

ASSEMBLY BILL NO. 233—COMMITTEE ON JUDICIARY

MARCH 5, 2015

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to common-interest communities. (BDR 18-1025)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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

AN ACT relating to common-interest communities; transferring the Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels from the Real Estate Division of the Department of Business and Industry to the Office of the Attorney General; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law creates the Office of the Ombudsman for Owners in Common-  
2 Interest Communities and Condominium Hotels within the Real Estate Division of  
3 the Department of Business and Industry to investigate and resolve disputes  
4 between certain parties in common-interest communities and condominium hotels.  
5 (NRS 116.625, 116.765) **Sections 2 and 6** of this bill transfer the Office of the  
6 Ombudsman from the Real Estate Division to the Office of the Attorney General.  
7 **Sections 3, 4, 11 and 12** of this bill make conforming changes to certain required  
8 forms. **Section 7** of this bill provides that any costs or expenses of the Office of the  
9 Ombudsman may be paid from the Account for Common-Interest Communities and  
10 Condominium Hotels. **Sections 8, 9, 15 and 16** of this bill provide for the  
11 continuing jurisdiction and protection from liability of the transferred Office of the  
12 Ombudsman. Finally, **section 17** of this bill provides that all pending claims or  
13 complaints will transfer to the new Office of the Ombudsman on July 1, 2015.

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

1 **Section 1.** (Deleted by amendment.)



1       **Sec. 2.** Chapter 228 of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

3       **1. The Attorney General shall:**

4       **(a) Administer the Office of the Ombudsman for Owners in**  
5 **Common-Interest Communities and Condominium Hotels; and**

6       **(b) Appoint the Ombudsman in accordance with the provisions**  
7 **of NRS 116.625.**

8       **2. The Attorney General may submit claims to the Real Estate**  
9 **Administrator for the costs and expenses of the Office of the**  
10 **Ombudsman. To the extent that money is available for that**  
11 **purpose, those costs and expenses must be reimbursed from the**  
12 **Account for Common-Interest Communities and Condominium**  
13 **Hotels created by NRS 116.630.**

14       **3. The Attorney General may recommend such regulations as**  
15 **are necessary to carry out the provisions of this section for**  
16 **adoption by the Commission for Common-Interest Communities**  
17 **and Condominium Hotels pursuant to NRS 116.625.**

18       **Sec. 3.** NRS 116.311635 is hereby amended to read as  
19 follows:

20       116.311635 1. The association or other person conducting  
21 the sale shall also, after the expiration of the 90 days and before  
22 selling the unit:

23       (a) Give notice of the time and place of the sale in the manner  
24 and for a time not less than that required by law for the sale of real  
25 property upon execution, except that in lieu of following the  
26 procedure for service on a judgment debtor pursuant to NRS 21.130,  
27 service must be made on the unit's owner as follows:

28       (1) A copy of the notice of sale must be mailed, on or before  
29 the date of first publication or posting, by certified or registered  
30 mail, return receipt requested, to the unit's owner or his or her  
31 successor in interest at his or her address, if known, and to the  
32 address of the unit; and

33       (2) A copy of the notice of sale must be served, on or before  
34 the date of first publication or posting, in the manner set forth in  
35 subsection 2; and

36       (b) Mail, on or before the date of first publication or posting, a  
37 copy of the notice by certified or registered mail, return receipt  
38 requested, to:

39       (1) Each person entitled to receive a copy of the notice of  
40 default and election to sell notice under NRS 116.31163;

41       (2) The holder of a recorded security interest or the purchaser  
42 of the unit, if either of them has notified the association, before the  
43 mailing of the notice of sale, of the existence of the security interest,  
44 lease or contract of sale, as applicable; and

45       (3) The Ombudsman.



1 2. In addition to the requirements set forth in subsection 1, a  
2 copy of the notice of sale must be served:

3 (a) By a person who is 18 years of age or older and who is not a  
4 party to or interested in the sale by personally delivering a copy of  
5 the notice of sale to an occupant of the unit who is of suitable age;  
6 or

7 (b) By posting a copy of the notice of sale in a conspicuous  
8 place on the unit.

