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CHAPTER 116A - COMMON-INTEREST COMMUNITIES: REGULATION OF COMMUNITY MANAGERS AND OTHER PERSONNEL

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GENERAL PROVISIONS

NRS 116A.010 Definitions. As used in this chapter, unless the context otherwise requires, the words and terms defined in [NRS 116A.020](#) to [116A.130](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by [2005, 2574](#); A [2009, 2817](#))

NRS 116A.020 “Administrator” defined. “Administrator” means the Real Estate Administrator.

(Added to NRS by [2005, 2574](#))

NRS 116A.030 “Association” defined. “Association” has the meaning ascribed to it in [NRS 116.011](#) or [116B.030](#).

(Added to NRS by [2005, 2574](#); A [2007, 2274](#))

NRS 116A.040 “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 this chapter.

(Added to NRS by [2005, 2574](#); A [2007, 2274](#))

NRS 116A.045 “Client” defined. “Client” means an association that has entered into a management agreement with a community manager.

(Added to NRS by [2009, 2812](#))

NRS 116A.050 “Commission” defined. “Commission” means the Commission for Common-Interest Communities and Condominium Hotels created by [NRS 116.600](#).

(Added to NRS by [2005, 2574](#); A [2007, 2274](#))

NRS 116A.060 “Common-interest community” defined. “Common-interest community” has the meaning ascribed to it in [NRS 116.021](#).

(Added to NRS by [2005, 2574](#))

NRS 116A.070 “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 [2005, 2574](#); A [2007, 2274](#))

NRS 116A.080 “Division” defined. “Division” means the Real Estate Division of the Department of Business and Industry.

(Added to NRS by [2005, 2574](#))

NRS 116A.090 “Executive board” defined. “Executive board” has the meaning ascribed to it in [NRS 116.045](#) or [116B.100](#).

(Added to NRS by [2005, 2574](#); A [2007, 2274](#))

NRS 116A.100 “Hearing panel” defined. “Hearing panel” means a hearing panel appointed by the Commission pursuant to [NRS 116A.300](#).

(Added to NRS by [2005, 2574](#))

NRS 116A.105 “Management agreement” defined. “Management agreement” means an agreement for the management of a common-interest community.

(Added to NRS by [2009, 2812](#))

NRS 116A.110 “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 [2005, 2574](#))

NRS 116A.120 “Registration” defined. “Registration” means a registration to conduct a study of the reserves of an association pursuant to [NRS 116.31152](#) or [116B.605](#) with the Division pursuant to this chapter.

(Added to NRS by [2005, 2574](#); A [2007, 2274](#); [2009, 2932](#))

NRS 116A.130 “Reserve study specialist” defined. “Reserve study specialist” means a person who conducts a study of the reserves of an association pursuant to [NRS 116.31152](#) or [116B.605](#).

(Added to NRS by [2005, 2574](#); A [2007, 2274](#))

ADMINISTRATION AND ENFORCEMENT OF CHAPTER

NRS 116A.200 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.

7. The Division may publish or supply a reference manual or study guide for community managers and for reserve study specialists and may offer such documents for sale at a reasonable fee.

(Added to NRS by [2005, 2574](#))

NRS 116A.210 Employment of personnel by Real Estate Division; duties of Attorney General; legal opinions by Attorney General.

1. Except as otherwise provided in this section and within the limits of legislative appropriations, the Division may employ experts, attorneys, investigators, consultants and other personnel as are necessary to carry out the provisions of this chapter.

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 the provisions of this chapter.

3. The Attorney General shall 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 Attorney General by the Commission or the Division.

(Added to NRS by [2005, 2575](#))

NRS 116A.220 Deposit of money; payment of claims.

1. Except as otherwise provided in subsection 2, all money received by the Commission, a hearing panel or the Division pursuant to this chapter must be deposited into the Account for Common-Interest Communities and Condominium Hotels created pursuant to [NRS 116.630](#).

2. 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.

3. Money for the support of the Commission and Division in carrying out the provisions of this chapter must be provided by direct legislative appropriation and be paid out on claims as other claims against the State are paid.

