisory committee should be formed, the Administrator shall appoint three persons to serve on the advisory committee from the list of persons approved by the Commission to serve on the advisory committee. At least one person so appointed must be a current or former member of the Commission. The Administrator shall appoint one member of the advisory committee, who must be a current or former member of the Commission, to serve as chair of the advisory committee.

5. A member of an advisory committee:

(a) Serves at the pleasure of the Commission and without compensation; and

(b) Shall abstain from participating in any proceeding in which he or she would be prohibited from participating if he or she were a member of the Commission.

6. Each member of an advisory committee is entitled to receive a per diem allowance and travel expenses as provided for state officers and employees generally for the period during which the member was engaged in the discharge of his or her official duties.

(Added to NAC by Real Estate Comm'n by R146-99, eff. 1-21-2000; A by R111-01, 12-17-2001; R031-04, 11-30-2004)

NAC 645.493 Review of matter investigated as result of complaint or upon request of Division: Duties of advisory committee and Administrator. (NRS 645.190)

1. An advisory committee which is established to assist the Administrator with the review of a matter that is the subject of an investigation conducted pursuant to NAC 645.680 shall:

(a) Review the written report submitted by an investigator pursuant to NAC 645.680 and any other information that is relevant to the matter to determine whether there is probable cause to show that the licensee who is the subject of the investigation has violated a provision of chapter 113, 116, 119, 119A, 119B, 645, 645C or 645D of NRS or the regulations adopted pursuant to those chapters;

(b) Hold an informal conference in accordance with NAC 645.497;

(c) Work with the licensee who is the subject of the investigation to attempt to arrive at a recommendation for resolution of the matter; and

(d) Submit a recommendation for resolution of the matter to the Administrator or recommend that the matter be submitted to the Commission.

2. If the Administrator and the licensee who is the subject of the investigation accept the advisory committee's recommendation for resolution of the matter, the Administrator shall enter into a written agreement with the licensee who is the subject of the investigation which must

contain the terms of the resolution recommended by the advisory committee. If the agreement provides for disciplinary action that is authorized pursuant to NRS 645.630, the Administrator may impose the discipline on behalf of the Commission.

3. If disciplinary action is taken pursuant to this section against a licensee who is the subject of an investigation, the Administrator shall file with the Commission a written summary of the facts and disciplinary actions taken against the licensee.

4. If the Administrator or the licensee who is the subject of the investigation does not accept the advisory committee's recommendation for resolution of the matter, the Administrator shall:

(a) Schedule a hearing which must be conducted pursuant to NAC 645.810; or

(b) Negotiate a resolution of the matter with the licensee who is the subject of the investigation, which may include, without limitation, assessing administrative sanctions pursuant to NAC 645.695. A resolution negotiated pursuant to this paragraph is contingent upon the approval of the Commission at a hearing in which the licensee who is the subject of the investigation is in attendance.

(Added to NAC by Real Estate Comm'n by R146-99, eff. 1-21-2000; A by R111-01, 12-17-2001; R031-04, 11-30-2004)

NAC 645.497 Review of matter investigated as result of complaint or upon request of Division: Informal conference; report to Administrator. (NRS 645.190)

1. If an advisory committee is established to assist the Administrator with the review of an investigation conducted pursuant to NAC 645.680, the Administrator shall schedule an informal conference between the advisory committee and the licensee who is the subject of the investigation. The Administrator shall provide written notice of the time and place of the conference to:

(a) Each member of the advisory committee;

(b) The licensee who is the subject of the investigation; and

(c) Each witness who has been requested to appear at the informal conference.

2. The advisory committee may request the attendance at an informal conference of any person whom the advisory committee believes to have information that is relevant to the matter.

3. When conducting an informal conference, an advisory committee:

(a) May consider all evidence that it deems relevant to the investigation;

(b) Shall rule on the admissibility of evidence;

(c) Shall be the controlling authority with regard to the admissibility of evidence; and

(d) Need not follow the rules of admissibility of evidence that a court must follow.

4. The chair of an advisory committee shall file a written report with the Administrator that explains the results of the informal conference within 30 days after the conclusion of the informal conference. Except as otherwise provided in NRS 645.180, the report is and must remain confidential.

(Added to NAC by Real Estate Comm'n by R146-99, eff. 1-21-2000; A by R111-01, 12-17-2001)

NAC 645.500 Informal conference upon review of matter investigated by Administrator; report to Administrator; confidentiality. (NRS 645.190)

1. If an advisory committee is established to assist the Administrator with the review of an investigation conducted pursuant to NRS 645.610, the Administrator shall schedule an informal conference between the advisory committee and the licensee who is the subject of the investigation. The Administrator shall provide written notice of the time and place of the informal conference to:

- (a) Each member of the advisory committee;
 - (b) The licensee who is the subject of the investigation; and
 - (c) Each witness who has been requested to appear at the informal conference.
2. An advisory committee may request the attendance at an informal conference of any person whom the advisory committee believes to have information that is relevant to the matter.
3. When conducting an informal conference, an advisory committee:
- (a) May consider all evidence that it deems relevant to the investigation;
 - (b) Shall rule on the admissibility of evidence;
 - (c) Is the controlling authority with regard to the admissibility of evidence; and
 - (d) Need not follow the rules of admissibility of evidence that a court must follow.
4. The chair of an advisory committee shall file a written report with the Administrator that explains the results of the informal conference within 30 days after the conclusion of the informal conference.
5. A written report reviewed pursuant to subsection 1 of NAC 645.493, a written report filed pursuant to subsection 4 and all proceedings before an advisory committee are confidential.
(Added to NAC by Real Estate Comm'n by R031-04, eff. 11-30-2004)

STANDARDS OF PRACTICE

NAC 645.525 Naming of false consideration in document. (NRS 645.050, 645.190)
Regardless of disclosure or any agreement on the part of the seller, a licensee shall not participate in the naming of a false consideration in any document, unless it is an obviously nominal consideration.

[Real Estate Adv. Comm'n, § VII Code of Ethics Part I subsec. 4, eff. 10-31-75] — (NAC A by Real Estate Comm'n by R031-04, 11-30-2004)

NAC 645.535 Exclusive agency agreements; placement of signs. (NRS 645.050, 645.190)

1. A licensee cooperating with a broker who holds an exclusive listing or other exclusive agency agreement shall not invite the cooperation of another licensee without the consent of the listing broker or the agent.

2. Signs giving notice of property for sale, rent, lease, or exchange must not be placed on any property by more than one licensee unless authorized by the owner in writing.

3. A person must obtain the consent of the broker who holds an exclusive listing or other exclusive agency agreement before negotiating a lease or sale with the owner of that property or the principal.

4. A broker who holds an exclusive listing or other exclusive agency agreement shall cooperate with other brokers whenever it is in the interest of his or her client and may share commissions on a previously agreed basis.

[Real Estate Adv. Comm'n, § VII Code of Ethics Part II subsecs. 7 & 10-12, eff. 10-31-75] — (NAC A by Real Estate Comm'n, 12-27-91; A by Real Estate Div., 3-1-96)

NAC 645.541 Authorization of licensee to negotiate directly with client of broker with exclusive authority to represent client. (NRS 645.050, 645.190)

1. A broker who has the exclusive authority to represent a client under an exclusive agency listing agreement, exclusive buyer's brokerage agreement or exclusive right to sell or lease listing agreement may authorize another licensee to negotiate directly with that client if written authorization is obtained from the broker pursuant to subsection 2 of NRS 645.635. The

authorization must be prepared on a form prescribed by the Division. The broker shall, upon request, provide a copy of the authorization to any licensee cooperating with the broker.

2. Any negotiation conducted by a licensee with a seller, purchaser, lessor or tenant pursuant to the authorization described in subsection 1 does not create an express or implied agency relationship between the licensee and the client of the authorizing broker.

3. A licensee who cooperates with a broker and who negotiates an agreement pursuant to this section may communicate with the authorizing broker's client to assist in closing the agreement. Any communication engaged in pursuant to this subsection does not create an express or implied agency relationship between the licensee and the client of the authorizing broker.

4. As used in this section, "negotiate" means:

(a) To communicate, deliver, discuss or review the terms of an offer, counteroffer or proposal; or

(b) To communicate or assist in communication regarding an offer, counteroffer or proposal and preparing any response as directed.

(Added to NAC by Real Estate Comm'n by R165-07, eff. 4-17-2008)

NAC 645.546 Representation of clients under brokerage agreements: "Present all offers" and "exclusive agency representation" interpreted. (NRS 645.050, 645.190, 645.254, 645.320)

1. As used in NRS 645.254, the Commission will interpret the term "present all offers" to include, without limitation:

(a) Accepting delivery of or conveying an offer or counteroffer;

(b) Answering a client's questions regarding an offer or counteroffer; and

(c) Assisting a client in preparing, communicating or negotiating an offer or counteroffer.

2. As used in NRS 645.320, the Commission will interpret the term "exclusive agency representation" to mean an agency relationship that consists of one broker and one client, including, but not limited to:

(a) An exclusive agency listing agreement;

(b) An exclusive buyer's brokerage agreement; or

(c) An exclusive right to sell or lease listing agreement.

3. The provisions of this section do not prohibit the creation of an agency relationship described in a form prepared pursuant to subsection 2 or 3 of NRS 645.193.

(Added to NAC by Real Estate Comm'n by R165-07, eff. 4-17-2008)

NAC 645.551 Exclusive buyer's brokerage agreements: Inclusion of certain provisions regarding compensation of broker. (NRS 645.050, 645.190) An exclusive buyer's brokerage agreement may authorize the broker specified in the agreement to receive compensation from the seller or lessor of the property or the broker of the seller or lessor and may provide that the purchaser or tenant is not required to compensate the broker if the property is purchased or leased solely through the efforts of the purchaser or tenant.

(Added to NAC by Real Estate Comm'n by R165-07, eff. 4-17-2008)

NAC 645.600 Responsibilities of broker regarding associated licensees, employees and operation of business; agreement to retain licensee as independent contractor. (NRS 645.050, 645.190)

1. Every real estate broker shall teach the licensees associated with him or her the fundamentals of real estate or time-share practice both, and the ethics of the profession. The

broker shall supervise the activities of those licensees, the activities of his or her employees and the operation of his or her business.

2. The supervision described in subsection 1 includes, without limitation, the establishment of policies, rules, procedures and systems that allow the real estate broker to review, oversee and manage:

(a) The real estate transactions performed by a licensee who is associated with the real estate broker;

(b) Documents that may have a material effect upon the rights or obligations of a party to such a real estate transaction;

(c) The filing, storage and maintenance of such documents;

(d) The handling of money received on behalf of a real estate broker;

(e) The advertising of any service for which a real estate license is required; and

(f) The familiarization by the licensee of the requirements of federal and state law governing real estate transactions, including, without limitation, prohibitions against discrimination.

3. In establishing such policies, rules, procedures and systems, the real estate broker shall consider the number of licensees associated with the real estate broker, the number of employees employed by the real estate broker and the number and location of branch offices operated by the real estate broker.

4. A real estate broker shall establish a system for monitoring compliance with such policies, rules, procedures and systems. The real estate broker may use a real estate broker-salesperson to assist in administering the provisions of this section so long as the real estate broker does not relinquish overall responsibility for the supervision of the acts of the licensees associated with the real estate broker.

5. A real estate broker may enter into a written agreement with each licensee associated with the real estate broker to retain the licensee as an independent contractor. If such an agreement is entered into, it must:

(a) Be signed and dated by the real estate broker and the licensee; and

(b) Include the material aspects of the relationship between the real estate broker and the licensee, including, without limitation, the supervision by the real estate broker of the activities of the licensee for which a real estate license is required.

[Real Estate Adv. Comm'n, § VII subsec. 1, eff. 10-31-75] — (NAC A by Real Estate Comm'n, 4-27-84; R111-01, 12-17-2001; R031-04, 11-30-2004)

NAC 645.605 Considerations in determining certain misconduct by licensee. (NRS 645.050, 645.190, 645.633) In determining whether a licensee has been guilty of gross negligence or incompetence under paragraph (h) of subsection 1 of NRS 645.633 or conduct which constitutes deceitful, fraudulent or dishonest dealing under paragraph (i) of that subsection, the Commission will consider, among other things, whether the licensee:

1. Has done his or her utmost to protect the public against fraud, misrepresentation or unethical practices related to real estate or time shares.

2. Has ascertained all pertinent facts concerning any time share or property for which the licensee accepts an agency.

3. Has attempted to provide specialized professional services concerning a type of property or service that is outside the licensee's field of experience or competence without the assistance of a qualified authority unless the facts of such lack of experience or competence are fully disclosed to his or her client.

4. Has disclosed, in writing, his or her interest or contemplated interest in any property or time share with which the licensee is dealing. The disclosure must include, but is not limited to, a statement of:

(a) Whether the licensee expects to receive any direct or indirect compensation, dividend or profit from any person or company that will perform services related to the property and, if so, the identity of the person or company;

(b) The licensee's affiliation with or financial interest in any person or company that furnishes services related to the property;

(c) If the licensee is managing the property, his or her interest in or financial arrangement with any person or company that provides maintenance or other services to the property;

(d) If the licensee refers one of his or her clients or customers to another person or company, such as a contractor, title company, attorney, engineer or mortgage banker, the licensee's expectation of a referral fee from that person or company; and

(e) If the licensee receives compensation from more than one party in a real estate transaction, full disclosure to and consent from each party to the real estate transaction. A licensee shall not accept compensation from more than one party in a real estate transaction, even if otherwise permitted by law, without full disclosure to all parties.

5. Has kept informed of current statutes and regulations governing real estate, time shares and related fields in which he or she attempts to provide guidance.

6. Has breached his or her obligation of absolute fidelity to his or her principal's interest or his or her obligation to deal fairly with all parties to a real estate transaction.

7. Has ensured that each agreement for the sale, lease or management of property or time shares is contained in a written agreement that has been signed by all parties and that his or her real estate broker and each party to the real estate transaction has a copy of the written agreement.

8. Has obtained all changes of contractual terms in writing and whether such changes are signed or initialed by the parties concerned.

9. Understands and properly applies federal and state statutes relating to the protection of consumers.

10. Has acquired knowledge of all material facts that are reasonably ascertainable and are of customary or express concern and has conveyed that knowledge to the parties to the real estate transaction.

11. Has impeded or attempted to impede any investigation of the Division by:

(a) Failing to comply or delaying his or her compliance with a request by the Division to provide documents;

(b) Failing to supply a written response, including supporting documentation, if available;

(c) Supplying false information to an investigator, auditor or any other officer of the Division;

(d) Providing false, forged or altered documents; or

(e) Attempting to conceal any documents or facts relating to a real estate transaction.

(Added to NAC by Real Estate Comm'n, eff. 8-21-81; A 8-26-83; 4-27-84; 6-3-86; A by Real Estate Div., 3-31-94; 3-1-96; A by Real Estate Comm'n by R111-01, 12-17-2001; R031-04, 11-30-2004)

NAC 645.610 Restrictions on advertising; use of name under which licensee is licensed. (NRS 645.050, 645.190)

1. In addition to satisfying the requirements set forth in NRS 645.315:

(a) An advertisement of the services of a licensee for which a license is required under chapter 645 of NRS must not be false or misleading.

(b) Except as otherwise provided in this paragraph, a licensee shall not use his or her name or telephone number or the name or telephone number of another licensee of the brokerage firm with which the licensee is associated in any advertisement which contains the words “for sale by owner,” “for lease by owner” or similar words. A licensee may use his or her name or telephone number in an advertisement for property if the licensee has an ownership interest in the advertised property and the advertisement contains:

(1) If the licensee is a real estate broker, the words “for sale by owner-broker,” “for lease by owner-broker” or substantially similar words; or

(2) If the licensee is an agent, the words “for sale by owner-agent,” “for lease by owner-agent” or substantially similar words.

(c) The name of a brokerage firm under which a real estate broker does business or with which a real estate broker-salesperson or salesperson is associated must be clearly identified with prominence in any advertisement. In determining whether the name of the brokerage firm is identified with prominence, the Division shall consider, without limitation, the style, size and color of the type or font used and the location of the name of the brokerage firm as it appears in the advertisement.