9 3. Any copy of the notice of sale required to be served pursuant  
10 to this section must include:

11 (a) The amount necessary to satisfy the lien as of the date of the  
12 proposed sale; and

13 (b) The following warning in 14-point bold type:  
14

15 WARNING! A SALE OF YOUR PROPERTY IS  
16 IMMINENT! UNLESS YOU PAY THE AMOUNT  
17 SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE,  
18 YOU COULD LOSE YOUR HOME, EVEN IF THE  
19 AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE  
20 THE SALE DATE. IF YOU HAVE ANY QUESTIONS,  
21 PLEASE CALL (name and telephone number of the contact  
22 person for the association). IF YOU NEED ASSISTANCE,  
23 PLEASE CALL THE FORECLOSURE SECTION OF THE  
24 OMBUDSMAN'S OFFICE, ~~NEVADA REAL ESTATE~~  
25 ~~DIVISION~~ **OFFICE OF THE ATTORNEY GENERAL,**  
26 AT (toll-free telephone number designated by the ~~Division~~)  
27 **Office of the Ombudsman** IMMEDIATELY.  
28

29 4. Proof of service of any copy of the notice of sale required to  
30 be served pursuant to this section must consist of:

31 (a) A certificate of mailing which evidences that the notice was  
32 mailed through the United States Postal Service; or

33 (b) An affidavit of service signed by the person who served the  
34 notice stating:

35 (1) The time of service, manner of service and location of  
36 service; and

37 (2) The name of the person served or, if the notice was not  
38 served on a person, a description of the location where the notice  
39 was posted on the unit.

40 **Sec. 4.** NRS 116.41095 is hereby amended to read as follows:

41 116.41095 The information statement required by NRS  
42 116.4103 and 116.4109 must be in substantially the following form:



BEFORE YOU PURCHASE PROPERTY IN A  
COMMON-INTEREST COMMUNITY  
DID YOU KNOW . . .

1. YOU GENERALLY HAVE 5 DAYS TO CANCEL  
THE PURCHASE AGREEMENT?

When you enter into a purchase agreement to buy a home or unit in a common-interest community, in most cases you should receive either a public offering statement, if you are the original purchaser of the home or unit, or a resale package, if you are not the original purchaser. The law generally provides for a 5-day period in which you have the right to cancel the purchase agreement. The 5-day period begins on different starting dates, depending on whether you receive a public offering statement or a resale package. Upon receiving a public offering statement or a resale package, you should make sure you are informed of the deadline for exercising your right to cancel. In order to exercise your right to cancel, the law generally requires that you hand deliver the notice of cancellation to the seller within the 5-day period, or mail the notice of cancellation to the seller by prepaid United States mail within the 5-day period. For more information regarding your right to cancel, see Nevada Revised Statutes 116.4108, if you received a public offering statement, or Nevada Revised Statutes 116.4109, if you received a resale package.

2. YOU ARE AGREEING TO RESTRICTIONS ON  
HOW YOU CAN USE YOUR PROPERTY?

These restrictions are contained in a document known as the Declaration of Covenants, Conditions and Restrictions. The CC&Rs become a part of the title to your property. They bind you and every future owner of the property whether or not you have read them or had them explained to you. The CC&Rs, together with other "governing documents" (such as association bylaws and rules and regulations), are intended to preserve the character and value of properties in the community, but may also restrict what you can do to improve or change your property and limit how you use and enjoy your property. By purchasing a property encumbered by CC&Rs, you are agreeing to limitations that could affect your lifestyle and freedom of choice. You should review the CC&Rs, and other governing documents before purchasing to make sure that these limitations and controls are acceptable to you. Certain provisions in the CC&Rs and other governing documents may be superseded by contrary provisions of chapter 116 of the Nevada Revised Statutes. The Nevada



1 Revised Statutes are available at the Internet address  
2 <http://www.leg.state.nv.us/nrs/>.

3 3. YOU WILL HAVE TO PAY OWNERS'  
4 ASSESSMENTS FOR AS LONG AS YOU OWN YOUR  
5 PROPERTY?

6 As an owner in a common-interest community, you are  
7 responsible for paying your share of expenses relating to the  
8 common elements, such as landscaping, shared amenities and  
9 the operation of any homeowners' association. The obligation  
10 to pay these assessments binds you and every future owner of  
11 the property. Owners' fees are usually assessed by the  
12 homeowners' association and due monthly. You have to pay  
13 dues whether or not you agree with the way the association is  
14 managing the property or spending the assessments. The  
15 executive board of the association may have the power to  
16 change and increase the amount of the assessment and to levy  
17 special assessments against your property to meet  
18 extraordinary expenses. In some communities, major  
19 components of the common elements of the community such  
20 as roofs and private roads must be maintained and replaced  
21 by the association. If the association is not well managed or  
22 fails to provide adequate funding for reserves to repair,  
23 replace and restore common elements, you may be required to  
24 pay large, special assessments to accomplish these tasks.

25 4. IF YOU FAIL TO PAY OWNERS'  
26 ASSESSMENTS, YOU COULD LOSE YOUR HOME?