(Added to NRS by [2005, 2576](#); A [2007, 2274](#))

NRS 116A.230 Immunity. The Commission and its members, each hearing panel and its members, the Administrator, 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 [2005, 2575](#))

NRS 116A.240 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 [2005, 2575](#))

NRS 116A.250 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](#) 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 [2005, 2575](#))

NRS 116A.260 Maintenance by Real Estate 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 person charged has made no defense.

3. Denials of applications made to that district office for examination, registration or issuance of a certificate.

(Added to NRS by [2005, 2575](#); A [2009, 2932](#))

NRS 116A.270 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 complaint filed with the Division alleging a violation of this chapter or [chapter 116](#) or [116B](#) of NRS, 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.

2. The Division shall not disclose any information that is confidential pursuant to subsection 1, 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 3 and the disclosure is required pursuant to subsection 3, except that the Division may disclose the information described in subsection 1 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 certificate or registration issued pursuant to this chapter.

3. The formal complaint or other charging documents filed by the Administrator with the Commission to initiate disciplinary action and all documents and other information considered by the Commission or a hearing panel when determining whether to impose discipline are public records.

(Added to NRS by [2005, 2575](#); A [2007, 1547](#), [2070, 2275](#); [2009, 2901](#))

NRS 116A.280 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 of the order 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 must be dealt with as for contempt of court.

(Added to NRS by [2005, 2579](#))

NRS 116A.290 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, 2579](#))

NRS 116A.300 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 [2005, 2580](#); A [2009, 2902](#))

NRS 116A.310 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 [2005, 2580](#))

CERTIFICATES AND REGISTRATION

NRS 116A.400 Person prohibited from acting as community manager without certificate; regulations governing standards of practice; investigations; disciplinary action; exceptions.

1. Except as otherwise provided in this section, a person shall not act as a community manager unless the person holds a certificate.

2. In addition to the standards of practice for community managers set forth in [NRS 116A.630](#) and [116A.640](#), the Commission shall by regulation adopt any additional standards of practice for community managers who hold certificates that the Commission deems appropriate and necessary.

3. The Division may investigate any community manager who holds a certificate to ensure that the community manager is complying with the provisions of this chapter and [chapters 116](#) and [116B](#) of NRS and any additional standards of practice adopted by the Commission.

4. In addition to any other remedy or penalty, if the Commission or a hearing panel, after notice and hearing, finds that a community manager who holds a certificate has violated any provision of this chapter or [chapter 116](#) or [116B](#) of NRS or any of the additional standards of practice adopted by the Commission, the Commission or the hearing panel may take appropriate disciplinary action against the community manager.

5. In addition to any other remedy or penalty, the Commission may:

(a) Refuse to issue a certificate to a person who has failed to pay money which the person owes to the Commission or the Division.

(b) Suspend, revoke or refuse to renew the certificate of a person who has failed to pay money which the person owes to the Commission or the Division.

6. The provisions of this section do not apply to:

(a) A financial institution that is engaging in an activity permitted by law.

(b) An attorney who is licensed to practice in this State and who is acting in that capacity.

(c) A trustee with respect to the property of the trust.

(d) A receiver with respect to property subject to the receivership.

(e) A member of an executive board or an officer of an association who is acting solely within the scope of his or her duties as a member of the executive board or an officer of the association.

(Added to NRS by [2005, 2576](#); A [2007, 2275](#); [2009, 2817](#))

NRS 116A.410 Regulations governing certificates issued to community managers; temporary certificates; bonds; fees.

1. The Commission shall by regulation provide for the issuance by the Division of certificates. The regulations:

(a) Must establish the qualifications for the issuance of such a certificate, including, without limitation, the education and experience required to obtain such a certificate. The regulations must include, without limitation, provisions that:

(1) Provide for the issuance of a temporary certificate for a 1-year period to a person who:

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

(II) Provides evidence that the person has been engaged in the management of a common-interest community for at least 5 years; and

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

(2) Except as otherwise provided in subparagraph (3), provide for the issuance of a temporary certificate for a 1-year period to a person who:

(I) Receives an offer of employment as a community manager from an association or its agent; and

(II) Has management experience determined to be sufficient by the executive board of the association or its agent making the offer in sub-subparagraph (I). The executive board or its agent must have sole discretion to make the determination required in this sub-subparagraph.