(d) A licensee shall not publish or cause to be published any advertisement or place any sign that makes any reference to the availability of a specific property which is exclusively listed for sale by another broker unless the licensee obtains the prior written consent of the broker with whom the property is listed. Such consent must not be given or withheld by the listing broker without the knowledge of the owner of the property.

(e) A licensee shall not advertise or otherwise conduct business under a name, including a nickname, other than the name under which he or she is licensed to engage in business.

2. If advertising under the name of a franchise, a broker shall incorporate in a conspicuous way in the advertisement the real, fictitious or corporate name under which the broker is licensed to engage in business and an acknowledgment that each office is independently owned and operated.

3. In addition to the provisions of paragraph (a) of subsection 1, a licensee who represents a seller or lessor under an exclusive agency listing agreement or an exclusive right to sell or lease listing agreement shall not advertise any property that is subject to the agreement as “for sale by owner” or otherwise mislead a person into believing that the licensee does not represent the seller or lessor.

4. As used in this section, “advertisement” includes, without limitation:

(a) Any unsolicited printed material and any broadcast made by radio, television or electronic means, including, without limitation, by unsolicited electronic mail and the Internet, billboards and signs; and

(b) Business cards, stationery, forms and other documents used in a real estate transaction.

[Real Estate Adv. Comm’n, § VII subsecs. 2 & 3, eff. 10-31-75] — (NAC A by Real Estate Comm’n, 8-21-81; 12-16-82; 4-27-84; 12-27-91; A by Real Estate Div., 3-1-96; A by Real Estate Comm’n by R186-99, 1-21-2000; R111-01, 12-17-2001; R031-04, 11-30-2004; R165-07, 4-17-2008)

NAC 645.611 Advertisement of services: Use of terms “team” and “group.” (NRS 645.050, 645.190) A licensee may use the term “team” or “group” to advertise the services provided by the licensee if:

1. The use of the term does not constitute the unlawful use of a trade name and is not deceptively similar to a name under which any other person is lawfully doing business;
2. The team or group is composed of more than one licensee;
3. The members of the team or group are employed by the same broker;
4. The name of the team or group contains the last name of at least one of the members of the team or group; and
5. The advertising complies with all other applicable provisions of this chapter and chapter 645 of NRS.

(Added to NAC by Real Estate Comm'n by R031-04, eff. 11-30-2004)

NAC 645.613 Dissemination of certain unsolicited information through Internet or electronic mail. (NRS 645.050, 645.190) A licensee disseminating unsolicited information concerning real property or marketing real property through the Internet or electronic mail:

1. Shall be deemed to be engaged in advertising and shall comply with the applicable provisions of this chapter and chapter 645 of NRS relating to advertising.

2. Shall make all disclosures, obtain appropriate signatures and follow all requirements set forth in this chapter and chapter 645 of NRS before entering into a relationship as the agent of a client. The clicking of an acceptance box on the Internet or in an electronic mail is insufficient to create such a relationship between the licensee and the client. As used in this subsection, "appropriate signature" means the legal signature of the client.

(Added to NAC by Real Estate Comm'n by R031-04, eff. 11-30-2004)

NAC 645.615 Use of sign to identify business. (NRS 645.050, 645.190, 645.560)

1. The sign which NRS 645.560 requires each broker to erect and maintain in a conspicuous place upon the premises of the broker's place of business must be readable from the nearest public sidewalk, street or highway.

2. If the broker's place of business is located in an office building, hotel or apartment house, the broker's sign must be posted on the building directory or on the exterior of the entrance to the business.

3. Upon request by the Division, the broker shall furnish a photograph of his or her sign as proof of compliance with NRS 645.560 and this section.

[Real Estate Adv. Comm'n, § VI subsecs. 5-7, eff. 10-31-75] — (NAC A by Real Estate Comm'n, 8-21-81; 12-16-82; 4-27-84; A by Real Estate Div., 11-30-87; A by Real Estate Comm'n by R092-00, 8-29-2000)

NAC 645.620 Use of fictitious name. (NRS 645.050, 645.190)

1. A broker shall not operate under a fictitious name unless the broker complies with chapter 602 of NRS and files with the Division a certified copy of the certificate issued by the county clerk. The Division shall not issue more than one license nor register more than one owner-developer under the same name.

2. If a broker changes or assumes a fictitious name under which business is conducted, the broker shall file a certified copy of the certificate issued by the county clerk to the Division within 10 days after the certificate is issued.

3. A broker may not use more than one name for each license under which he or she operates.

[Real Estate Adv. Comm'n, § VI subsec. 3, eff. 10-31-75] — (NAC A by Real Estate Comm'n, 8-21-81; A by Real Estate Div., 3-1-96; A by Real Estate Comm'n by R186-99, 1-21-2000)

NAC 645.627 Location of office. (NRS 645.050, 645.190)

1. A broker shall establish an office in a location which is easily accessible to the public. If the broker chooses to establish an office in a private home or in conjunction with another business, he or she shall set aside a separate room or rooms for conducting his or her real estate business. The broker's office must comply with local zoning requirements.

2. A broker who is licensed in Nevada but who maintains an active license in another state shall maintain and operate a Nevada office.

(Added to NAC by Real Estate Comm'n, eff. 8-21-81)

NAC 645.630 Prompt tender of offers. (NRS 645.050, 645.190) A licensee shall promptly deliver:

1. To the seller, every bona fide offer, complete with all terms and conditions of purchase, which he or she obtains.

2. To the purchaser and seller, copies of each acceptance of an offer or counteroffer.

[Real Estate Adv. Comm'n, § VII, subsecs. 4 & 6, eff. 10-31-75]

NAC 645.632 Notification of rejection of offer or counteroffer. (NRS 645.050, 645.190)

1. If a licensee represents a seller in a transaction, and if the seller does not accept an offer within a reasonable time after an offer has been presented to the seller, the licensee shall provide to the buyer or the representative of the buyer written notice signed by the seller which informs the buyer that the offer has not been accepted by the seller.

2. If a licensee represents a buyer in a transaction, and if the buyer does not accept a counteroffer within a reasonable time after a counteroffer has been presented to the buyer, the licensee shall provide to the seller or the representative of the seller written notice signed by the buyer which informs the seller that the counteroffer has not been accepted by the buyer.

(Added to NAC by Real Estate Adv. Comm'n, eff. 8-21-81; A by Real Estate Comm'n by R186-99, 1-21-2000)

NAC 645.635 Disclosure of unmerchantable title. (NRS 645.050, 645.190, 645.252) A licensee may not attempt to sell, or offer to sell, any real property or any time share with knowledge that the title is unmerchantable unless the licensee notifies the prospective purchaser of that fact before the payment of any part of the purchase price.

[Real Estate Adv. Comm'n, § VII subsec. 9, eff. 10-31-75] — (NAC A by Real Estate Comm'n, 4-27-84)

NAC 645.637 Disclosure of relationship as agent or status as principal. (NRS 645.050, 645.190, 645.252) In each real estate transaction involving a licensee, as agent or principal, the licensee shall clearly disclose, in writing, to his or her client and to any party not represented by a licensee, the relationship of the licensee as the agent of his or her client or the status of the licensee as a principal. The disclosure must be made as soon as practicable, but not later than the date and time on which any written document is signed by the client or any party not represented by a licensee, or both. The prior disclosure must then be confirmed in a separate provision incorporated in or attached to that document and must be maintained by the real estate broker in his or her files relating to that transaction.

(Added to NAC by Real Estate Div., 11-8-88, eff. 7-1-89; A by Real Estate Comm'n, 12-27-89; R186-99, 1-21-2000; R111-01, 12-17-2001; R123-06, 6-1-2006)

NAC 645.640 Disclosure of interest of licensee in certain transactions. (NRS 645.050, 645.190, 645.252)

1. A licensee shall not acquire, lease or dispose of any time share, real property or interest in any time share or real property for himself or herself, any member of his or her immediate family, his or her firm, or any member thereof, or any entity in which the licensee has an interest as owner unless the licensee first discloses in writing that:

(a) He or she is acquiring, leasing or disposing of the time share or property for himself or herself or for a member, firm, or entity with which the licensee has such a relationship; and

(b) He or she is a licensed real estate broker, licensed real estate broker-salesperson or licensed real estate salesperson, whether his or her license is active or inactive. This disclosure may be accomplished with a reference to himself or herself as an agent, licensee, salesperson, broker or broker-salesperson, whichever is appropriate.

2. If a licensee advertises any time share or real property or his or her wish to enter into a transaction which is subject to the provisions of subsection 1, the licensee shall include in the advertisement the disclosure required by that subsection.

[Real Estate Adv. Comm'n, § VII subsec. 8, eff. 10-31-75] — (NAC A by Real Estate Comm'n, 12-16-82; 4-27-84; A by Real Estate Div., 11-30-87; A by Real Estate Comm'n by R186-99, 1-21-2000; R031-04, 11-30-2004)

NAC 645.645 Inspections and audits by Division: Cooperation by broker; form for permission. (NRS 645.190, 645.195, 645.310, 645.313) A broker shall, upon demand, provide the Division with the documents and the permission necessary for the Division to complete fully an inspection and audit, including an inspection and audit of any money accounts as provided in NRS 645.310 and 645.313. Permission may be given on a form provided by the Division. The form must provide a bank, depositor or other holder of information with release from liability which might result from disclosure of the information required by the Division.

[Real Estate Adv. Comm'n, § VII subsec. 15, eff. 10-31-75] — (NAC A by Real Estate Comm'n by R031-04, 11-30-2004)

NAC 645.650 Periods for maintenance of certain records by broker and for provision of certain paperwork to broker. (NRS 645.050, 645.190)

1. A broker shall keep complete real estate transaction and property management records for at least 5 years after the date of the closing or the last activity involving the property, including, without limitation, offers that were not accepted and transactions that were not completed, unless otherwise directed by the Division.

2. A salesperson or broker-salesperson must provide any paperwork to the broker with whom he or she is associated within 5 calendar days after that paperwork is executed by all the parties.

[Real Estate Adv. Comm'n, § VII subsecs. 7 & 10 par. c, eff. 10-31-75] — (NAC A by Real Estate Comm'n, 8-21-81; A by Real Estate Div., 3-1-96; A by Real Estate Comm'n by R186-99, 1-21-2000; R031-04, 11-30-2004)

NAC 645.655 Records of transactions; trust accounts. (NRS 645.050, 645.190, 645.195, 645.310, 645.633)

1. Each real estate transaction of a brokerage must be numbered consecutively or indexed to permit audit by a representative of the Division.

2. A complete record of each real estate transaction, together with records required to be maintained pursuant to NRS 645.310, must be: -287-

(a) Kept in this State; and

(b) Open to inspection and audit by the Division upon its request during its usual business hours, as well as other hours during which the licensee regularly conducts his or her business.

3. If any records the Division requests to inspect or audit pursuant to subsection 2 are stored electronically, access to a computer or other equipment used to store the information must be made available to the Division for use in its inspection or audit.

4. The real estate broker shall give written notice to the Division of the exact location of the records of the real estate broker and shall not remove them until he or she has delivered a notice which informs the Division of the new location.

5. A licensee shall not maintain a custodial or trust account from which money may be withdrawn without the signature of a licensee. A signature applied by use of a rubber stamp does not constitute the signature of a licensee for the purposes of this subsection.

6. A real estate salesperson may not be the only required signatory on a custodial or trust fund account. A real estate salesperson may be a cosigner of an account with his or her real estate broker.

7. A real estate broker who files for relief under the bankruptcy laws of the United States shall immediately terminate each trust account established pursuant to NRS 645.310 and deposit all money from each trust account into escrow with executed instructions to the escrow agent or officer to disburse the money pursuant to the agreement under which it was originally deposited.

8. A real estate broker who is engaged in property management for one or more clients shall maintain two separate property management trust accounts distinct from any trust account that the real estate broker may have for other real estate transactions. One trust account must be used solely for activities relating to rental operations, and the other trust account must be used solely for security deposits. A real estate broker shall maintain a ledger account for each unit of property he or she manages regardless of whether the client owns more than one unit under the real estate broker's management. All rents and deposits for each unit must be deposited into and credited to each property's management trust account, and all authorized repairs and expenses must be paid out of the corresponding ledger account. For the purposes of this subsection, "unit" means one single-family dwelling unit.

9. Property management and real estate transaction trust accounts must be reconciled monthly by the real estate broker or the designee of the real estate broker within 30 days after receipt of the bank statement. A real estate broker who permits any trust account, including any ledger account, to fall into deficit and remain in deficit for more than 45 consecutive days in 1 year is subject to discipline pursuant to paragraph (h) of subsection 1 of NRS 645.633 or other applicable charges, or both.

[Real Estate Adv. Comm'n, § VII subsec. 10 pars. a, b, d & e, eff. 10-31-75] — (NAC A by Real Estate Comm'n, 6-3-86; A by Real Estate Div., 3-1-96; A by Real Estate Comm'n by R111-01, 12-17-2001; R031-04, 11-30-2004, eff. 7-1-2005)

NAC 645.657 Payment of deposits. (NRS 645.050, 645.190, 645.310) A licensee who receives a deposit on any transaction in which he or she is engaged on behalf of a broker or owner-developer shall pay over the deposit to that broker or owner-developer, or to the escrow business or company designated in the contract, within 1 business day after receiving a fully executed contract.

(Added to NAC by Real Estate Comm'n, eff. 8-21-81; A 12-16-82; R031-04, 11-30-2004; R123-06, 6-1-2006)

NAC 645.660 Disclosure of certain interests required before deposit of money. (NRS 645.050, 645.190) A licensee shall not deposit money received by the licensee in any escrow business or company in which the licensee or anyone associated with him or her in the real estate or time-share business has an interest without disclosing this association to all parties to the transaction.

[Real Estate Adv. Comm'n, § VII subsec. 11, eff. 10-31-75] — (NAC A by Real Estate Comm'n, 8-21-81; 4-27-84; R031-04, 11-30-2004)

NAC 645.665 Absence of broker from business for prolonged period. (NRS 645.050, 645.190) A broker shall not be absent from his or her business for 30 days or more if the broker is the only broker in his or her office unless the broker inactivates his or her license or otherwise notifies the Division in advance. Failure to observe this requirement is a ground for suspension. If a broker will be absent from his or her business for 30 days or more, the broker must designate an office manager in accordance with NAC 645.178 or make other arrangements approved by the Division in advance.

[Real Estate Adv. Comm'n, § VII subsec. 12, eff. 10-31-75] — (NAC A by Real Estate Comm'n, 4-27-84; R031-04, 11-30-2004)

NAC 645.670 Conduct of inspections by Division. (NRS 645.050, 645.190, 645.195, 645.310)

1. The Division may use a form of its design to conduct any inspection and require the broker or office manager in charge of the office being inspected to sign such a form.
2. Such an inspection must include, but need not be limited to:
 - (a) The address of the real estate office or time-share office.
 - (b) The sign identifying the office.
 - (c) The procedure used to deposit money.
 - (d) The trust records.
 - (e) The indexing or numbering system used in filing records.
 - (f) Advertising.
 - (g) The availability of current statutes and regulations at the place of business.
 - (h) Any affiliation with a developer as defined in chapter 119 or 119A of NRS.
 - (i) Any documentation required by chapter 119 or 119A of NRS or the federal Land Sales Act.

[Real Estate Adv. Comm'n, § VII subsec. 17, eff. 10-31-75] — (NAC A by Real Estate Comm'n, 8-21-81; 4-27-84)

NAC 645.675 Agreements for advance fees. (NRS 645.050, 645.190, 645.324)

1. Each agreement for an advance fee used in Nevada must:
 - (a) Be in writing;
 - (b) Contain a definite and complete description of the services to be rendered;
 - (c) Specify the total amount of the fee involved and clearly state when the fee is due;
 - (d) Not imply or purport to guarantee that the real property involved will be purchased, sold, rented, leased or exchanged as a result of the services rendered;
 - (e) Specify the date of full performance of the services contracted for;
 - (f) Not imply or purport to represent to purchasers and prospective purchasers of the advertising or promotional services offered that a buyer for the property is immediately or soon available; and

(g) Provide that a full refund will be made to the customer if the services for which the advance fee is being received are not substantially or materially provided to the customer.