27 If you do not pay these assessments when due, the association  
28 usually has the power to collect them by selling your property  
29 in a nonjudicial foreclosure sale. If fees become delinquent,  
30 you may also be required to pay penalties and the  
31 association's costs and attorney's fees to become current. If  
32 you dispute the obligation or its amount, your only remedy to  
33 avoid the loss of your home may be to file a lawsuit and ask a  
34 court to intervene in the dispute.

35 5. YOU MAY BECOME A MEMBER OF A  
36 HOMEOWNERS' ASSOCIATION THAT HAS THE  
37 POWER TO AFFECT HOW YOU USE AND ENJOY  
38 YOUR PROPERTY?

39 Many common-interest communities have a homeowners'  
40 association. In a new development, the association will  
41 usually be controlled by the developer until a certain number  
42 of units have been sold. After the period of developer control,  
43 the association may be controlled by property owners like  
44 yourself who are elected by homeowners to sit on an  
45 executive board and other boards and committees formed by



1 the association. The association, and its executive board, are  
2 responsible for assessing homeowners for the cost of  
3 operating the association and the common or shared elements  
4 of the community and for the day to day operation and  
5 management of the community. Because homeowners sitting  
6 on the executive board and other boards and committees of  
7 the association may not have the experience or professional  
8 background required to understand and carry out the  
9 responsibilities of the association properly, the association  
10 may hire professional community managers to carry out these  
11 responsibilities.

12 Homeowners' associations operate on democratic principles.  
13 Some decisions require all homeowners to vote, some  
14 decisions are made by the executive board or other boards or  
15 committees established by the association or governing  
16 documents. Although the actions of the association and its  
17 executive board are governed by state laws, the CC&Rs and  
18 other documents that govern the common-interest  
19 community, decisions made by these persons will affect your  
20 use and enjoyment of your property, your lifestyle and  
21 freedom of choice, and your cost of living in the community.  
22 You may not agree with decisions made by the association or  
23 its governing bodies even though the decisions are ones  
24 which the association is authorized to make. Decisions may  
25 be made by a few persons on the executive board or  
26 governing bodies that do not necessarily reflect the view of  
27 the majority of homeowners in the community. If you do not  
28 agree with decisions made by the association, its executive  
29 board or other governing bodies, your remedy is typically to  
30 attempt to use the democratic processes of the association to  
31 seek the election of members of the executive board or other  
32 governing bodies that are more responsive to your needs. If  
33 you have a dispute with the association, its executive board or  
34 other governing bodies, you may be able to resolve the  
35 dispute through the complaint, investigation and intervention  
36 process administered by the Office of the Ombudsman for  
37 Owners in Common-Interest Communities and Condominium  
38 Hotels, the Nevada Real Estate Division and the Commission  
39 for Common-Interest Communities and Condominium  
40 Hotels. However, to resolve some disputes, you may have to  
41 mediate or arbitrate the dispute and, if mediation or  
42 arbitration is unsuccessful, you may have to file a lawsuit and  
43 ask a court to resolve the dispute. In addition to your personal  
44 cost in mediation or arbitration, or to prosecute a lawsuit, you



1 may be responsible for paying your share of the association's  
2 cost in defending against your claim.

3 6. YOU ARE REQUIRED TO PROVIDE  
4 PROSPECTIVE PURCHASERS OF YOUR PROPERTY  
5 WITH INFORMATION ABOUT LIVING IN YOUR  
6 COMMON-INTEREST COMMUNITY?

7 The law requires you to provide a prospective purchaser of  
8 your property with a copy of the community's governing  
9 documents, including the CC&Rs, association bylaws, and  
10 rules and regulations, as well as a copy of this document. You  
11 are also required to provide a copy of the association's  
12 current year-to-date financial statement, including, without  
13 limitation, the most recent audited or reviewed financial  
14 statement, a copy of the association's operating budget and  
15 information regarding the amount of the monthly assessment  
16 for common expenses, including the amount set aside as  
17 reserves for the repair, replacement and restoration of  
18 common elements. You are also required to inform  
19 prospective purchasers of any outstanding judgments or  
20 lawsuits pending against the association of which you are  
21 aware. For more information regarding these requirements,  
22 see Nevada Revised Statutes 116.4109.

23 7. YOU HAVE CERTAIN RIGHTS REGARDING  
24 OWNERSHIP IN A COMMON-INTEREST COMMUNITY  
25 THAT ARE GUARANTEED YOU BY THE STATE?

26 Pursuant to provisions of chapter 116 of Nevada Revised  
27 Statutes, you have the right:

28 (a) To be notified of all meetings of the association and  
29 its executive board, except in cases of emergency.