(3) Require a temporary certificate described in subparagraph (2) to expire before the end of the 1-year period if the certificate holder ceases to be employed by the association, or its agent, which offered the person employment as described in subparagraph (2).

(4) Require a person who is issued a temporary certificate as described in subparagraph (1) or (2) to successfully complete not less than 18 hours of instruction relating to the Uniform Common-Interest Ownership Act within the 1-year period.

(5) Provide for the issuance of a certificate at the conclusion of the 1-year period if the person:

(I) Has successfully completed not less than 18 hours of instruction relating to the Uniform Common-Interest Ownership Act; and

(II) Has not been the subject of any disciplinary action pursuant to this chapter or [chapter 116](#) of NRS or any regulations adopted pursuant thereto.

(6) Provide that a temporary certificate described in subparagraph (1) or (2), and a certificate described in subparagraph (5):

(I) Must authorize the person who is issued a temporary certificate described in subparagraph (1) or (2) or certificate described in subparagraph (5) to act in all respects as a community manager and exercise all powers available to any other community manager without regard to experience; and

(II) Must not be treated as a limited, restricted or provisional form of a certificate.

(b) Must require an applicant or the employer of the applicant to post a bond in a form and in an amount established by regulation. The Commission shall, by regulation, adopt a sliding scale for the amount of the bond that is based upon the amount of money that applicants are expected to control. In adopting the regulations establishing the form and sliding scale for the amount of a bond required to be posted pursuant to this paragraph, the Commission shall consider the availability and cost of such bonds.

(c) May require applicants to pass an examination in order to obtain a certificate other than a temporary certificate described in paragraph (a). If the regulations require such an examination, the Commission shall by regulation establish fees to pay the costs of the examination, including any costs which are necessary for the administration of the examination.

(d) Must establish a procedure for a person who was previously issued a certificate and who no longer holds a certificate to reapply for and obtain a new certificate without undergoing any period of supervision under another community manager, regardless of the length of time that has passed since the person last acted as a community manager.

(e) May require an investigation of an applicant's background. If the regulations require such an investigation, the Commission shall by regulation establish fees to pay the costs of the investigation.

(f) Must establish the grounds for initiating disciplinary action against a person to whom a certificate has been issued, including, without limitation, the grounds for placing conditions, limitations or restrictions on a certificate and for the suspension or revocation of a certificate.

(g) Must establish rules of practice and procedure for conducting disciplinary hearings.

2. The Division may collect a fee for the issuance of a certificate in an amount not to exceed the administrative costs of issuing the certificate.

3. As used in this section, "management experience" means experience in a position in business or government, including, without limitation, in the military:

(a) In which the person holding the position was required, as part of holding the position, to engage in one or more management activities, including, without limitation, supervision of personnel, development of budgets or financial plans, protection of assets, logistics, management of human resources, development or training of personnel, public relations, or protection or maintenance of facilities; and

(b) Without regard to whether the person holding the position has any experience managing or otherwise working for an association.

(Added to NRS by [2005, 2577](#); A [2009, 1254, 2902](#))

NRS 116A.420 Person prohibited from acting as reserve study specialist without registering with Division; regulations governing standards of practice; investigations; disciplinary action; exceptions.

1. Except as otherwise provided in this section and subsection 2 of [NRS 116.31152](#), a person shall not act as a reserve study specialist unless the person registers with the Division on a form provided by the Division.

2. The Commission shall by regulation provide for the standards of practice for reserve study specialists.

3. The Division may investigate any reserve study specialist to ensure that the reserve study specialist is complying with the provisions of this chapter and [chapters 116](#) and [116B](#) of NRS and the standards of practice adopted by the

Commission.