2. Any oral representation or promise made to a purchaser or a prospective purchaser of the advertising and promotional services offered pursuant to an agreement for an advance fee to induce the purchaser or prospective purchaser of the services to sign the agreement is incorporated into the agreement. The agreement must not relieve or exempt the vendor of the services from any oral representation or promise incorporated into the agreement.

[Real Estate Adv. Comm'n, § IX subsecs. 1 & 2, eff. 10-31-75] — (NAC A by Real Estate Comm'n by R031-04, 11-30-2004)

NAC 645.678 Duties of broker operating agency which lists rentals for advance fee. (NRS 645.050, 645.190) A broker operating an agency which lists rentals for an advance fee shall:

1. Not publish, advertise or distribute information concerning a rental without first receiving approval from the owner of the rental.

2. Provide for full refunds to customers if the services for which payment was received was substantially or materially not received by the customer.

3. Inform each customer in writing of the term for which the rental service is to be provided.

4. Make no additional charge for services rendered during the period for which the services were initially purchased.

(Added to NAC by Real Estate Comm'n, eff. 8-21-81; A by R031-04, 11-30-2004)

NAC 645.680 Form for complaints; investigations of licensees; action by Administrator on report of investigation. (NRS 645.050, 645.190)

1. The Division shall prepare and require a standard form or affidavit for use in making a citizen's complaint. This form may require any information the Division considers pertinent.

2. If a complaint is made or if the Division requests an investigation of a licensee, the Administrator shall appoint a member of the staff of the Division to investigate any action of a licensee which appears to violate a provision of chapter 113, 116, 119, 119A, 119B, 645, 645C or 645D of NRS or the regulations adopted pursuant thereto. An investigation that is initiated by a complaint need not be limited to the matter in the complaint.

3. A licensee shall disclose all facts and documents pertinent to an investigation to members of the Division's staff conducting the investigation.

4. A person appointed to investigate a matter pursuant to this section shall submit a written report to the Administrator which describes the results of the investigation.

5. The Administrator shall review a report submitted pursuant to subsection 4 and based upon the review shall:

(a) Dismiss the matter that is the subject of the investigation;

(b) Impose an administrative fine pursuant to NAC 645.695;

(c) Negotiate a resolution of the matter that is the subject of the investigation, which may include, without limitation, administrative sanctions pursuant to NAC 645.695;

(d) Create an advisory committee to review the matter that is the subject of the investigation pursuant to NAC 645.490, if the licensee who is the subject of the investigation agrees to participate in an informal conference with an advisory committee; or

(e) Schedule a hearing that must be conducted pursuant to NAC 645.810.

[Real Estate Adv. Comm'n, § VIII, eff. 10-31-75] — (NAC A by Real Estate Comm'n, 8-21-81; 4-27-84; R146-99, 1-21-2000; R031-04, 11-30-2004)

NAC 645.690 Correction of certain deficiencies upon notice and request by Division. (NRS 645.050, 645.190)

1. The Division may grant a licensee up to 10 days to correct any deficiency involving advertising, business location, office operation or a broker's sign. A notice of the deficiency and a request to correct the deficiency will be mailed to the licensee. Failure to comply with the request is a ground for the suspension or revocation of the license. The notice must state the deficiencies or violations, the recommended action, and the date by which the deficiencies must be corrected.

2. The Division may grant an extension for a definite time to correct the deficiency whenever the correction may, practicably, require additional time.

[Real Estate Adv. Comm'n, § VII subsec. 14, eff. 10-31-75] — (NAC A by Real Estate Comm'n, 8-21-81; R031-04, 11-30-2004)

NAC 645.695 Administrative fines and other sanctions. (NRS 645.050, 645.190, 645.575, 645.630, 645.633, 645.635, 645.660)

1. The Administrator may require a licensee to pay an administrative fine in the amount set forth in this subsection for each violation of the following provisions:

	For each Offense
<u>NRS 645.252</u>	\$500
Subsection 4, 5 or 6 of <u>NRS 645.310</u>	1,000
	100 per
<u>NRS 645.530</u> cense	
<u>NRS 645.550</u>	500
<u>NRS 645.560</u>	500
Subsection 1 of <u>NRS 645.570</u>	250
Subsection 2 of <u>NRS 645.570</u>	500
Subsection 1 of <u>NRS 645.580</u>	250
Paragraph (a), (b), (c), (e), (f), (i), (j), (k) or (l) of subsection 1 of <u>NRS</u>	
<u>645.630</u>	500
Paragraph (g) of subsection 1 of <u>NRS 645.630</u>	1,000
Paragraph (c), (e), (g), (h), (j), (k) or (l) of subsection 1 of <u>NRS</u>	
<u>645.633</u>	500
Paragraph (a) or (f) of subsection 1 of <u>NRS 645.633</u>	250
Paragraph (i) of subsection 1 of <u>NRS 645.633</u>	1,000
Subsection 1, 2, 3, 4, 5 or 6 of <u>NRS 645.635</u>	500
Subsection 7 or 8 of <u>NRS 645.635</u>	1,000
Subsection 3 of <u>NRS 645.660</u>	1,000
<u>NAC 645.4442</u>	250
<u>NAC 645.448</u>	250
<u>NAC 645.455</u>	500
<u>NAC 645.610</u>	500
<u>NAC 645.620</u>	500
<u>NAC 645.627</u>	500
<u>NAC 645.632</u>	500

	For each Offense
<u>NAC 645.637</u>	500
<u>NAC 645.640</u>	500
<u>NAC 645.645</u>	500
<u>NAC 645.650</u>	1,000
<u>NAC 645.655</u>	1,000
Subsection 2 of <u>NAC 645.806</u>	1,000
Subsection 3 of <u>NAC 645.806</u>	250
<u>NAC 645.855</u>	2,000

2. In addition to or in lieu of imposing an administrative fine pursuant to subsection 1, the Administrator may:

(a) Recommend to the Commission that the license of the licensee and any permit of the licensee be suspended or revoked;

(b) Require a licensee to complete continuing education; or

(c) Take any combination of the actions set forth in paragraphs (a) and (b).

(Added to NAC by Real Estate Comm'n., eff. 5-14-96; A by R059-98, 7-1-98; R146-99 & R186-99, 1-21-2000; R092-00, 8-29-2000; R111-01, 12-17-2001; R031-04, 11-30-2004; R123-06, 6-1-2006; R093-10, 5-30-2012; R097-14, 4-4-2016)

REVISER'S NOTE.

The regulation of the Real Estate Commission filed with the Secretary of State on May 30, 2012 (LCB File No. R093-10), which amended this section, contains the following provisions not included in NAC:

"1. The amendatory provisions of section 1 of this regulation [NAC 645.4442] apply only to first-time licensees whose licenses expire on or after July 1, 2012.

2. The amendatory provisions of section 3 of this regulation [NAC 645.448] apply only to licensees whose licenses expire on or after July 1, 2013.

3. The amendatory provisions of section 4 of this regulation [NAC 645.695] apply only to:

(a) A first-time licensee whose license expires on or after July 1, 2012.

(b) A licensee whose license expires on or after July 1, 2013."

REGULATION OF OWNER-DEVELOPERS

NAC 645.700 Registration required. (NRS 645.190) An owner-developer must obtain a registration for each recorded subdivision which he or she intends to sell.

[Real Estate Adv. Comm'n, § XVI subsec. 3 par. g, eff. 10-31-75]

NAC 645.710 Application for registration. (NRS 645.190, 645.285, 645.287)

1. An application for an original registration as an owner-developer must be completed by the owner-developer, unless the applicant is a partnership or corporation, and in that case the application must be completed by a partner or the principal officer. The application must be filed with an office of the Division and must be accompanied by fingerprint cards. The applicant's fingerprints must be taken by a regular law enforcement agency or other authorized entity acceptable to the Division. If a search of criminal records has been requested by the Division, an application for registration is not complete until the Division has received the appropriate information.

2. The applicant must provide in the application:

(a) A statement of the applicant's arrests and convictions, if any, and any proceedings against him or her brought by governmental agencies;

(b) A brief history of his or her business;

(c) The legal description of the property to be covered by the registration, as shown on a recorded map, which shows all the certificates of approval required by law;

(d) The location of each of his or her sales offices;

(e) A statement which shows his or her financial condition; and

(f) A history of his or her bankruptcies, if any.

3. The application must be accompanied by:

(a) The applicant's sworn verification of the truthfulness of the matters stated in the application and its attachments; and

(b) A statement that the applicant understands the responsibilities of an owner-developer pursuant to this chapter and chapter 645 of NRS and that he or she could be subject to disciplinary action pursuant to this chapter and chapter 645 of NRS.

4. The fee for the original registration must accompany the application and is not refundable after the owner-developer has been registered.

5. If the applicant is a partnership or corporation, it must file with the Division a certified or verified copy of the partnership agreement or articles of incorporation.

6. The application must be submitted with a copy of:

(a) The applicant's notice of exemption under subsection 5 of NRS 119.120;

(b) The applicant's business license, if one is required by the local government;

(c) If the applicant is a partnership or corporation, the provisions authorizing it to employ salespersons to sell the lots and residences; and

(d) The applicant's certificate of fictitious name, if such a certificate has been filed.

7. An application by a registered owner-developer to enlarge the geographical area covered by his or her registration must be made on a form prepared by the Division. The applicant must provide the Division with the same information as is required for an original application, and the application must be accompanied by the appropriate fee.

[Real Estate Adv. Comm'n, § XVI subsec. 1, eff. 10-31-75; A 2-20-76] — (NAC A by Real Estate Comm'n, 8-21-81; 12-16-82; 6-3-86; R031-04, 11-30-2004)

NAC 645.730 Status of registration; required notices. (NRS 645.190)

1. The Division's registration of a person as an owner-developer does not constitute a licensure. Such a registrant may not use the term "licensed" either in his or her advertising or oral presentations to prospective purchasers, but this section does not preclude him or her from using the term "licensed contractor."

2. An owner-developer shall keep at each of his or her sales offices a copy of the letter of registration sent to the owner-developer by the Division.

3. Every owner-developer shall within 10 days give written notice to the Division of any change of name, address, or status affecting the owner-developer, or any licensed real estate broker-salesperson or salesperson in his or her employ. The notice must be prepared on a form provided by the Division and be given within 10 days after the change occurs. The proper fee must accompany the notice. The owner-developer shall also notify the Division of the location of the sales office which is to be used by the owner-developer's licensed broker-salesperson or salesperson.

4. The registration of an owner-developer will be annulled at such time as the owner-developer fails to employ licensed real estate broker-salespersons or salespersons.

5. Inactive status is not available for owner-developers.

[Real Estate Adv. Comm'n, § XVI subsec. 3 pars. a-f, eff. 10-31-75] — (NAC A by Real Estate Comm'n, 8-21-81; 12-16-82)

NAC 645.740 Expiration of registration. (NRS 645.190)

1. A registration for an owner-developer is effective for 1 year after the date of issuance. An owner-developer may renew his or her registration by paying the required fee and submitting the appropriate form to the Division. There is no limit on the number of annual renewals.

2. If an owner-developer fails to renew his or her registration, the licenses of all salespersons in his or her employ who have renewed will immediately be placed on inactive status.

3. If the registration of an owner-developer is cancelled, suspended, or revoked, the owner-developer shall immediately terminate all activities pursuant to his or her registration and shall deliver to the Division all of the licenses of his or her employees.

[Real Estate Adv. Comm'n, § XVI subsec. 3 pars. j-1, eff. 10-31-75] — (NAC A by Real Estate Comm'n, 8-21-81)

NAC 645.750 Limitations on licensees. (NRS 645.050, 645.190, 645.330)

1. A licensee associated with an owner-developer may only sell, lease, rent, or offer and negotiate to sell, lease or rent the registered development for an owner-developer, and may not engage in any other activity listed in NRS 645.030.

2. A licensee employed by an owner-developer may not be associated with a real estate broker at the same time.

3. Real estate brokers working for owner-developers must change their status to real estate broker-salespersons.

4. An employee of an owner-developer is prohibited from erecting, displaying or maintaining any sign or billboard or advertising under his or her own name unless the advertisement is located at the office of his or her employer. The name of the employee may not dominate the owner-developer's sign in any way.

5. Except as otherwise provided in subsection 6, the time during which a licensee is employed by an owner-developer does not satisfy the requirement of prior experience set forth in subsection 4 of NRS 645.330.

6. The Commission may permit an applicant to satisfy the requirement of prior experience set forth in subsection 4 of NRS 645.330 if the applicant has been employed by an owner-developer. The Commission will consider the prior experience of an applicant with an owner-developer at its next regularly scheduled meeting if the applicant:

(a) Files a petition with the Commission; and

(b) At the meeting of the Commission, demonstrates that the quality, quantity and variety of experience that the applicant received during his or her employment with an owner-developer was substantially equivalent to the experience of a person who has been actively engaged as a full-time licensed real estate broker-salesperson or salesperson in private practice.

[Real Estate Adv. Comm'n, § XVI subsecs. h, i, m & t, eff. 10-31-75; § XVI subsec. t, eff. 12-20-75] — (NAC A by Real Estate Comm'n, 8-21-81; A by Real Estate Div., 11-30-87; 3-31-94; A by Real Estate Comm'n by R111-01, 12-17-2001)

NAC 645.760 Records of sales; limitation on sales. (NRS 645.190, 645.195)

1. All records pertaining to the sale of any single-family residence in the subdivision of a registered owner-developer must be maintained at his or her principal place of business and be

available for inspection by the Division. Upon request, the owner-developer shall send copies of those records to the appropriate office of the Division.

2. The owner-developer may not sell any lot in his or her subdivision pursuant to this chapter unless:

(a) The lot contains a single-family residence not previously sold; or

(b) A single-family residence is to be constructed upon the lot, and the residence is purchased under the same agreement as the sale of the land.

[Real Estate Adv. Comm'n, § XVI subsecs. n, q & s, eff. 10-31-75; § XVI subsecs. r & s, eff. 12-20-75] — (NAC A by Real Estate Comm'n, 8-21-81; 12-16-82)

NAC 645.770 Disciplinary action; investigation of financial status. (NRS 645.190, 645.610, 645.630, 645.633)

1. The Commission may fine an owner-developer, revoke or suspend the registration of an owner-developer, or impose a fine and revoke or suspend the registration of an owner-developer for any violation of chapter 113, 116, 119, 119A, 645, 645C or 645D of NRS or the regulations adopted pursuant thereto.

2. If the Administrator has reason to believe that there has been a substantial change in the financial status of the owner-developer since his or her original application, the Administrator shall investigate the financial status of the owner-developer. If the Administrator determines that the owner-developer is financially incompetent to maintain his or her business, the Administrator shall bring a complaint for revocation of the registration of the owner-developer.

[Real Estate Adv. Comm'n, § XVI subsec. o, eff. 10-31-75] — (NAC A by Real Estate Comm'n, 8-21-81; 4-27-84; R031-04, 11-30-2004)

REGULATION OF PROPERTY MANAGERS

NAC 645.799 Applicability of certain provisions regarding management of common-interest communities. (NRS 645.050, 645.190) A person who holds a permit and engages in the management of a common-interest community is subject to the provisions of chapter 116 of NRS and chapters 116 and 116A of NAC relating to managers of common-interest communities.

(Added to NAC by Real Estate Comm'n by R136-99, eff. 4-3-2000)

NAC 645.800 Permit to engage in property management: General requirements; fees; effective date. (NRS 645.190, 645.6052)

1. A person who wishes to obtain a permit to engage in property management must submit to the Division:

(a) A completed application on a form prescribed by the Division;

(b) A fee of \$40; and

(c) A certificate of completion, in a form that is satisfactory to the Division, that indicates the person's successful completion of the 24 classroom hours of instruction in property management required by paragraph (a) of subsection 2 of NRS 645.6052.