30 (b) To attend and speak at all meetings of the association  
31 and its executive board, except in some cases where the  
32 executive board is authorized to meet in closed, executive  
33 session.

34 (c) To request a special meeting of the association upon  
35 petition of at least 10 percent of the homeowners.

36 (d) To inspect, examine, photocopy and audit financial  
37 and other records of the association.

38 (e) To be notified of all changes in the community's rules  
39 and regulations and other actions by the association or board  
40 that affect you.

41 8. QUESTIONS?

42 Although they may be voluminous, you should take the time  
43 to read and understand the documents that will control your  
44 ownership of a property in a common-interest community.  
45 You may wish to ask your real estate professional, lawyer or



1 other person with experience to explain anything you do not  
2 understand. You may also request assistance from the Office  
3 of the Ombudsman for Owners in Common-Interest  
4 Communities and Condominium Hotels, ~~{Nevada Real Estate~~  
5 ~~Division,}~~ *Office of the Attorney General*, at (telephone  
6 number ~~{}~~ *designated by the Office of the Ombudsman*).  
7

8 Buyer or prospective buyer's initials: \_\_\_\_\_

9 Date: \_\_\_\_\_

10 **Sec. 5.** NRS 116.615 is hereby amended to read as follows:

11 116.615 1. ~~{The}~~ *Except as otherwise provided in section 2*  
12 *of this act, the* provisions of this chapter must be administered by  
13 the Division, subject to the administrative supervision of the  
14 Director of the Department of Business and Industry.

15 2. The Commission and the Division may do all things  
16 necessary and convenient to carry out the provisions of this chapter,  
17 including, without limitation, prescribing such forms and adopting  
18 such procedures as are necessary to carry out the provisions of this  
19 chapter.

20 3. The Commission, or the Administrator with the approval of  
21 the Commission, may adopt such regulations as are necessary to  
22 carry out the provisions of this chapter.

23 4. The Commission may by regulation delegate any authority  
24 conferred upon it by the provisions of this chapter to the  
25 Administrator to be exercised pursuant to the regulations adopted by  
26 the Commission.

27 5. When regulations are proposed by the Administrator, in  
28 addition to other notices required by law, the Administrator shall  
29 provide copies of the proposed regulations to the Commission not  
30 later than 30 days before the next meeting of the Commission. The  
31 Commission shall approve, amend or disapprove any proposed  
32 regulations at that meeting.

33 6. All regulations adopted by the Commission, or adopted by  
34 the Administrator with the approval of the Commission, must be  
35 published by the Division, posted on its website and offered for sale  
36 at a reasonable fee.

37 **Sec. 6.** NRS 116.625 is hereby amended to read as follows:

38 116.625 1. The Office of the Ombudsman for Owners in  
39 Common-Interest Communities and Condominium Hotels is hereby  
40 created within the ~~{Division,}~~ *Office of the Attorney General*.

41 2. The ~~{Administrator}~~ *Attorney General* shall appoint the  
42 Ombudsman. The Ombudsman is in the unclassified service of the  
43 State.

44 3. The Ombudsman must be qualified by training and  
45 experience to perform the duties and functions of office.





1 4. In addition to any other duties set forth in this chapter, the  
2 Ombudsman shall:

3 (a) Assist in processing claims submitted to mediation or  
4 arbitration or referred to a program pursuant to NRS 38.300 to  
5 38.360, inclusive;

6 (b) Assist owners in common-interest communities and  
7 condominium hotels to understand their rights and responsibilities  
8 as set forth in this chapter and chapter 116B of NRS and the  
9 governing documents of their associations, including, without  
10 limitation, publishing materials related to those rights and  
11 responsibilities;

12 (c) Assist members of executive boards and officers of  
13 associations to carry out their duties;

14 (d) When appropriate, investigate disputes involving the  
15 provisions of this chapter or chapter 116B of NRS or the governing  
16 documents of an association and assist in resolving such disputes;  
17 and

18 (e) Compile and maintain a registration of each association  
19 organized within the State which includes, without limitation, the  
20 following information:

21 (1) The name, address and telephone number of the  
22 association;

23 (2) The name of each community manager for the common-  
24 interest community or the association of a condominium hotel and  
25 the name of any other person who is authorized to manage the  
26 property at the site of the common-interest community or  
27 condominium hotel;

28 (3) The names, mailing addresses and telephone numbers of  
29 the members of the executive board of the association;

30 (4) The name of the declarant;

31 (5) The number of units in the common-interest community  
32 or condominium hotel;

33 (6) The total annual assessment made by the association;

34 (7) The number of foreclosures which were completed on  
35 units within the common-interest community or condominium hotel  
36 and which were based on liens for the failure of the unit's owner to  
37 pay any assessments levied against the unit or any fines imposed  
38 against the unit's owner; and

39 (8) Whether the study of the reserves of the association has  
40 been conducted pursuant to NRS 116.31152 or 116B.605 and, if so,  
41 the date on which it was completed.