4. In addition to any other remedy or penalty, if the Commission or a hearing panel, after notice and hearing, finds that a reserve study specialist has violated any provision of this chapter or [chapter 116](#) or [116B](#) of NRS or any of the standards of practice adopted by the Commission, the Commission or the hearing panel may take appropriate disciplinary action against the reserve study specialist.

5. In addition to any other remedy or penalty, the Commission may:

(a) Refuse to accept the registration of a person who has failed to pay money which the person owes to the Commission or the Division.

(b) Suspend, revoke or refuse to renew the registration of a person who has failed to pay money which the person owes to the Commission or the Division.

6. The provisions of this section do not apply to a member of an executive board or an officer of an association who is acting solely within the scope of his or her duties as a member of the executive board or an officer of the association.

7. A person who assists a registered reserve study specialist in preparing a reserve study, signed by a registered reserve study specialist, is not required to register as a reserve study specialist.

(Added to NRS by [2005, 2577](#); A [2007, 2276](#); [2009, 2214, 2933](#))

NRS 116A.430 Regulations governing registration of reserve study specialists; fees.

1. The Commission shall by regulation provide for the registration by the Division of reserve study specialists. The regulations:

(a) Must establish the qualifications for registration, including, without limitation, the education and experience required for registration.

(b) May require applicants to pass an examination for registration. If the regulations require such an examination, the Commission shall by regulation establish fees to pay the costs of the examination, including any costs which are necessary for the administration of the examination.

(c) May require an investigation of an applicant's background. If the regulations require such an investigation, the Commission shall by regulation establish fees to pay the costs of the investigation.

(d) Must establish the grounds for initiating disciplinary action against a person who has registered, including, without limitation, the grounds for placing conditions, limitations or restrictions on registration and for the suspension or revocation of registration.

(e) Must establish rules of practice and procedure for conducting disciplinary hearings.

2. The Division may collect a fee for registration in an amount not to exceed the administrative costs of registration.

(Added to NRS by [2005, 2577](#); A [2009, 2933](#))

NRS 116A.440 Payment of child support: Statement by applicant for certificate or registration; grounds for denial of certificate or registration; duty of Division. [Effective until the date of the repeal of 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. An applicant for a certificate or registration shall submit to the Division:

(a) The social security number of the applicant; and

(b) 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 registration or the issuance of the certificate; or

(b) A separate form prescribed by the Division.

3. A certificate may not be issued and an application for registration may not be accepted if the applicant:

(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 [2005, 2578](#); A [2009, 2934](#))

NRS 116A.450 Suspension of certificate or registration for failure to pay child support or comply with certain subpoenas or warrants; reinstatement of certificate or registration. [Effective until the date of the repeal of 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 registered or the holder of a certificate, the Division shall deem the registration or certificate to be suspended at the end of the 30th day after the date the court order was issued unless the Division receives a letter issued to the person who is registered or the

holder of the certificate by the district attorney or other public agency pursuant to [NRS 425.550](#) stating that the person who is registered or the holder of the certificate has complied with a subpoena or warrant or has satisfied the arrearage pursuant to [NRS 425.560](#).

2. The Division shall reinstate a registration or certificate 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 who is registered or the holder of the certificate that he or she has complied with the subpoena or warrant or has satisfied the arrearage pursuant to [NRS 425.560](#).

(Added to NRS by [2005, 2578](#); A [2009, 2934](#))

NRS 116A.460 Expiration, revocation or surrender of certificate or registration does not prohibit disciplinary action against holder of certificate or registration. The expiration or revocation of a registration or certificate by operation of law or by order or decision of any agency or court of competent jurisdiction, or the voluntary surrender of such a registration or certificate by the person who is registered or the holder of the certificate does not:

1. Prohibit the Commission or the Division from initiating or continuing an investigation of, or action or disciplinary proceeding against, the person who is registered or the holder of the certificate as authorized pursuant to the provisions of this chapter or [chapter 116](#) or [116B](#) of NRS 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 [chapter 116](#) or [116B](#) of NRS or the regulations adopted pursuant thereto against the person who is registered or the holder of the certificate.