2. The 24 classroom hours of instruction in property management required pursuant to paragraph (a) of subsection 2 of NRS 645.6052 must include, without limitation:

(a) Four hours of instruction relating to:

(1) Contracts for management services;

(2) Leases of real property;

(3) Applications to rent real property;

- (4) The Fair Credit Reporting Act, 15 U.S.C. §§ 1681 et seq.; and
- (5) The Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 to 1692o, inclusive;
- (b) Two hours of instruction relating to the maintenance of records of money deposited in trust accounts and the requirements for reporting to the Division set forth in chapter 645 of NRS;
- (c) One hour of instruction relating to the use of a computerized system for bookkeeping;
- (d) Two hours of instruction relating to the laws of this State governing property management;
- (e) Two hours of instruction relating to the disclosure of required information in real estate transactions, including, without limitation:
 - (1) Disclosures required pursuant to NRS 645.252; and
 - (2) Disclosures related to environmental issues as governed by state and federal law;
- (f) Five hours of instruction relating to:
 - (1) The Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq.;
 - (2) The Residential Landlord and Tenant Act as set forth in chapter 118A of NRS;
 - (3) The Nevada Fair Housing Law as set forth in chapter 118 of NRS; and
 - (4) State and federal law governing unlawful discrimination based on sex, including, without limitation, sexual harassment;
- (g) Three hours of instruction relating to property management for a common-interest community as set forth in chapter 116 of NRS;
- (h) One hour of instruction relating to the duties and responsibilities of a real estate broker, including the supervision of employees and real estate salespersons and real estate broker-salespersons associated with the real estate broker;
- (i) Two hours of instruction relating to risk management, including, without limitation:
 - (1) The maintenance of real property;
 - (2) The health and safety of a tenant;
 - (3) Fire insurance;
 - (4) Rental insurance; and
 - (5) Disability insurance; and
- (j) Two hours relating to the management of commercial property.

3. The Division may accept a course in property management from a nationally recognized or accredited organization to fulfill the requirements set forth in paragraphs (a), (b), (c), (h), (i) and (j) of subsection 2, if the successful completion of that course would qualify the applicant to engage in property management pursuant to the requirements of that organization.

4. The applicant must complete the hours of instruction set forth in paragraphs (d), (e), (f) and (g) of subsection 2 at an accredited educational institution in this State.

5. A permit to engage in property management initially issued by the Division is effective on the date the application for the permit is submitted to the Division or the date on which the fee for the permit is paid, whichever occurs later.

6. As used in this section and paragraph (a) of subsection 2 of NRS 645.6052, the Commission will interpret the term “successfully completed” or “successful completion” to include, without limitation, passing an examination which is prepared and administered by an organization designated by the Division, with a score of at least 75 percent that:

- (a) Includes the subject matter presented in the hours of instruction required pursuant to subsection 2; and
 - (b) Consists of at least 50 multiple-choice questions.
- ↪ The fee for the examination is \$75.

(Added to NAC by Real Estate Comm'n by R059-98, eff. 7-1-98; A by R111-01, 12-17-2001; R050-03, 10-30-2003; R031-04, 11-30-2004)

NAC 645.8005 Permit to engage in property management: Additional requirements for person designated to apply on behalf of certain organizations. (NRS 645.190, 645.6052) In addition to the requirements set forth in NRS 645.6052 and the regulations adopted pursuant thereto, to obtain a permit pursuant to NRS 645.6052, a person who is designated to engage in property management on behalf of a partnership, corporation, limited-liability company or sole proprietor pursuant to NRS 645.6054 must be a broker or a broker-salesperson with 2 years of full-time active experience within the 4 years immediately preceding the date the person applies for a permit to engage in property management on behalf of a partnership, corporation, limited-liability company or sole proprietor pursuant to NRS 645.6054.

(Added to NAC by Real Estate Comm'n by R092-00, eff. 8-29-2000)

NAC 645.802 Permit to engage in property management: Requirements and fee for renewal; effective date of renewal; date of expiration. (NRS 645.190, 645.6052)

1. The Division may renew a permit to engage in property management if the holder of the permit submits to the Division:

(a) A request for the renewal of the permit with the holder's application to renew his or her license as a real estate broker, real estate broker-salesperson or real estate salesperson;

(b) A renewal fee of \$40; and

(c) Documentation of his or her successful completion of the requirements for continuing education required by paragraph (a) of subsection 4 of NRS 645.6052.

2. The hours of continuing education used to fulfill the requirements set forth in paragraph (c) of subsection 1 must include:

(a) Instruction relating to any amendments to the laws of this State governing property management; and

(b) If the holder of the permit is a manager of a common-interest community pursuant to chapters 116 and 116A of NAC, 3 hours of instruction relating to the laws of this State that are applicable to the responsibilities and duties involved in the management of a common-interest community.

3. The renewal of a permit is effective on the date on which the application for renewal of a license is submitted to the Division or on the date on which the renewal fees for the license and the permit are paid, whichever occurs later.

4. A permit expires on the same date as the holder's license expires.

(Added to NAC by Real Estate Comm'n by R059-98, eff. 7-1-98; A by R136-99, 4-3-2000)

NAC 645.804 Approval of courses for educational requirements. (NRS 645.190, 645.6052)

1. For an applicant to receive credit for a course of instruction in property management that is designed to fulfill the educational requirements for the issuance of a permit which are described in paragraph (a) of subsection 2 of NRS 645.6052, the course must be approved by the Commission.

2. An educational institution that wishes to obtain approval to offer courses that meet the educational requirements for the issuance or renewal of a permit to engage in property management must apply to the Division pursuant to the applicable procedures set forth in NAC 645.400 to 645.467, inclusive.

(Added to NAC by Real Estate Comm'n by 1-297-98, eff. 7-1-98; A by R031-04, 11-30-2004)

NAC 645.805 Termination of association of person designated to apply on behalf of certain organizations. (NRS 645.050, 645.190, 645.6054)

1. Except as otherwise provided in subsection 4, if a person to whom a permit is issued pursuant to NRS 645.6054 ceases to be connected or associated with the partnership, corporation, limited-liability company or sole proprietor for whom the person is acting as a property manager, the partnership, corporation, limited-liability company or sole proprietor shall not engage in the business of property management unless, not later than 30 days after that person ceases to be connected or associated with the partnership, corporation, limited-liability company or sole proprietor, the partnership, corporation, limited-liability company or sole proprietor designates another person to hold the permit on behalf of the partnership, corporation, limited-liability company or sole proprietor pursuant to the requirements set forth in subsection 3 of NRS 645.6054.

2. The real estate broker of a partnership, corporation, limited-liability company or sole proprietorship who is required pursuant to NRS 645.310 to maintain a trust account for money received for property management shall:

(a) Request a statement from the bank in which the trust account is being held not later than 5 days after the date that the designated property manager ceases to be connected or associated with the partnership, corporation, limited-liability company or sole proprietor; and

(b) Submit to the Division, on a form provided by the Division, a reconciliation of the trust account for the 30 days immediately preceding the date that the designated property manager ceases to be connected or associated with the partnership, corporation, limited-liability company or sole proprietor.

3. A reconciliation required pursuant to paragraph (b) of subsection 2 must be submitted to the Division not later than 15 days after the designated property manager ceases to be connected or associated with the partnership, corporation, limited-liability company or sole proprietor or by the end of the month in which the designated property manager ceases to be connected or associated with the partnership, corporation, limited-liability company or sole proprietor, whichever occurs later.

4. A partnership, corporation, limited-liability company or sole proprietor may petition, in writing, the Administrator for an extension of time in which to designate another property manager after the designated property manager ceases to be connected or associated with the partnership, corporation, limited-liability company or sole proprietor. The Administrator may grant such an extension, in writing, if he or she finds the partnership, corporation, limited-liability company or sole proprietor has a severe hardship resulting from circumstances beyond the control of the partnership, corporation, limited-liability company or sole proprietor which has prevented the partnership, corporation, limited-liability company or sole proprietor from meeting the requirements of subsection 1.

(Added to NAC by Real Estate Comm'n by R059-98, eff. 7-1-98)

NAC 645.806 Trust accounts: Annual accounting required; declaration of exemption; maintenance of records; administrative fine for violation. (NRS 645.050, 645.190, 645.310)

1. A real estate broker who receives money, including, without limitation, rent, a security deposit, a down payment, an advance fee or earnest money deposit, or whose agent or property manager receives such money, shall provide to the Division, on a form provided by the Division, an accounting as required by subsection 5 of NRS 645.310 which shows a reconciliation of each trust account that he or she maintains.

2. The reconciliation required pursuant to subsection 1 must be submitted to the Division annually by the expiration date of the license of the real estate broker. The reconciliation must include the calendar month immediately preceding the calendar month of the expiration date of his or her license as a real estate broker.

3. If a real estate broker is not required to provide a reconciliation to the Division pursuant to subsection 1, the broker shall provide to the Division, on a form prescribed by the Division, a declaration to inform the Division that the broker is not required to provide a reconciliation of trust accounts. The declaration form must be submitted to the Division annually by the expiration date of the license of the broker.

4. A broker who engages in property management or who associates with a property manager who engages in property management shall maintain complete accounting records of each trust account related to property management that he or she maintains for at least 5 years after the last activity by the broker which involved the trust account. If the records are maintained by computer, the broker shall maintain an additional copy of the records on computer disc for at least 5 years after the last activity by the broker which involved the trust account.

5. A broker who violates the provisions of subsection 2 or 3 is subject to an administrative fine pursuant to subsection 1 of NAC 645.695.

(Added to NAC by Real Estate Comm'n by R059-98, eff. 7-1-98; A by R092-00, 8-29-2000; R097-14, 4-4-2016)

NAC 645.807 Trust accounts: Execution of checks by certain broker-salespersons. (NRS 645.050, 645.190) A real estate broker-salesperson who holds a permit to engage in property management may sign checks on a trust account without the signature of the real estate broker who employs him or her if the broker-salesperson has obtained the written permission of the broker authorizing him or her to do so. A signature applied by use of a rubber stamp does not constitute the signature of a real estate broker-salesperson for the purposes of this section.

(Added to NAC by Real Estate Comm'n by R059-98, eff. 7-1-98; A by R031-04, 11-30-2004)

PROCEEDINGS BEFORE COMMISSION

NAC 645.810 Procedure at hearing; receipt of evidence; date of decision. (NRS 645.190)

1. The presiding officer of a hearing shall:

(a) Ascertain whether all persons commanded to appear under subpoena are present and whether all documents, books, records and other evidence under subpoena are present in the hearing room.

(b) Administer the oath to the reporter as follows:

Do you solemnly swear or affirm that you will report this hearing to the best of your stenographic ability?

(c) Administer the oath to all persons whose testimony will be taken:

Do you and each of you solemnly swear or affirm to tell the truth and nothing but the truth in these proceedings?

(d) Ascertain whether either party wishes to have a witness excluded from the hearing except during the testimony of the witness. A witness may be excluded upon the motion of the

Commission or upon the motion of either party. If a witness is excluded, the witness will be instructed not to discuss the case during the pendency of the proceeding. The respondent will be allowed to remain present at the hearing. The Division may designate a person who is a member of the staff of the Division and who may also be a witness to act as its representative. Such a representative will be allowed to remain present at the hearing.

(e) Ascertain whether a copy of the complaint or decision to deny has been filed and whether an answer has been filed as part of the record in the proceedings.

(f) Hear any preliminary motions, stipulations or orders upon which the parties agree and address any administrative details.

(g) Have the discretion to limit the opening and closing statements of the parties.

(h) Request the Division to proceed with the presentation of its case.

2. The Division may not submit any evidence to the Commission before the hearing except for the complaint and answer.

3. The respondent may cross-examine witnesses in the order that the Division presents them.

4. Witnesses or counsel may be questioned by the members of the Commission at any time during the proceeding.

5. Evidence which is to be introduced:

(a) Must first be marked for identification; and

(b) May be received by the Commission at any point during the proceeding.

6. When the Division has completed its presentation, the presiding officer shall request the respondent to proceed with the introduction of evidence and calling of witnesses on his or her behalf.

7. The Division may cross-examine witnesses in the order that the respondent presents them.

8. When the respondent has completed his or her presentation, the Division may call any rebuttal witnesses.

9. When all testimony for the Division and respondent has been given and all evidence submitted, the presiding officer may request the Division and the respondent to summarize their presentations.

10. The Commission may waive any provision of this section if necessary to expedite or ensure the fairness of the hearing.

11. The date of decision for the purpose of subsection 2 of NRS 645.760 is the date the written decision is signed by a Commissioner or filed with the Commission, whichever occurs later.

12. In the absence of the President of the Commission, any matter which must be acted upon may be submitted to the Vice President or to the Secretary.

13. Upon the presentation of evidence that the respondent received notice of the hearing and has not filed an answer within the time prescribed pursuant to NRS 645.685, the respondent's default may be entered and a decision may be issued based upon the allegations of the complaint.

[Real Estate Adv. Comm'n, § XVII subsecs. 1 & 2 pars. b-q, eff. 10-31-75] — (NAC A by Real Estate Comm'n, 8-21-81; 4-27-84; 6-3-86; A by Real Estate Div., 11-30-87; A by Real Estate Comm'n by R111-01, 12-17-2001; R031-04, 11-30-2004; R123-06, 6-1-2006)

NAC 645.820 Procedures for rehearing. (NRS 645.190) The following procedures are used for a rehearing in a case where a ruling or decision of the Commission is against the licensee:

1. The licensee may within 10 days after his or her receipt of the decision petition the Commission for a rehearing.

2. The petition does not stay any decision of the Commission unless the Commission so orders.

3. The petition must state with particularity the point of law or fact which in the opinion of the licensee the Commission has overlooked or misconstrued and must contain every argument in support of the application that the licensee desires to present.

4. Oral argument in support of the petition is not permitted.

5. The Division may file and serve an answer to a petition for a rehearing within 10 days after it has received service of the petition.

6. If a petition for rehearing is filed and the Commission is not scheduled to meet before the effective date of the penalty, the Division may stay enforcement of the decision appealed from. When determining whether a stay is to be granted, the Division shall determine whether the petition was timely filed and whether it alleges a cause or ground which may entitle the licensee to a rehearing.

7. A rehearing may be granted by the Commission for any of the following causes or grounds:

(a) Irregularity in the proceedings in the original hearing;

(b) Accident or surprise which ordinary prudence could not have guarded against;

(c) Newly discovered evidence of a material nature which the applicant could not with reasonable diligence have discovered and produced at the original hearing; or

(d) Error in law occurring at the hearing and objected to by the applicant during the earlier hearing.

8. A petition for a rehearing may not exceed 10 pages of standard printing.

9. The filing of a petition for rehearing, or the decision therefrom, does not stop the running of the 30-day period of appeal to the district court from the date of the decision of the Commission for the purpose of subsection 2 of NRS 645.760.

[Real Estate Adv. Comm'n, § XVII subsec. 3, eff. 10-31-75] — (NAC A by Real Estate Comm'n, 8-21-81; 4-27-84)

NAC 645.830 Procedures for obtaining and granting continuances. (NRS 645.190) The procedures for obtaining and granting continuances of Commission hearings are as follows:

1. The time of the hearing may be continued by the Commission upon the written petition of the licensee or upon the written petition of the Division for good cause shown, or by stipulation of the parties to the hearing.

2. A continuance will not be granted unless it is made in good faith and not merely for delay.

3. A request for a continuance made before the hearing must be served upon the Commission as set forth in subsection 4 of NRS 645.050. If the Secretary of the Commission is not available to review and rule upon the continuance before the hearing, the continuance must be reviewed and ruled upon by the:

(a) President of the Commission; or

(b) If the President is unavailable, the Vice President of the Commission.

[Real Estate Adv. Comm'n, § XVII subsec. 4, eff. 10-31-75] — (NAC A by Real Estate Comm'n, 4-27-84; R111-01, 12-17-2001; R123-06, 6-1-2006)

NAC 645.835 Amendment or withdrawal of complaint. (NRS 645.190)

1. A complaint may be amended at any time.

2. The Commission will grant a continuance if the amendment materially alters the complaint or a respondent demonstrates an inability to prepare for the case in a timely manner.

3. A complaint may be withdrawn at any time before the hearing begins.
(Added to NAC by Real Estate Comm'n by R031-04, eff. 11-30-2004)

NAC 645.840 Motions. (NRS 645.190)

1. All motions, unless made during a hearing, must be in writing.

2. A written motion must be served on the opposing party and the Commission at least 10 working days before the time set for the hearing on the motion.