(Added to NRS by [2005, 2579](#); A [2007, 2276](#); [2009, 2935](#))

NRS 116A.470 Creation and maintenance of website through which certificates or registrations may be renewed; fees. The Division may:

1. Create and maintain a secure website on the Internet through which each certificate or registration issued pursuant to the provisions of this chapter may be renewed; and

2. For each certificate or registration renewed through the use of a website created and maintained pursuant to subsection 1, 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.

(Added to NRS by [2007, 586](#))

DUTIES, MANAGEMENT AGREEMENTS, STANDARDS OF PRACTICE AND PROHIBITED ACTS

NRS 116A.600 Requirement for community manager or reserve study specialist to notify Division in writing of certain convictions.

1. A community manager who holds a certificate and a reserve study specialist who is registered 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 felony or any offense involving moral turpitude.

2. A community manager or reserve study specialist shall submit the notification required by subsection 1 not more than 10 days after the conviction or entry of the plea of guilty, guilty but mentally ill or nolo contendere.

(Added to NRS by [2007, 1547](#))

NRS 116A.610 Requirement for community manager to disclose certain information to prospective client before entering into management agreement. Before entering into a management agreement, a community manager shall disclose in writing to the prospective client any material and relevant information which the community manager knows, or by the exercise of reasonable care and diligence should know, relate to the performance of the management agreement, including any matters which may affect the community manager's ability to comply with the provisions of this chapter or [chapter 116](#) or [116B](#) of NRS. Such written disclosure must include, without limitation:

1. Whether the community manager, or any member of his or her organization, expects to receive any direct or indirect compensation, gifts or profits from any person who will perform services for the client and, if so, the identity of the person and the nature of the services rendered.

2. Any affiliation with or financial interest in any person or business who furnishes any goods or services to the client.

3. Any pecuniary relationships with any unit's owner, member of the executive board or officer of the client.

(Added to NRS by [2009, 2812](#))

NRS 116A.620 Management agreement: Contents; requirements; community manager to provide executive board with evidence of insurance; community manager to provide executive board with copy; changes; termination or assignment.

1. Any management agreement must:

(a) Be in writing and signed by all parties;

(b) Be entered into between the client and the community manager or the employer of the community manager if the community manager is acting on behalf of a corporation, partnership, limited partnership, limited-liability partnership, limited-liability company or other entity;

(c) State the term of the management agreement;

(d) State the basic consideration for the services to be provided and the payment schedule;

(e) Include a complete schedule of all fees, costs, expenses and charges to be imposed by the community manager, whether direct or indirect, including, without limitation:

- (1) The costs for any new client or start-up costs;
 - (2) The fees for special or nonroutine services, such as the mailing of collection letters, the recording of liens and foreclosing of property;
 - (3) Reimbursable expenses;
 - (4) The fees for the sale or resale of a unit or for setting up the account of a new member; and
 - (5) The portion of fees that are to be retained by the client and the portion to be retained by the community manager;
 - (f) State the identity and the legal status of the contracting parties;
 - (g) State any limitations on the liability of each contracting party;
 - (h) Include a statement of the scope of work of the community manager;
 - (i) State the spending limits of the community manager;
 - (j) Include provisions relating to the grounds and procedures for termination of the community manager;
 - (k) Identify the types and amounts of insurance coverage to be carried by each contracting party, including, without limitation:
 - (1) A requirement that the community manager or his or her employer shall maintain insurance covering liability for errors or omissions, professional liability or a surety bond to compensate for losses actionable pursuant to this chapter in an amount of \$1,000,000 or more;
 - (2) An indication of which contracting party will maintain fidelity bond coverage; and
 - (3) A statement as to whether the client will maintain directors and officers liability coverage for the executive board;
 - (l) Include provisions for dispute resolution;
 - (m) Acknowledge that all records and books of the client are the property of the client, except any proprietary information and software belonging to the community manager;
 - (n) State the physical location, including the street address, of the records of the client, which must be within 60 miles from the physical location of the common-interest community;
 - (o) State the frequency and extent of regular inspections of the common-interest community; and
 - (p) State the extent, if any, of the authority of the community manager to sign checks on behalf of the client in an operating account.
2. In addition to any other requirements under this section, a management agreement may:
- (a) Provide for mandatory binding arbitration; or
 - (b) Allow the provisions of the management agreement to apply month to month following the end of the term of the management agreement, but the management agreement may not contain an automatic renewal provision.
3. Not later than 10 days after the effective date of a management agreement, the community manager shall provide each member of the executive board evidence of the existence of the required insurance, including, without limitation:
- (a) The names and addresses of all insurance companies;
 - (b) The total amount of coverage; and
 - (c) The amount of any deductible.
4. After signing a management agreement, the community manager shall provide a copy of the management agreement to each member of the executive board. Within 30 days after an election or appointment of a new member to the executive board, the community manager shall provide the new member with a copy of the management agreement.
5. Any changes to a management agreement must be initialed by the contracting parties. If there are any changes after the execution of a management agreement, those changes must be in writing and signed by the contracting parties.
6. Except as otherwise provided in the management agreement, upon the termination or assignment of a management agreement, the community manager shall, within 30 days after the termination or assignment, transfer possession of all books, records and other papers of the client to the succeeding community manager, or to the client if there is no succeeding community manager, regardless of any unpaid fees or charges to the community manager or management company.
7. Notwithstanding any provision in a management agreement to the contrary, a management agreement may be terminated by the client without penalty upon 30 days' notice following a violation by the community manager of any provision of this chapter or [chapter 116](#) of NRS.
- (Added to NRS by [2009, 2813](#))

NRS 116A.630 Standards of practice for community managers. In addition to any additional standards of practice for community managers adopted by the Commission by regulation pursuant to [NRS 116A.400](#), a community manager shall:

1. Except as otherwise provided by specific statute, at all times:
 - (a) Act as a fiduciary in any client relationship; and
 - (b) Exercise ordinary and reasonable care in the performance of duties.
2. Comply with all applicable:
 - (a) Federal, state and local laws, regulations and ordinances; and
 - (b) Lawful provisions of the governing documents of each client.
3. Keep informed of new developments in the management of a common-interest community through continuing education, including, without limitation, new developments in law, insurance coverage and accounting principles.
4. Advise a client to obtain advice from an independent expert relating to matters that are beyond the expertise of the community manager.
5. Under the direction of a client, uniformly enforce the provisions of the governing documents of the association.

6. At all times ensure that:
 - (a) The financial transactions of a client are current, accurate and properly documented; and
 - (b) There are established policies and procedures that are designed to provide reasonable assurances in the reliability of the financial reporting, including, without limitation:
 - (1) Proper maintenance of accounting records;
 - (2) Documentation of the authorization for any purchase orders, expenditures or disbursements;
 - (3) Verification of the integrity of the data used in business decisions;
 - (4) Facilitation of fraud detection and prevention; and
 - (5) Compliance with all applicable laws and regulations governing financial records.
7. Prepare or cause to be prepared 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 an association is fairly presented in accordance with all applicable laws and regulations.
8. Cause to be prepared, if required by the Division, a financial audit performed by an independent certified public accountant of the records of the community manager pertaining to the common-interest community, which must be made available to the Division.
9. Make the financial records of an association available for inspection by the Division in accordance with the applicable laws and regulations.
10. Cooperate with the Division in resolving complaints filed with the Division.
11. Upon written request, make the financial records of an association available to the units' owners electronically or during regular business hours required for inspection at a reasonably convenient location, which must be within 60 miles from the physical location of the common-interest community, and provide copies of such records in accordance with the applicable laws and regulations. As used in this subsection, "regular business hours" means Monday through Friday, 9 a.m. to 5 p.m., excluding legal holidays.
12. Maintain and invest association funds in a financial institution whose accounts are insured by the Federal Deposit Insurance Corporation, National Credit Union Share Insurance Fund, Securities Investor Protection Corporation, or a private insurer approved pursuant to [NRS 678.755](#), or in government securities that are backed by the full faith and credit of the United States Government.
13. Except as required under collection agreements, maintain the various funds of the client in separate financial accounts in the name of the client and ensure that the association is authorized to have direct access to those accounts.
14. Provide notice to each unit's owner that the executive board is aware of all legal requirements pursuant to the applicable laws and regulations.
15. Maintain internal accounting controls, including, without limitation, segregation of incompatible accounting functions.
16. Ensure that the executive board develops and approves written investment policies and procedures.
17. Recommend in writing to each client that the client register with the Division, maintain its registration and file all papers with the Division and the Secretary of State as required by law.
18. Comply with the directions of a client, unless the directions conflict with the governing documents of the client or the applicable laws or regulations of this State.
19. Recommend in writing to each client that the client be in compliance with all applicable federal, state and local laws, regulations and ordinances and the governing documents of the client.
20. Obtain, when practicable, at least three qualified bids for any capital improvement project for the client.
21. Develop written collection policies, approved by the executive board, to comply with all applicable federal, state and local laws, regulations and ordinances relating to the collection of debt. The collection policies must require:
 - (a) That the executive board approve all write-offs of debt; and
 - (b) That the community manager provide timely updates and reports as necessary.
 (Added to NRS by [2009, 2814](#))