3. An opposing party may file a written response to a motion within 7 working days after the receipt of the motion by serving the written response on all parties and the Commission, except that a written response may be filed less than 3 working days before the time set for the hearing on the motion only with the permission of the Commission upon good cause shown.

4. The Commission may require oral argument or the submission of additional information or evidence to decide the motion.

(Added to NAC by Real Estate Comm'n by R031-04, eff. 11-30-2004)

NAC 645.845 Rules of evidence; informality of proceedings. (NRS 645.190)

1. In conducting any investigation, inquiry or hearing, the Commission, its officers and the employees of the Division are not bound by the technical rules of evidence, and any informality in a proceeding or in the manner of taking testimony does not invalidate any order, decision, rule or regulation made, approved or confirmed by the Commission. The rules of evidence of courts of this State will be followed generally but may be relaxed at the discretion of the Commission if deviation from the technical rules of evidence will aid in determining the facts.

2. Any evidence offered at a hearing must be material and relevant to the issues of the hearing.

3. The Commission may exclude inadmissible, incompetent, repetitious or irrelevant evidence or order that presentation of that evidence be discontinued.

4. A party who objects to the introduction of evidence shall briefly state the grounds of the objection at the time the evidence is offered. The party who offers the evidence may present a rebuttal argument to the objection.

5. If an objection is made to the admissibility of evidence, the Commission may:

(a) Note the objection and admit the evidence;

(b) Sustain the objection and refuse to admit the evidence; or

(c) Receive the evidence subject to a subsequent ruling by the Commission.

(Added to NAC by Real Estate Comm'n by R031-04, eff. 11-30-2004)

NAC 645.850 Submission or exclusion of documentary evidence of respondent. (NRS 645.190)

1. Not less than 5 working days before a hearing before the Commission, the respondent must provide to the Division a copy of all documents that are reasonably available to the respondent which the respondent reasonably anticipates will be used in support of his or her position. The respondent shall promptly supplement and update any such documents.

2. The respondent shall provide, at the time of the hearing, 10 copies of each document he or she wishes to have admitted into evidence at the hearing.

3. If the respondent fails to provide any document required to be provided by the provisions of this section, the Commission may exclude the document.

(Added to NAC by Real Estate Comm'n by R031-04, eff. 11-30-2004)

NAC 645.855 Attendance of certain brokers required at disciplinary hearing. (NRS 645.190) If a person licensed as a real estate salesperson or real estate broker-salesperson is accused of violating any provision of this chapter or chapter 645 of NRS, the broker of record with whom the person licensed as a real estate salesperson or real estate broker-salesperson was associated at the time of the alleged violation and the broker with whom the person licensed as a real estate salesperson or real estate broker-salesperson is currently associated shall attend any disciplinary hearing before the Commission concerning that licensee.

(Added to NAC by Real Estate Comm'n by R031-04, eff. 11-30-2004; A by R123-06, 6-1-2006)

NAC 645.860 Failure of party to appear at hearing. (NRS 645.190) If a party fails to appear at a hearing scheduled by the Commission and a continuance has not been requested or granted, upon an offer of proof by the Division that the absent party was given proper notice and upon a determination by the Commission that proper notice was given, the Commission may proceed to consider the case without the participation of the absent party and may dispose of the matter on the basis of the evidence before it. If the respondent fails to appear at the hearing or fails to reply to the notice, the charges specified in the complaint may be considered as true.

(Added to NAC by Real Estate Comm'n by R031-04, eff. 11-30-2004)

NAC 645.865 Voluntary surrender of license, permit, registration or certificate. (NRS 645.190) The Commission may accept the voluntary surrender of a license, permit, registration or certificate in lieu of imposing any other disciplinary action set forth in chapter 645 of NRS.

(Added to NAC by Real Estate Comm'n by R031-04, eff. 11-30-2004)

NAC 645.870 Reporting of disciplinary action or denial of application. (NRS 645.190) The Commission may report any disciplinary action it takes against a licensee or any denial of an application for a license to:

1. Any national repository which records disciplinary actions taken against licensees;
2. Any agency of another state which regulates the practice of real estate; and
3. Any other agency or board of the State of Nevada.

(Added to NAC by Real Estate Comm'n by R031-04, eff. 11-30-2004)

NAC 645.875 Petitions for regulations. (NRS 645.190)

1. Any person may by petition, request the Commission to adopt, file, amend, or repeal any regulation. The petition must clearly identify in writing the change requested of the regulation and must contain all relevant data, views and arguments regarding the change.

2. The Commission will consider the petition at the next regularly scheduled meeting which occurs more than 10 working days after the submission of the petition.

[Real Estate Adv. Comm'n, § II subsec. 3, eff. 12-30-76] — (NAC A by Real Estate Comm'n, 8-21-81) — (Substituted in revision for NAC 645.090)

PERMIT TO ENGAGE IN BUSINESS AS BUSINESS BROKER

NAC 645.901 Definitions. (NRS 645.190, 645.863) As used in NAC 645.901 to 645.919, inclusive, unless the context otherwise requires, the words and terms defined in NAC 645.903 to 645.909, inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Real Estate Comm'n by R123-06, eff. 6-1-2006)

NAC 645.903 “Applicant” defined. (NRS 645.190, 645.863) “Applicant” means a licensee who is applying for a permit.

(Added to NAC by Real Estate Comm’n by R123-06, eff. 6-1-2006)

NAC 645.905 “Business broker” defined. (NRS 645.190, 645.863) “Business broker” has the meaning ascribed to it in NRS 645.0075.

(Added to NAC by Real Estate Comm’n by R123-06, eff. 6-1-2006)

NAC 645.907 “License” defined. (NRS 645.190, 645.863) “License” means a license as a real estate broker, real estate broker-salesperson or real estate salesperson.

(Added to NAC by Real Estate Comm’n by R123-06, eff. 6-1-2006)

NAC 645.909 “Permit” defined. (NRS 645.190, 645.863) “Permit” means a permit to engage in business as a business broker.

(Added to NAC by Real Estate Comm’n by R123-06, eff. 6-1-2006)

NAC 645.911 “Engage in business as a business broker” interpreted. (NRS 645.050, 645.190, 645.863) As used in chapter 645 of NRS, the Commission will interpret the term “engage in business as a business broker”:

1. Except as otherwise provided in subsection 2, to include engaging in the business of:

(a) Selling, exchanging, optioning or purchasing;

(b) Negotiating or offering, attempting or agreeing to negotiate the sale, exchange, option or purchase of; or

(c) Listing or soliciting prospective purchasers of,

↪ any business, the individual assets of any business or any ownership interest in any business, including, without limitation, any stock, partnership interest or membership interest in a limited-liability company, for which income and expenses have been reported to the Internal Revenue Service in the previous calendar or fiscal year on Form 1040, Form 1065, Form 1120 or Form 1120S, or any combination thereof, unless 50 percent or more of the gross reported income, excluding net capital gain, was earned by the rental of real estate reported on Form 8825.

2. Not to include engaging in the business of:

(a) Selling, exchanging, optioning or purchasing;

(b) Negotiating or offering, attempting or agreeing to negotiate the sale, exchange, option or purchase of; or

(c) Listing or soliciting prospective purchasers of,

↪ real property and a related business, if more than 50 percent of the gross income from the related business is directly derived from the use of the real property, including, without limitation, income derived from the transfer of tenant leases or management agreements and income derived from storage facilities, hotels, motels, ranches or any other business that would have no value but for the concurrent transfer of the real property.

(Added to NAC by Real Estate Comm’n by R123-06, eff. 6-1-2006; A by R077-07, 1-30-2008)

NAC 645.913 General requirements; fees; background investigation. (NRS 645.190, 645.863)

1. A licensee who wishes to obtain a permit must:

(a) Submit to the Division:

(1) A completed application on a form provided by the Division;

(2) A fee of \$40;
(3) A fee of \$75 for the examination required by paragraph (b); and
(4) A certificate of completion, in a form satisfactory to the Division, indicating that the applicant has successfully completed the 24 hours of classroom instruction relating to business brokerage required by paragraph (a) of subsection 2 of NRS 645.863; and

(b) Pass an examination which is prepared and administered by an organization designated by the Division, with a score of at least 75 percent. The examination must:

(1) Include the subject matter presented in the hours of classroom instruction required pursuant to subsection 2; and

(2) Consist of at least 50 multiple-choice questions.

2. The 24 hours of classroom instruction relating to business brokerage required by paragraph (a) of subsection 2 of NRS 645.863 must include, without limitation:

(a) Eight hours of instruction relating to financial statements, including, without limitation:

(1) Income statements, balance sheets and cash flow statements;

(2) Reformatting and recasting income statements and balance sheets; and

(3) Terms and concepts used in financial statements;

(b) Six hours of instruction relating to the valuation of a business, including, without limitation:

(1) Business value and alternative purchase offers;

(2) Cash equivalent value;

(3) Business purchase price and seller carry-back notes;

(4) Investment value and fair market value;

(5) Determining the value of goodwill;

(6) The significance of a business's assets in creating market value;

(7) The market value of a franchised business; and

(8) The rules of thumb of business valuation;

(c) Six hours of instruction relating to purchase offer and sale considerations, including, without limitation:

(1) Structuring the transaction;

(2) Describing the business;

(3) Asset sales and stock sales;

(4) Describing the tangible assets being acquired;

(5) Describing the goodwill being acquired;

(6) Including real property in the transaction;

(7) Describing the assets included in the purchase;

(8) Describing the assets excluded from the purchase;

(9) Cash on hand;

(10) Method and terms of payment;

(11) Assumption by the buyer of liabilities of the seller;

(12) Notification of creditors of the seller;

(13) Method for the calculation of the purchase price of a business when the buyer of the business assumes the liabilities of the seller;

(14) Adjustments at the close of escrow to the liabilities of the seller assumed by the buyer; and

(15) Summarizing the structure of the transaction; and

(d) Four hours of instruction relating to business brokerage and professional practices, including, without limitation:

- (1) Business opportunity contracts, agreements and disclosure forms;
- (2) Marketing, preparing a business for sale and advertising a business for sale;
- (3) Understanding the significance of the “potential” of a business;
- (4) Offering prospectus and confidentiality agreement;
- (5) Issues of business brokerage compensation;
- (6) Purchase offer and acceptance forms used for business opportunities; and
- (7) Business broker and business appraiser associations.

3. The Division may accept a course in business brokerage from a nationally recognized or accredited organization to fulfill the educational requirements set forth in subsection 2 if the successful completion of that course would qualify the applicant to engage in business as a business broker pursuant to the requirements of that organization.

4. Each applicant must pay a fee determined by the Division for the costs of an investigation of the applicant’s background.

5. Each applicant must, as part of his or her application and at the applicant’s 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 other 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.

6. The Division may:

(a) Unless the applicant’s fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 5, submit those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Division deems necessary; and

(b) Request from each such agency any information regarding the applicant’s background as the Division deems necessary.

(Added to NAC by Real Estate Comm’n by R123-06, eff. 6-1-2006)

NAC 645.915 Expiration date; requirements and fee for renewal. (NRS 645.190, 645.863)

1. A permit expires on the same date as the license of the holder of the permit expires.

2. The Division may renew a permit if the holder of the permit submits to the Division:

(a) A request for the renewal of the permit with the application to renew his or her license;

(b) A renewal fee of \$40; and

(c) Documentation indicating that the holder of the permit has successfully completed the continuing education required by paragraph (a) of subsection 4 of NRS 645.863.

(Added to NAC by Real Estate Comm’n by R123-06, eff. 6-1-2006)

NAC 645.917 Effective date of renewal. (NRS 645.190, 645.863) The renewal of a permit is effective on the date on which the applicant submits to the Division an application to renew his or her license or the applicant pays the renewal fees for the license and the permit, whichever occurs later.

(Added to NAC by Real Estate Comm'n by R123-06, eff. 6-1-2006)

NAC 645.919 Approval of courses for educational requirements. (NRS 645.190, 645.863)

1. For an applicant to receive credit for a course of instruction in business brokerage that is designed to fulfill the educational requirements for the issuance or renewal of a permit, the Commission must approve the course.

2. An educational institution that wishes to obtain the approval of the Commission to offer courses that meet the educational requirements for the issuance or renewal of a permit must apply to the Division pursuant to the procedures set forth in NAC 645.400 to 645.467, inclusive.

(Added to NAC by Real Estate Comm'n by R123-06, eff. 6-1-2006)

FAIR HOUSING ACT

Sec. 800. [42 U.S.C. 3601 note] Short Title

This title may be cited as the "Fair Housing Act".

Sec. 801. [42 U.S.C. 3601] Declaration of Policy

It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States.

Sec. 802. [42 U.S.C. 3602] Definitions

As used in this subchapter--

(a) "Secretary" means the Secretary of Housing and Urban Development.

(b) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(c) "Family" includes a single individual.

(d) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under title 11 [of the United States Code], receivers, and fiduciaries.

(e) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(f) "Discriminatory housing practice" means an act that is unlawful under section 804, 805, 806, or 818 of this title.

(g) "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any of the territories and possessions of the United States.

(h) "Handicap" means, with respect to a person--

(1) a physical or mental impairment which substantially limits one or more of such person's major life activities,

(2) a record of having such an impairment, or

(3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

(i) "Aggrieved person" includes any person who--

(1) claims to have been injured by a discriminatory housing practice; or

(2) believes that such person will be injured by a discriminatory housing practice that is about to occur.

(j) "Complainant" means the person (including the Secretary) who files a complaint under section 810.

(k) "Familial status" means one or more individuals (who have not attained the age of 18 years) being domiciled with--

(1) a parent or another person having legal custody of such individual or individuals; or

(2) the designee of such parent or other person having such custody, with the written permission of such parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

(l) "Conciliation" means the attempted resolution of issues raised by a complaint, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent, and the Secretary.

(m) "Conciliation agreement" means a written agreement setting forth the resolution of the issues in conciliation.

(n) "Respondent" means--

(1) the person or other entity accused in a complaint of an unfair housing practice; and

(2) any other person or entity identified in the course of investigation and notified as required with respect to respondents so identified under section 810(a).

(o) "Prevailing party" has the same meaning as such term has in section 722 of the Revised Statutes of the United States (42 U.S.C. 1988).

[42 U.S.C. 3602 note] Neither the term "individual with handicaps" nor the term "handicap" shall apply to an individual solely because that individual is a transvestite.

Sec. 803. [42 U.S.C. 3603] Effective dates of certain prohibitions

(a) Subject to the provisions of subsection (b) of this section and section 807 of this title, the prohibitions against discrimination in the sale or rental of housing set forth in section 804 of this title shall apply:

(1) Upon enactment of this subchapter, to--

(A) dwellings owned or operated by the Federal Government;

(B) dwellings provided in whole or in part with the aid of loans, advances, grants, or contributions made by the Federal Government, under agreements entered into after November 20, 1962, unless payment due thereon has been made in full prior to April 11, 1968;

(C) dwellings provided in whole or in part by loans insured, guaranteed, or otherwise secured by the credit of the Federal Government, under agreements entered into after November 20, 1962, unless payment thereon has been made in full prior to April 11, 1968: **Provided**, That nothing contained in subparagraphs (B) and (C) of this subsection shall be applicable to dwellings solely by virtue of the fact that they are subject to mortgages held by an FDIC or FSLIC institution; and

(D) dwellings provided by the development or the redevelopment of real property purchased, rented, or otherwise obtained from a State or local public agency receiving Federal financial assistance for slum clearance or urban renewal with respect to such real property under loan or grant contracts entered into after November 20, 1962.

(2) After December 31, 1968, to all dwellings covered by paragraph (1) and to all other dwellings except as exempted by subsection (b) of this section.