NRS 116A.640 Community manager prohibited from engaging in certain acts; exceptions. In addition to the standards of practice for community managers set forth in [NRS 116A.630](#) and any additional standards of practice adopted by the Commission by regulation pursuant to [NRS 116A.400](#), a community manager shall not:

1. Except as otherwise required by law or court order, disclose confidential information relating to a client, which includes, without limitation, the business affairs and financial records of the client, unless the client agrees to the disclosure in writing.
2. Impede or otherwise interfere with an investigation of the Division by:
 - (a) Failing to comply with a request of the Division to provide 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 a client.
3. Commingle money or other property of a client with the money or other property of another client, another association, the community manager or the employer of the community manager.
4. Use money or other property of a client for his or her own personal use.
5. Be a signer on a withdrawal from a reserve account of a client.
6. Except as otherwise permitted by the provisions of the court rules governing the legal profession, establish an attorney-client relationship with an attorney or law firm which represents a client that employs the community manager or with whom the community manager has a management agreement.
7. Provide or attempt to provide to a client a service concerning a type of property or service:

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

(b) For which the community manager is not properly licensed.

8. Intentionally apply a payment of an assessment from a unit's owner towards any fine, fee or other charge that is due.

9. Refuse to accept from a unit's owner payment of any assessment, fine, fee or other charge that is due because there is an outstanding payment due.

10. Collect any fees or other charges from a client not specified in the management agreement.

11. Accept any compensation, gift or any other item of material value as payment or consideration for a referral or in the furtherance or performance of his or her normal duties unless:

(a) Acceptance of the compensation, gift or other item of material value complies with the provisions of [NRS 116.31185](#) or [116B.695](#) and all other applicable federal, state and local laws, regulations and ordinances; and

(b) Before acceptance of the compensation, gift or other item of material value, the community manager provides full disclosure to the client and the client consents, in writing, to the acceptance of the compensation, gift or other item of material value by the community manager.

(Added to NRS by [2009, 2816](#))

REMEDIES AND PENALTIES

NRS 116A.900 Administrative fine for engaging in certain conduct without 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 registration or certificate is required pursuant to this chapter or [chapter 116](#) or [116B](#) of NRS, or any regulation adopted pursuant thereto, if the person has not registered or does not hold the required certificate 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 \$10,000, 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 or [chapter 116](#) or [116B](#) of NRS if:

(a) A specific statute exempts the person from complying with the provisions of this chapter or [chapter 116](#) or [116B](#) of NRS 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 [2005, 2580](#); A [2007, 2276](#); [2009, 1103, 2935](#))

NRS 116A.910 Injunctions.

1. If the Commission or the Division has reasonable cause to believe, based on evidence satisfactory to it, that any person has violated or is about to violate any provision of this chapter, any regulation adopted pursuant thereto or any order, decision, demand or requirement of the Commission or the 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 [2005, 2581](#))