(b) Nothing in section 804 of this title (other than subsection (c)) shall apply to--

(1) any single-family house sold or rented by an owner: **Provided**, That such private individual owner does not own more than three such single-family houses at any one time: **Provided further**, That in the case of the sale of any such single-family house by a private individual owner not

residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period: **Provided further**, That such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time: **Provided further**, That after December 31, 1969, the sale or rental of any such single-family house shall be excepted from the application of this subchapter only if such house is sold or rented (A) without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person and (B) without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of section 804(c) of this title; but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or

(2) rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(c) For the purposes of subsection (b) of this section, a person shall be deemed to be in the business of selling or renting dwellings if--

(1) he has, within the preceding twelve months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein, or

(2) he has, within the preceding twelve months, participated as agent, other than in the sale of his own personal residence in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein, or

(3) he is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

Sec. 804. [42 U.S.C. 3604] Discrimination in sale or rental of housing and other prohibited practices

As made applicable by section 803 of this title and except as exempted by sections 803(b) and 807 of this title, it shall be unlawful--

(a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, or national origin.

(b) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, familial status, or national origin.

(c) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination.

(d) To represent to any person because of race, color, religion, sex, handicap, familial status, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, handicap, familial status, or national origin.

(f)

(1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of--

(A) that buyer or renter,

(B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(C) any person associated with that buyer or renter.

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of--

(A) that person; or

(B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(C) any person associated with that person.

(3) For purposes of this subsection, discrimination includes--

(A) a refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises, except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.

(B) a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or

(C) in connection with the design and construction of covered multifamily dwellings for first occupancy after the date that is 30 months after the date of enactment of the Fair Housing Amendments Act of 1988, a failure to design and construct those dwelling in such a manner that--

(i) the public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;

(ii) all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

(iii) all premises within such dwellings contain the following features of adaptive design:

(I) an accessible route into and through the dwelling;

(II) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

(III) reinforcements in bathroom walls to allow later installation of grab bars; and

(IV) usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

(4) Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as "ANSI A117.1") suffices to satisfy the requirements of paragraph (3)(C)(iii).

(5)

(A) If a State or unit of general local government has incorporated into its laws the requirements set forth in paragraph (3)(C), compliance with such laws shall be deemed to satisfy the requirements of that paragraph.

(B) A State or unit of general local government may review and approve newly constructed covered multifamily dwellings for the purpose of making determinations as to whether the design and construction requirements of paragraph (3)(C) are met.

(C) The Secretary shall encourage, but may not require, States and units of local government to include in their existing procedures for the review and approval of newly constructed covered multifamily dwellings, determinations as to whether the design and construction of such dwellings are consistent with paragraph (3)(C), and shall provide technical assistance to States and units of local government and other persons to implement the requirements of paragraph (3)(C).

(D) Nothing in this title shall be construed to require the Secretary to review or approve the plans, designs or construction of all covered multifamily dwellings, to determine whether the design and construction of such dwellings are consistent with the requirements of paragraph 3(C).

(6)

(A) Nothing in paragraph (5) shall be construed to affect the authority and responsibility of the Secretary or a State or local public agency certified pursuant to section 810(f)(3) of this Act to receive and process complaints or otherwise engage in enforcement activities under this title.

(B) Determinations by a State or a unit of general local government under paragraphs (5)(A) and (B) shall not be conclusive in enforcement proceedings under this title.

(7) As used in this subsection, the term "covered multifamily dwellings" means--

(A) buildings consisting of 4 or more units if such buildings have one or more elevators; and

(B) ground floor units in other buildings consisting of 4 or more units.

(8) Nothing in this title shall be construed to invalidate or limit any law of a State or political subdivision of a State, or other jurisdiction in which this title shall be effective, that requires dwellings to be designed and constructed in a manner that affords handicapped persons greater access than is required by this title.

(9) Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

Sec. 805. [42 U.S.C. 3605] Discrimination in Residential Real Estate-Related Transactions

(a) In General.--It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.

(b) Definition.--As used in this section, the term "residential real estate-related transaction" means any of the following:

(1) The making or purchasing of loans or providing other financial assistance--

(A) for purchasing, constructing, improving, repairing, or maintaining a dwelling; or

(B) secured by residential real estate.

(2) The selling, brokering, or appraising of residential real property.

(c) Appraisal Exemption.--Nothing in this title prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status.

Sec. 806. [42 U.S.C. 3606] Discrimination in provision of brokerage services

After December 31, 1968, it shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, handicap, familial status, or national origin.

Sec. 807. [42 U.S.C. 3607] Religious organization or private club exemption

(a) Nothing in this subchapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this subchapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(b)

(1) Nothing in this title limits the applicability of any reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any

provision in this title regarding familial status apply with respect to housing for older persons.

(2) As used in this section "housing for older persons" means housing --

(A) provided under any State or Federal program that the Secretary determines is specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or

(B) intended for, and solely occupied by, persons 62 years of age or older; or

(C) intended and operated for occupancy by persons 55 years of age or older, and--

(i) at least 80 percent of the occupied units are occupied by at least one person who is 55 years of age or older;

(ii) the housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under this subparagraph; and

(iii) the housing facility or community complies with rules issued by the Secretary for verification of occupancy, which shall--

(I) provide for verification by reliable surveys and affidavits; and

(II) include examples of the types of policies and procedures relevant to a determination of compliance with the requirement of clause (ii). Such surveys and affidavits shall be admissible in administrative and judicial proceedings for the purposes of such verification.

(3) Housing shall not fail to meet the requirements for housing for older persons by reason of:

(A) persons residing in such housing as of the date of enactment of this Act who do not meet the age requirements of subsections (2)(B) or (C): **Provided**, That

new occupants of such housing meet the age requirements of sections (2)(B) or (C); or

(B) unoccupied units: **Provided**, That such units are reserved for occupancy by persons who meet the age requirements of subsections (2)(B) or (C).

(4) Nothing in this title prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(5)

(A) A person shall not be held personally liable for monetary damages for a violation of this title if such person reasonably relied, in good faith, on the application of the exemption under this subsection relating to housing for older persons.

(B) For the purposes of this paragraph, a person may only show good faith reliance on the application of the exemption by showing that--

(i) such person has no actual knowledge that the facility or community is not, or will not be, eligible for such exemption; and

(ii) the facility or community has stated formally, in writing, that the facility or community complies with the requirements for such exemption.

Sec. 808. [42 U.S.C. 3608] Administration

(a) Authority and responsibility

The authority and responsibility for administering this Act shall be in the Secretary of Housing and Urban Development.

(b) Assistant Secretary

The Department of Housing and Urban Development shall be provided an additional Assistant Secretary.

(c) Delegation of authority; appointment of administrative law judges; location of conciliation meetings; administrative review

The Secretary may delegate any of his functions, duties and power to employees of the Department of Housing and Urban Development or to boards of such employees, including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter under this subchapter. The person to whom such delegations are made with respect to hearing functions, duties, and powers shall be appointed and shall serve in the Department of Housing and Urban Development in compliance with sections 3105, 3344, 5372, and 7521 of title 5 [of the United States Code]. Insofar as possible, conciliation meetings shall be held in the cities or other localities where the discriminatory housing practices allegedly occurred. The Secretary shall by rule prescribe such rights of appeal from the decisions of his administrative law judges to other administrative law judges or to other officers in the Department, to boards of officers or to himself, as shall be appropriate and in accordance with law.

(d) Cooperation of Secretary and executive departments and agencies in administration of housing and urban development programs and activities to further fair housing purposes

All executive departments and agencies shall administer their programs and activities relating to housing and urban development (including any Federal agency having regulatory or supervisory authority over financial institutions) in a manner affirmatively to further the purposes of this subchapter and shall cooperate with the Secretary to further such purposes.

(e) Functions of Secretary

The Secretary of Housing and Urban Development shall--

(1) make studies with respect to the nature and extent of discriminatory housing practices in representative communities, urban, suburban, and rural, throughout the United States;

(2) publish and disseminate reports, recommendations, and information derived from such studies, including an annual report to the Congress--

(A) specifying the nature and extent of progress made nationally in eliminating discriminatory housing practices and furthering the purposes of this title, obstacles remaining to achieving equal housing opportunity, and recommendations for further legislative or executive action; and

(B) containing tabulations of the number of instances (and the reasons therefor) in the preceding year in which--

(i) investigations are not completed as required by section 810(a)(1)(B);

(ii) determinations are not made within the time specified in section 810(g); and

(iii) hearings are not commenced or findings and conclusions are not made as required by section 812(g);

(3) cooperate with and render technical assistance to Federal, State, local, and other public or private agencies, organizations, and institutions which are formulating or carrying on programs to prevent or eliminate discriminatory housing practices;

(4) cooperate with and render such technical and other assistance to the Community Relations Service as may be appropriate to further its activities in preventing or eliminating discriminatory housing practices;

(5) administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of this subchapter; and

(6) annually report to the Congress, and make available to the public, data on the race, color, religion, sex, national origin, age, handicap, and family characteristics of persons and households who are applicants for, participants in, or beneficiaries or potential beneficiaries of, programs administered by the Department to the extent such characteristics are within the coverage of the provisions of law and Executive orders referred to in subsection (f) which apply to such programs (and in order to develop the data to be included and made available to the public under this subsection, the Secretary shall, without regard to any other provision of law, collect such information relating to those characteristics as the Secretary determines to be necessary or appropriate).

(f) The provisions of law and Executive orders to which subsection (e)(6) applies are--

(1) title VI of the Civil Rights Act of 1964;

(2) title VIII of the Civil Rights Act of 1968;

(3) section 504 of the Rehabilitation Act of 1973;

(4) the Age Discrimination Act of 1975;

(5) the Equal Credit Opportunity Act;

(6) section 1978 of the Revised Statutes (42 U.S.C. 1982);

- (7) section 8(a) of the Small Business Act;
- (8) section 527 of the National Housing Act;
- (9) section 109 of the Housing and Community Development Act of 1974;
- (10) section 3 of the Housing and Urban Development Act of 1968;
- (11) Executive Orders 11063, 11246, 11625, 12250, 12259, and 12432;
and
- (12) any other provision of law which the Secretary specifies by
publication in the Federal Register for the purpose of this subsection.

Sec. 808a. [42 U.S.C. 3608a] Collection of certain data

(a) In general

To assess the extent of compliance with Federal fair housing requirements (including the requirements established under title VI of Public Law 88-352 [42 U.S.C.A. {2000d et seq.}] and title VIII of Public Law 90-284 [42 U.S.C.A. {3601 et seq.}], the Secretary of Housing and Urban Development and the Secretary of Agriculture shall each collect, not less than annually, data on the racial and ethnic characteristics of persons eligible for, assisted, or otherwise benefiting under each community development, housing assistance, and mortgage and loan insurance and guarantee program administered by such Secretary. Such data shall be collected on a building by building basis if the Secretary involved determines such collection to be appropriate.

(b) Reports to Congress

The Secretary of Housing and Urban Development and the Secretary of Agriculture shall each include in the annual report of such Secretary to the Congress a summary and evaluation of the data collected by such Secretary under subsection (a) of this section during the preceding year.

Sec. 809. [42 U.S.C. 3609] Education and conciliation; conferences and consultations; reports

Immediately after April 11, 1968, the Secretary shall commence such educational and conciliatory activities as in his judgment will further the purposes of this subchapter. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this subchapter and his suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement. He may pay per diem, travel, and transportation expenses for persons attending such conferences as provided in section 5703 of Title 5. He shall consult with State and local officials

and other interested parties to learn the extent, if any, to which housing discrimination exists in their State or locality, and whether and how State or local enforcement programs might be utilized to combat such discrimination in connection with or in place of, the Secretary's enforcement of this subchapter. The Secretary shall issue reports on such conferences and consultations as he deems appropriate.

Sec. 810. [42 U.S.C. 3610] Administrative Enforcement; Preliminary Matters

(a) Complaints and Answers. --

(1)

(A)

(i) An aggrieved person may, not later than one year after an alleged discriminatory housing practice has occurred or terminated, file a complaint with the Secretary alleging such discriminatory housing practice. The Secretary, on the Secretary's own initiative, may also file such a complaint.

(ii) Such complaints shall be in writing and shall contain such information and be in such form as the Secretary requires.

(iii) The Secretary may also investigate housing practices to determine whether a complaint should be brought under this section.

(B) Upon the filing of such a complaint--

(i) the Secretary shall serve notice upon the aggrieved person acknowledging such filing and advising the aggrieved person of the time limits and choice of forums provided under this title;

(ii) the Secretary shall, not later than 10 days after such filing or the identification of an additional respondent under paragraph (2), serve on the respondent a notice identifying the alleged discriminatory housing practice and advising such respondent of the procedural rights and obligations of respondents under this title, together with a copy of the original complaint;

(iii) each respondent may file, not later than 10 days after receipt of notice from the Secretary, an answer to such complaint; and

(iv) the Secretary shall make an investigation of the alleged discriminatory housing practice and complete such investigation within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), unless it is impracticable to do so.

(C) If the Secretary is unable to complete the investigation within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), the Secretary shall notify the complainant and respondent in writing of the reasons for not doing so.

(D) Complaints and answers shall be under oath or affirmation, and may be reasonably and fairly amended at any time.

(2)

(A) A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent upon written notice, under paragraph (1), to such person, from the Secretary.

(B) Such notice, in addition to meeting the requirements of paragraph (1), shall explain the basis for the Secretary's belief that the person to whom the notice is addressed is properly joined as a respondent.

(b) Investigative Report and Conciliation. --

(1) During the period beginning with the filing of such complaint and ending with the filing of a charge or a dismissal by the Secretary, the Secretary shall, to the extent feasible, engage in conciliation with respect to such complaint.

(2) A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant, and shall be subject to approval by the Secretary.

(3) A conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. Any such arbitration that results from a conciliation agreement may award appropriate relief, including monetary relief.

(4) Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Secretary determines that disclosure is not required to further the purposes of this title.

(5)

(A) At the end of each investigation under this section, the Secretary shall prepare a final investigative report containing--

(i) the names and dates of contacts with witnesses;

(ii) a summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;

(iii) a summary description of other pertinent records;

(iv) a summary of witness statements; and

(v) answers to interrogatories.

(B) A final report under this paragraph may be amended if additional evidence is later discovered.

(c) Failure to Comply With Conciliation Agreement. -- Whenever the Secretary has reasonable cause to believe that a respondent has breached a conciliation agreement, the Secretary shall refer the matter to the Attorney General with a recommendation that a civil action be filed under section 814 for the enforcement of such agreement.

(d) Prohibitions and Requirements With Respect to Disclosure of Information. --

(1) Nothing said or done in the course of conciliation under this title may be made public or used as evidence in a subsequent

proceeding under this title without the written consent of the persons concerned.

(2) Notwithstanding paragraph (1), the Secretary shall make available to the aggrieved person and the respondent, at any time, upon request following completion of the Secretary's investigation, information derived from an investigation and any final investigative report relating to that investigation.

(e) Prompt Judicial Action. --

(1) If the Secretary concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this title, the Secretary may authorize a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint under this section. Upon receipt of such authorization, the Attorney General shall promptly commence and maintain such an action. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with the Federal Rules of Civil Procedure. The commencement of a civil action under this subsection does not affect the initiation or continuation of administrative proceedings under this section and section 812 of this title.

(2) Whenever the Secretary has reason to believe that a basis may exist for the commencement of proceedings against any respondent under section 814(a) and 814(c) or for proceedings by any governmental licensing or supervisory authorities, the Secretary shall transmit the information upon which such belief is based to the Attorney General, or to such authorities, as the case may be.

(f) Referral for State or Local Proceedings. --

(1) Whenever a complaint alleges a discriminatory housing practice--

(A) within the jurisdiction of a State or local public agency; and

(B) as to which such agency has been certified by the Secretary under this subsection; the Secretary shall refer such complaint to that certified agency before taking any action with respect to such complaint.

(2) Except with the consent of such certified agency, the Secretary, after that referral is made, shall take no further action with respect to such complaint unless--

(A) the certified agency has failed to commence proceedings with respect to the complaint before the end of the 30th day after the date of such referral;

(B) the certified agency, having so commenced such proceedings, fails to carry forward such proceedings with reasonable promptness; or

(C) the Secretary determines that the certified agency no longer qualifies for certification under this subsection with respect to the relevant jurisdiction.

(3)

(A) The Secretary may certify an agency under this subsection only if the Secretary determines that--

(i) the substantive rights protected by such agency in the jurisdiction with respect to which certification is to be made;

(ii) the procedures followed by such agency;

(iii) the remedies available to such agency; and

(iv) the availability of judicial review of such agency's action;

are substantially equivalent to those created by and under this title.

(B) Before making such certification, the Secretary shall take into account the current practices and past performance, if any, of such agency.

(4) During the period which begins on the date of the enactment of the Fair Housing Amendments Act of 1988 and ends 40 months after such date, each agency certified (including an agency certified for interim referrals pursuant to 24 CFR 115.11, unless such agency is subsequently denied recognition under 24 CFR 115.7) for the purposes of this title on the day before such date shall for the purposes of this subsection be considered certified under this subsection with respect to those matters for which such agency was certified on that date. If the Secretary determines in an individual case that an agency has not been able to meet the certification requirements within this 40-month period due to exceptional circumstances, such as the infrequency of legislative

sessions in that jurisdiction, the Secretary may extend such period by not more than 8 months.

(5) Not less frequently than every 5 years, the Secretary shall determine whether each agency certified under this subsection continues to qualify for certification. The Secretary shall take appropriate action with respect to any agency not so qualifying.

(g) Reasonable Cause Determination and Effect. --

(1) The Secretary shall, within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), determine based on the facts whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, unless it is impracticable to do so, or unless the Secretary has approved a conciliation agreement with respect to the complaint. If the Secretary is unable to make the determination within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), the Secretary shall notify the complainant and respondent in writing of the reasons for not doing so.

(2)

(A) If the Secretary determines that reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Secretary shall, except as provided in subparagraph (C), immediately issue a charge on behalf of the aggrieved person, for further proceedings under section 812.

(B) Such charge--

(i) shall consist of a short and plain statement of the facts upon which the Secretary has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur;

(ii) shall be based on the final investigative report; and

(iii) need not be limited to the facts or grounds alleged in the complaint filed under section 810(a).

(C) If the Secretary determines that the matter involves the legality of any State or local zoning or other land use law or ordinance, the Secretary shall immediately refer the matter to the Attorney General for appropriate action under section 814, instead of issuing such charge.

(3) If the Secretary determines that no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Secretary shall promptly dismiss the complaint. The Secretary shall make public disclosure of each such dismissal.

(4) The Secretary may not issue a charge under this section regarding an alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under an Act of Congress or a State law, seeking relief with respect to that discriminatory housing practice.

(h) Service of Copies of Charge. -- After the Secretary issues a charge under this section, the Secretary shall cause a copy thereof, together with information as to how to make an election under section 812(a) and the effect of such an election, to be served--

(1) on each respondent named in such charge, together with a notice of opportunity for a hearing at a time and place specified in the notice, unless that election is made; and

(2) on each aggrieved person on whose behalf the complaint was filed.

Sec. 811. [42 U.S.C. 3611] Subpoenas; Giving of Evidence

(a) In General. -- The Secretary may, in accordance with this subsection, issue subpoenas and order discovery in aid of investigations and hearings under this title. Such subpoenas and discovery may be ordered to the same extent and subject to the same limitations as would apply if the subpoenas or discovery were ordered or served in aid of a civil action in the United States district court for the district in which the investigation is taking place.

(b) Witness Fees. -- Witnesses summoned by a subpoena under this title shall be entitled to same witness and mileage fees as witnesses in proceedings in United States district courts. Fees payable to a witness summoned by a subpoena issued at the request of a party shall be paid by that party or, where a party is unable to pay the fees, by the Secretary.

(c) Criminal Penalties. --

(1) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if it is in such person's power to do so, in obedience to the subpoena or other lawful order under subsection (a), shall be fined not more than \$100,000 or imprisoned not more than one year, or both.

(2) Any person who, with intent thereby to mislead another person in any proceeding under this title--

(A) makes or causes to be made any false entry or statement of fact in any report, account, record, or other document produced pursuant to subpoena or other lawful order under subsection (a);

(B) willfully neglects or fails to make or to cause to be made full, true, and correct entries in such reports, accounts, records, or other documents; or

(C) willfully mutilates, alters, or by any other means falsifies any documentary evidence;

shall be fined not more than \$100,000 or imprisoned not more than one year, or both.

Sec. 812. [42 U.S.C. 3612] Enforcement by Secretary

(a) Election of Judicial Determination. -- When a charge is filed under section 810, a complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed, may elect to have the claims asserted in that charge decided in a civil action under subsection (o) in lieu of a hearing under subsection (b). The election must be made not later than 20 days after the receipt by the electing person of service under section 810(h) or, in the case of the Secretary, not later than 20 days after such service. The person making such election shall give notice of doing so to the Secretary and to all other complainants and respondents to whom the charge relates.

(b) Administrative Law Judge Hearing in Absence of Election. -- If an election is not made under subsection (a) with respect to a charge filed under section 810, the Secretary shall provide an opportunity for a hearing on the record with respect to a charge issued under section 810. The Secretary shall delegate the conduct of a hearing under this section to an administrative law judge appointed under section 3105 of title 5, United States Code. The administrative law judge shall conduct the hearing at a place in the vicinity in which the discriminatory housing practice is alleged to have occurred or to be about to occur.

(c) Rights of Parties. -- At a hearing under this section, each party may appear in person, be represented by counsel, present evidence, cross-examine witnesses, and obtain the issuance of subpoenas under section 811. Any aggrieved person may intervene as a party in the proceeding. The Federal Rules of Evidence apply to the presentation of evidence in such hearing as they would in a civil action in a United States district court.

(d) Expedited Discovery and Hearing. --

(1) Discovery in administrative proceedings under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the need of all parties to obtain relevant evidence.

(2) A hearing under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the needs and rights of the parties to obtain a fair hearing and a complete record.

(3) The Secretary shall, not later than 180 days after the date of enactment of this subsection, issue rules to implement this subsection.

(e) Resolution of Charge. -- Any resolution of a charge before a final order under this section shall require the consent of the aggrieved person on whose behalf the charge is issued.

(f) Effect of Trial of Civil Action on Administrative Proceedings. -- An administrative law judge may not continue administrative proceedings under this section regarding any alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under an Act of Congress or a State law, seeking relief with respect to that discriminatory housing practice.

(g) Hearings, Findings and Conclusions, and Order. -- (

(1) The administrative law judge shall commence the hearing under this section no later than 120 days following the issuance of the charge, unless it is impracticable to do so. If the administrative law judge is unable to commence the hearing within 120 days after the issuance of the charge, the administrative law judge shall notify the Secretary, the aggrieved person on whose behalf the charge was filed, and the respondent, in writing of the reasons for not doing so.

(2) The administrative law judge shall make findings of fact and conclusions of law within 60 days after the end of the hearing under this section, unless it is impracticable to do so. If the administrative law judge is unable to make findings of fact and conclusions of law within such period, or any succeeding 60-day period thereafter, the administrative law

judge shall notify the Secretary, the aggrieved person on whose behalf the charge was filed, and the respondent, in writing of the reasons for not doing so.

(3) If the administrative law judge finds that a respondent has engaged or is about to engage in a discriminatory housing practice, such administrative law judge shall promptly issue an order for such relief as may be appropriate, which may include actual damages suffered by the aggrieved person and injunctive or other equitable relief. Such order may, to vindicate the public interest, assess a civil penalty against the respondent--

(A) in an amount not exceeding \$11,000 if the respondent has not been adjudged to have committed any prior discriminatory housing practice;

(B) in an amount not exceeding \$27,500 if the respondent has been adjudged to have committed one other discriminatory housing practice during the 5-year period ending on the date of the filing of this charge; and

(C) in an amount not exceeding \$55,000 if the respondent has been adjudged to have committed 2 or more discriminatory housing practices during the 7-year period ending on the date of the filing of this charge;

except that if the acts constituting the discriminatory housing practice that is the object of the charge are committed by the same natural person who has been previously adjudged to have committed acts constituting a discriminatory housing practice, then the civil penalties set forth in subparagraphs (B) and (C) may be imposed without regard to the period of time within which any subsequent discriminatory housing practice occurred.

(4) No such order shall affect any contract, sale, encumbrance, or lease consummated before the issuance of such order and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the charge filed under this title.

(5) In the case of an order with respect to a discriminatory housing practice that occurred in the course of a business subject to a licensing or regulation by a governmental agency, the Secretary shall, not later than 30 days after the date of the issuance of such order (or, if such order is judicially reviewed, 30 days after such order is in substance affirmed upon such review)--

(A) send copies of the findings of fact, conclusions of law, and the order, to that governmental agency; and

(B) recommend to that governmental agency appropriate disciplinary action (including, where appropriate, the suspension or revocation of the license of the respondent).

(6) In the case of an order against a respondent against whom another order was issued within the preceding 5 years under this section, the Secretary shall send a copy of each such order to the Attorney General.

(7) If the administrative law judge finds that the respondent has not engaged or is not about to engage in a discriminatory housing practice, as the case may be, such administrative law judge shall enter an order dismissing the charge. The Secretary shall make public disclosure of each such dismissal.

(h) Review by Secretary; Service of Final Order. --

(1) The Secretary may review any finding, conclusion, or order issued under subsection (g). Such review shall be completed not later than 30 days after the finding, conclusion, or order is so issued; otherwise the finding, conclusion, or order becomes final.

(2) The Secretary shall cause the findings of fact and conclusions of law made with respect to any final order for relief under this section, together with a copy of such order, to be served on each aggrieved person and each respondent in the proceeding.

(i) Judicial Review. --

(1) Any party aggrieved by a final order for relief under this section granting or denying in whole or in part the relief sought may obtain a review of such order under chapter 158 of title 28, United States Code.

(2) Notwithstanding such chapter, venue of the proceeding shall be in the judicial circuit in which the discriminatory housing practice is alleged to have occurred, and filing of the petition for review shall be not later than 30 days after the order is entered.

(j) Court Enforcement of Administrative Order Upon Petition by Secretary. --

(1) The Secretary may petition any United States court of appeals for the circuit in which the discriminatory housing practice is alleged to have occurred or in which any respondent resides or transacts business for the enforcement of the order of the administrative law judge and for

appropriate temporary relief or restraining order, by filing in such court a written petition praying that such order be enforced and for appropriate temporary relief or restraining order.

(2) The Secretary shall file in court with the petition the record in the proceeding. A copy of such petition shall be forthwith transmitted by the clerk of the court to the parties to the proceeding before the administrative law judge.

(k) Relief Which May Be Granted. --

(1) Upon the filing of a petition under subsection (i) or (j), the court may--

(A) grant to the petitioner, or any other party, such temporary relief, restraining order, or other order as the court deems just and proper;

(B) affirm, modify, or set aside, in whole or in part, the order, or remand the order for further proceedings; and

(C) enforce such order to the extent that such order is affirmed or modified.

(2) Any party to the proceeding before the administrative law judge may intervene in the court of appeals.

(3) No objection not made before the administrative law judge shall be considered by the court, unless the failure or neglect to urge such objection is excused because of extraordinary circumstances.

(l) Enforcement Decree in Absence of Petition for Review. -- If no petition for review is filed under subsection (i) before the expiration of 45 days after the date the administrative law judge's order is entered, the administrative law judge's findings of fact and order shall be conclusive in connection with any petition for enforcement--

(1) which is filed by the Secretary under subsection (j) after the end of such day; or

(2) under subsection (m).

(m) Court Enforcement of Administrative Order Upon Petition of Any Person Entitled to Relief. -- If before the expiration of 60 days after the date the administrative law judge's order is entered, no petition for review has been filed under subsection (i), and the Secretary has not sought enforcement of the order under subsection (j), any person entitled to relief under the order may petition for

a decree enforcing the order in the United States court of appeals for the circuit in which the discriminatory housing practice is alleged to have occurred.

(n) Entry of Decree. -- The clerk of the court of appeals in which a petition for enforcement is filed under subsection (1) or (m) shall forthwith enter a decree enforcing the order and shall transmit a copy of such decree to the Secretary, the respondent named in the petition, and to any other parties to the proceeding before the administrative law judge.

(o) Civil Action for Enforcement When Election Is Made for Such Civil Action. --

(1) If an election is made under subsection (a), the Secretary shall authorize, and not later than 30 days after the election is made the Attorney General shall commence and maintain, a civil action on behalf of the aggrieved person in a United States district court seeking relief under this subsection. Venue for such civil action shall be determined under chapter 87 of title 28, United States Code.

(2) Any aggrieved person with respect to the issues to be determined in a civil action under this subsection may intervene as of right in that civil action.

(3) In a civil action under this subsection, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may grant as relief any relief which a court could grant with respect to such discriminatory housing practice in a civil action under section 813. Any relief so granted that would accrue to an aggrieved person in a civil action commenced by that aggrieved person under section 813 shall also accrue to that aggrieved person in a civil action under this subsection. If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the court shall not award such relief if that aggrieved person has not complied with discovery orders entered by the court.

(p) Attorney's Fees. -- In any administrative proceeding brought under this section, or any court proceeding arising therefrom, or any civil action under section 812, the administrative law judge or the court, as the case may be, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the extent provided by section 504 of title 5, United States Code, or by section 2412 of title 28, United States Code.

Sec. 813. [42 U.S.C. 3613] Enforcement by Private Persons

(a) Civil Action. --

(1)

(A) An aggrieved person may commence a civil action in an appropriate United States district court or State court not later than 2 years after the occurrence or the termination of an alleged discriminatory housing practice, or the breach of a conciliation agreement entered into under this title, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice or breach.

(B) The computation of such 2-year period shall not include any time during which an administrative proceeding under this title was pending with respect to a complaint or charge under this title based upon such discriminatory housing practice. This subparagraph does not apply to actions arising from a breach of a conciliation agreement.

(2) An aggrieved person may commence a civil action under this subsection whether or not a complaint has been filed under section 810(a) and without regard to the status of any such complaint, but if the Secretary or a State or local agency has obtained a conciliation agreement with the consent of an aggrieved person, no action may be filed under this subsection by such aggrieved person with respect to the alleged discriminatory housing practice which forms the basis for such complaint except for the purpose of enforcing the terms of such an agreement.

(3) An aggrieved person may not commence a civil action under this subsection with respect to an alleged discriminatory housing practice which forms the basis of a charge issued by the Secretary if an administrative law judge has commenced a hearing on the record under this title with respect to such charge.

(b) Appointment of Attorney by Court. -- Upon application by a person alleging a discriminatory housing practice or a person against whom such a practice is alleged, the court may--

(1) appoint an attorney for such person; or

(2) authorize the commencement or continuation of a civil action under subsection (a) without the payment of fees, costs, or security, if in the opinion of the court such person is financially unable to bear the costs of such action.

(c) Relief Which May Be Granted. --

(1) In a civil action under subsection (a), if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award to the plaintiff actual and punitive damages, and subject to

subsection (d), may grant as relief, as the court deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order (including an order enjoining the defendant from engaging in such practice or ordering such affirmative action as may be appropriate).

(2) In a civil action under subsection (a), the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the same extent as a private person.

(d) Effect on Certain Sales, Encumbrances, and Rentals. -- Relief granted under this section shall not affect any contract, sale, encumbrance, or lease consummated before the granting of such relief and involving a bona fide purchaser, encumbrancer, or tenant, without actual notice of the filing of a complaint with the Secretary or civil action under this title.

(e) Intervention by Attorney General. -- Upon timely application, the Attorney General may intervene in such civil action, if the Attorney General certifies that the case is of general public importance. Upon such intervention the Attorney General may obtain such relief as would be available to the Attorney General under section 814(e) in a civil action to which such section applies.

Sec. 814. [42 U.S.C. 3614] Enforcement by the Attorney General

(a) Pattern or Practice Cases. -- Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this title, or that any group of persons has been denied any of the rights granted by this title and such denial raises an issue of general public importance, the Attorney General may commence a civil action in any appropriate United States district court.

(b) On Referral of Discriminatory Housing Practice or Conciliation Agreement for Enforcement. --

(1)

(A) The Attorney General may commence a civil action in any appropriate United States district court for appropriate relief with respect to a discriminatory housing practice referred to the Attorney General by the Secretary under section 810(g).

(B) A civil action under this paragraph may be commenced not later than the expiration of 18 months after the date of the occurrence or the termination of the alleged discriminatory housing practice.

(2)

(A) The Attorney General may commence a civil action in any appropriate United States district court for appropriate relief with respect to breach of a conciliation agreement referred to the Attorney General by the Secretary under section 810(c).

(B) A civil action may be commenced under this paragraph not later than the expiration of 90 days after the referral of the alleged breach under section 810(c).

(c) Enforcement of Subpoenas. -- The Attorney General, on behalf of the Secretary, or other party at whose request a subpoena is issued, under this title, may enforce such subpoena in appropriate proceedings in the United States district court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(d) Relief Which May Be Granted in Civil Actions Under Subsections (a) and (b).

--

(1) In a civil action under subsection (a) or (b), the court--

(A) may award such preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of this title as is necessary to assure the full enjoyment of the rights granted by this title;

(B) may award such other relief as the court deems appropriate, including monetary damages to persons aggrieved; and

(C) may, to vindicate the public interest, assess a civil penalty against the respondent--

(i) in an amount not exceeding \$55,000, for a first violation; and

(ii) in an amount not exceeding \$110,000, for any subsequent violation.

(2) In a civil action under this section, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the extent provided by section 2412 of title 28, United States Code.

(e) Intervention in Civil Actions. -- Upon timely application, any person may intervene in a civil action commenced by the Attorney General under subsection

(a) or (b) which involves an alleged discriminatory housing practice with respect to which such person is an aggrieved person or a conciliation agreement to which such person is a party. The court may grant such appropriate relief to any such intervening party as is authorized to be granted to a plaintiff in a civil action under section 813.

Sec. 814a. Incentives for Self-Testing and Self-Correction

(a) Privileged Information. --

(1) Conditions For Privilege. -- A report or result of a self-test (as that term is defined by regulation of the Secretary) shall be considered to be privileged under paragraph (2) if any person-

(A) conducts, or authorizes an independent third party to conduct, a self-test of any aspect of a residential real estate related lending transaction of that person, or any part of that transaction, in order to determine the level or effectiveness of compliance with this title by that person; and

(B) has identified any possible violation of this title by that person and has taken, or is taking, appropriate corrective action to address any such possible violation.

(2) Privileged Self-Test. -- If a person meets the conditions specified in subparagraphs (A) and (B) of paragraph (1) with respect to a self-test described in that paragraph, any report or results of that self-test-

(A) shall be privileged; and

(B) may not be obtained or used by any applicant, department, or agency in any --

(i) proceeding or civil action in which one or more violations of this title are alleged; or

(ii) examination or investigation relating to compliance with this title.

(b) Results of Self-Testing. --

(1) In General. -- No provision of this section may be construed to prevent an aggrieved person, complainant, department, or agency from obtaining or using a report or results of any self-test in any proceeding or civil action in which a violation of this title is alleged, or in any examination or investigation of compliance with this title if --

(A) the person to whom the self-test relates or any person with lawful access to the report or the results --

(i) voluntarily releases or discloses all, or any part of, the report or results to the aggrieved person, complainant, department, or agency, or to the general public; or

(ii) refers to or describes the report or results as a defense to charges of violations of this title against the person to whom the self-test relates; or

(B) the report or results are sought in conjunction with an adjudication or admission of a violation of this title for the sole purpose of determining an appropriate penalty or remedy.

(2) Disclosure for Determination of Penalty or Remedy. -- Any report or results of a self-test that are disclosed for the purpose specified in paragraph (1)(B) --

(A) shall be used only for the particular proceeding in which the adjudication or admission referred to in paragraph (1)(B) is made; and

(B) may not be used in any other action or proceeding.

(c) Adjudication. -- An aggrieved person, complainant, department, or agency that challenges a privilege asserted under this section may seek a determination of the existence and application of that privilege in --

(1) a court of competent jurisdiction; or

(2) an administrative law proceeding with appropriate jurisdiction.

(2) Regulations. --

(A) In General. -- Not later than 6 months after the date of enactment of this Act, in consultation with the Board and after providing notice and an opportunity for public comment, the Secretary of Housing and Urban Development shall prescribe final regulations to implement section 814A of the Fair Housing Act, as added by this section.

(B) Self-Test. --

(i) Definition. -- The regulations prescribed by the Secretary under subparagraph (A) shall include a definition of the term "self-test" for purposes of section 814A of the Fair Housing Act, as added by this section.

(ii) Requirement for Self-Test. -- The regulations prescribed by the Secretary under subparagraph (A) shall specify that a self-test shall be sufficiently extensive to constitute a determination of the level and effectiveness of the compliance by a person engaged in residential real estate related lending activities with the Fair Housing Act.

(iii) Substantial Similarity to Certain Equal Credit Opportunity Act Regulations. -- The regulations prescribed under subparagraph (A) shall be substantially similar to the regulations prescribed by the Board to carry out section 704A of the Equal Credit Opportunity Act, as added by this section.

(C) Applicability. --

(1) In General. -- Except as provided in paragraph (2), the privilege provided for in section 704a of the Equal Credit Opportunity Act or section 814a of the Fair Housing Act (as those sections are added by this section) shall apply to a self-test (as that term is defined pursuant to the regulations prescribed under subsection (a)(2) or (b)(2) of this section, as appropriate) conducted before, on, or after the effective date of the regulations prescribed under subsection (a)(2) or (b)(2), as appropriate.

(2) Exception. -- The privilege referred to in paragraph (1) does not apply to such a self-test conducted before the effective date of the regulations prescribed under subsection (a) or (b), as appropriate, if --

(A) before that effective date, a complaint against the creditor or person engaged in residential real estate related lending activities (as the case may be) was --

(i) formally filed in any court of competent jurisdiction; or

(ii) the subject of an ongoing administrative law proceeding;

(B) in the case of section 704a of the Equal Credit Opportunity Act, the creditor has waived the privilege pursuant to subsection (b)(1)(A)(i) of that section; or

(C) in the case of section 814a of the Fair Housing Act, the person engaged in residential real estate related lending activities has waived the privilege pursuant to subsection (b)(1)(A)(i) of that section.

Sec. 815. [42 U.S.C. 3614a] Rules to Implement Title

The Secretary may make rules (including rules for the collection, maintenance, and analysis of appropriate data) to carry out this title. The Secretary shall give public notice and opportunity for comment with respect to all rules made under this section.

Sec. 816. [42 U.S.C. 3615] Effect on State laws

Nothing in this subchapter shall be constructed to invalidate or limit any law of a State or political subdivision of a State, or of any other jurisdiction in which this subchapter shall be effective, that grants, guarantees, or protects the same rights as are granted by this subchapter; but any law of a State, a political subdivision, or other such jurisdiction that purports to require or permit any action that would be a discriminatory housing practice under this subchapter shall to that extent be invalid.

Sec. 817. [42 U.S.C. 3616] Cooperation with State and local agencies administering fair housing laws; utilization of services and personnel; reimbursement; written agreements; publication in

Federal Register

The Secretary may cooperate with State and local agencies charged with the administration of State and local fair housing laws and, with the consent of such agencies, utilize the services of such agencies and their employees and, notwithstanding any other provision of law, may reimburse such agencies and their employees for services rendered to assist him in carrying out this subchapter. In furtherance of such cooperative efforts, the Secretary may enter into written agreements with such State or local agencies. All agreements and terminations thereof shall be published in the Federal Register.

Sec. 818. [42 U.S.C. 3617] Interference, coercion, or intimidation; enforcement by civil action

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by section 803, 804, 805, or 806 of this title.

Sec. 819. [42 U.S.C. 3618] Authorization of appropriations

There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this subchapter.

Sec. 820. [42 U.S.C. 3619] Separability of provisions

If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, the remainder of the subchapter and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

(Sec. 12 of 1988 Act). [42 U.S.C. 3601 note] Disclaimer of Preemptive Effect on Other Acts

Nothing in the Fair Housing Act as amended by this Act limits any right, procedure, or remedy available under the Constitution or any other Act of the Congress not so amended.

(Sec. 13 of 1988 Act). [42 U.S.C. 3601 note] Effective Date and Initial Rulemaking

(a) **Effective Date.** -- This Act and the amendments made by this Act shall take effect on the 180th day beginning after the date of the enactment of this Act.

(b) **Initial Rulemaking.** -- In consultation with other appropriate Federal agencies, the Secretary shall, not later than the 180th day after the date of the enactment of this Act, issue rules to implement title VIII as amended by this Act. The Secretary shall give public notice and opportunity for comment with respect to such rules.

(Sec. 14 of 1988 Act). [42 U.S.C. 3601 note] Separability of Provisions

If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

Section 901. (Title IX As Amended) [42 U.S.C. 3631] Violations; bodily injury; death; penalties

Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with--

(a) any person because of his race, color, religion, sex, handicap (as such term is defined in section 802 of this Act), familial status (as such term is defined in section 802 of this Act), or national origin and because he is or has been selling, purchasing, renting, financing occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings; or

(b) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from--

(1) participating, without discrimination on account of race, color, religion, sex, handicap (as such term is defined in section 802 of this Act), familial status (as such term is defined in section 802 of this Act), or national origin, in any of the activities, services, organizations or facilities described in subsection(a) of this section; or

(2) affording another person or class of persons opportunity or protection so to participate; or

(c) any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, handicap (as such term is defined in section 802 of this Act), familial status (as such term is defined in section 802 of this Act), or national origin, in any of the activities, services, organizations or facilities described in subsection (a) of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate--

shall be fined not more than \$1,000, or imprisoned not more than one year, or both; and if bodily injury results shall be fined not more than \$10,000, or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life.

TITLE 28, UNITED STATES CODE, AS AMENDED

Section 2341. Definitions

As used in this chapter --

(1) "clerk" means the clerk of the court in which the petition for the review of an order, reviewable under this chapter, is filed;

(2) "petitioner" means the party or parties by whom a petition to review an order, reviewable under this chapter, is filed; and

(3) "agency" means --

(A) the Commission, when the order sought to be reviewed was entered by the Federal Communications Commission, the Federal Maritime Commission, the Interstate Commerce Commission, or the Atomic Energy Commission, as the case may be;

(B) the Secretary, when the order was entered by the Secretary of Agriculture;

(C) the Administration, when the order was entered by the Maritime Administration; and

(D) the Secretary, when the order is under section 812 of the Fair Housing Act.

Section 2342. Jurisdiction of court of appeals

The court of appeals (other than the United States Court of Appeals for the Federal Circuit) has exclusive jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity of-

(1) all final orders of the Federal Communications Commission made reviewable by section 402(a) of title 47;

(2) all final orders of the Secretary of Agriculture made under chapters 9 and 20A of title 7, except orders issued under section 210(e), 217a, and 499g(a) of title 7;

(3) all rules, regulations, or final orders of-

(A) the Secretary of Transportation issued pursuant to section 2, 9, 37, 41, or 43 of the Shipping Act, 1916 (46 U.S.C.App. 802, 803, 808, 835, 839, and 841(a)); and

(B) the Federal Maritime Commission issued pursuant to--

(i) section 23, 25, or 43 of the Shipping Act, 1916 (46 U.S.C.App. 822, 824, or 841a);

(ii) section 19 of the Merchant Marine Act, 1920 (46 U.S.C.App. 876);

(iii) section 2, 3, 4, or 5 of the Intercoastal Shipping Act, 1933 (46 U.S.C.App. 844, 845, 845a, or 845b);

(iv) section 14 or 17 of the Shipping Act of 1984 (46 U.S.C.App. 1713 or 1716); or

(v) section 2(d) or 3(d) of the Act of November 6, 1966 (46 U.S.C.App. 817d(d) or 817e(d));

(4) all final orders of the Atomic Energy Commission made reviewable by section 2239 of title 42;

(5) all rules, regulations, or final orders of the Interstate Commerce Commission made reviewable by section 2321 of this title and all final orders of such Commission made reviewable under section 11901(j)(2) of Title 49, United States Code; and

(6) all final orders under section 812 of the Fair Housing Act.

Jurisdiction is invoked by filing a petition as provided by section 2344 of this title.

EQUAL CREDIT OPPORTUNITY ACT (ECOA)

In 1974 the Equal Credit Opportunity Act was passed to prohibit lenders from discrimination on the basis of sex or marital status. In 1977 it was amended to include a broader group of borrowers, including race, color, religion and national origin, to ensure that lenders would not give favorable treatment to one group of people over another. Discrimination cannot occur because a portion of a borrower's income may stem from public assistance programs, alimony, separate maintenance, or child support. Exceptions to the law are individuals who are not citizens since their status could affect a creditor's rights and remedies in event of default. Also excluded are minors since they do not possess contractual power.

Discounting a woman's income because she is of child bearing age or has part-time employment is no longer permissible, nor can young adults and singles be refused a loan just because they may be considered likely to move more readily. The senior citizen is another category that cannot be ignored. Under the ECOA the focus is on job stability, net worth, credit rating and sufficient income.

A credit applicant cannot be discriminated against because of race, color, religion, national origin, sex, age (must be of legal age), marital status, or dependence on public assistance.

If refused credit, applicant must be given the reason in writing within 30 days, with the name, address and phone number of the credit reporting agency.

FAIR DEBT COLLECTIONS ACT
also consult the Federal Trade Commission

WHO IS A DEBT COLLECTOR? A debt collector is anyone, other than the creditor who collects debts for others

HOW MAY A DEBT COLLECTOR CONTACT YOU? A debt collection may contact you in person, by mail, telephone or telegram. However, it can't be at inconvenient times or places, such as before 8 a.m. or after 9 p.m.

A debt collector may not contact you at work if your employer disapproves. A debt collector may not contact you or a third party if the collector knows that you have retained an attorney.

CAN YOU STOP A DEBT COLLECTOR FROM CALLING YOU?

Yes, you can stop a debt collector from calling you by saying so in writing within 30 days after his first contact. Once you tell a debt collector not to call you, the debt collector can no longer do so except to tell you that there will be no further calls.

WHAT TYPES OF DEBT COLLECTION PRACTICES ARE PROHIBITED?

A debt collector may NOT:

- Tell anyone that you owe money
- Send or put anything on an envelope that identifies the writer as a debt collector
- Use threats of violence to harm anyone or anyone's property or reputation
- Falsely imply that the debt collector represents the United States government or any state government
- Use any false name
- Falsely imply that the debt collector is an attorney or represent that papers are legal forms when they are not
- Falsely represent that the debt collector operates or works for a credit bureau, or
- Falsely give CREDIT INFORMATION about you to anyone

A debt collector must be FAIR in attempting to collect any debt. For example, a debt collector cannot:

- Cannot collect any amount greater than your debt unless allowed by law
- Deposit a postdated check before the date written
- Make you accept collect calls or pay for telegrams

WHAT CAN YOU DO IF A DEBT COLLECTOR BREAKS THE LAW?

You have the right to sue a debt collector in a state or federal court within one year from the date the law was violated. You may recover money for the damage suffered

FEDERAL FAIR CREDIT REPORTING ACT (your rights)

You must be told if information in your file has been used against you
You have a right to know what is in your file
You have a right to ask for your credit score
You have a right to dispute incomplete or inaccurate information
Consumer reporting agencies must correct or delete inaccurate, incomplete or unverifiable information
Consumer reporting agencies may not report outdated information
Access to your file is limited
You must give your consent for reports to be provided to employers
You may limit “prescreened” offers of credit and insurance you get based on information in your credit report
You may seek damages from violators

If anyone uses information in your file to deny you credit, insurance or employment, or any other adverse action against you, they must give you the name, address and phone number of the reporting agency. That agency must give you the opportunity to contest any adverse information in the file if:

You are a victim of identity theft, and place a fraud alert on your file
Your file contains inaccurate information as a result of fraud
You are on public assistance
You are unemployed but expect to apply for employment within 60 days

You have a right to know your credit score (but the agency may charge a fee)

Inaccurate, incomplete or unverifiable information must be removed or corrected within 30 days

In most cases, outdated negative information of more than 7 years cannot be reported
Exception: bankruptcies = 10 years

Agency may provide information about you only to people with a valid need – i.e. to consider an application with a creditor, insurer (the FCRA specifies those with a valid need)

Identity theft victims and active duty military have additional rights
(www.ftc.gov/credit)