42 **Sec. 7.** NRS 116.630 is hereby amended to read as follows:

43 116.630 1. There is hereby created the Account for Common-  
44 Interest Communities and Condominium Hotels in the State General  
45 Fund. The Account must be administered by the Administrator.



1 2. Except as otherwise provided in subsection 3, all money  
2 received by the Commission, a hearing panel or the Division  
3 pursuant to this chapter or chapter 116B of NRS, including, without  
4 limitation, the fees collected pursuant to NRS 116.31155 and  
5 116B.620, must be deposited into the Account.

6 3. If the Commission imposes a fine or penalty, the  
7 Commission shall deposit the money collected from the imposition  
8 of the fine or penalty with the State Treasurer for credit to the State  
9 General Fund. If the money is so deposited, the Commission may  
10 present a claim to the State Board of Examiners for recommendation  
11 to the Interim Finance Committee if money is required to pay  
12 attorney's fees or the costs of an investigation, or both.

13 4. The interest and income earned on the money in the  
14 Account, after deducting any applicable charges, must be credited to  
15 the Account.

16 5. The money in the Account must be used solely to defray:

17 (a) The costs and expenses of the Commission and the Office of  
18 the Ombudsman;

19 (b) If authorized by the Commission or any regulations adopted  
20 by the Commission, the costs and expenses of subsidizing  
21 proceedings for mediation, arbitration and a program conducted  
22 pursuant to NRS 38.300 to 38.360, inclusive; and

23 (c) If authorized by the Legislature or by the Interim Finance  
24 Committee if the Legislature is not in session, the costs and  
25 expenses of administering the Division.

26 **6. *To the extent that money in the Account is available for***  
27 ***that purpose, the Administrator shall pay any claims submitted by***  
28 ***the Office of the Attorney General pursuant to section 2 of this act***  
29 ***to reimburse the costs and expenses of the Office of the***  
30 ***Ombudsman.***

31 **Sec. 8.** NRS 116.635 is hereby amended to read as follows:

32 116.635 The Commission and its members, each hearing panel  
33 and its members, the Administrator, the ***Office of the*** Ombudsman,  
34 the Division, and the experts, attorneys, investigators, consultants  
35 and other personnel of the Commission, ***the Office of the***  
36 ***Ombudsman*** and the Division are immune from any civil liability  
37 for any decision or action taken in good faith and without malicious  
38 intent in carrying out the provisions of this chapter.

39 **Sec. 9.** NRS 116.750 is hereby amended to read as follows:

40 116.750 1. In carrying out the provisions of NRS 116.745 to  
41 116.795, inclusive, the Division and the ***Office of the*** Ombudsman  
42 have jurisdiction to investigate and the Commission and each  
43 hearing panel has jurisdiction to take appropriate action against any  
44 person who commits a violation, including, without limitation:



- 1 (a) Any association and any officer, employee or agent of an  
2 association.
- 3 (b) Any member of an executive board.
- 4 (c) Any community manager who holds a certificate and any  
5 other community manager.
- 6 (d) Any person who is registered as a reserve study specialist, or  
7 who conducts a study of reserves, pursuant to chapter 116A of NRS.
- 8 (e) Any declarant or affiliate of a declarant.
- 9 (f) Any unit's owner.
- 10 (g) Any tenant of a unit's owner if the tenant has entered into an  
11 agreement with the unit's owner to abide by the governing  
12 documents of the association and the provisions of this chapter and  
13 any regulations adopted pursuant thereto.

14 2. The jurisdiction set forth in subsection 1 applies to any  
15 officer, employee or agent of an association or any member of an  
16 executive board who commits a violation and who:

17 (a) Currently holds his or her office, employment, agency or  
18 position or who held the office, employment, agency or position at  
19 the commencement of proceedings against him or her.

20 (b) Resigns his or her office, employment, agency or position:

21 (1) After the commencement of proceedings against him or  
22 her; or

23 (2) Within 1 year after the violation is discovered or  
24 reasonably should have been discovered.

25 **Sec. 10.** NRS 116.757 is hereby amended to read as follows:

26 116.757 1. Except as otherwise provided in this section and  
27 NRS 239.0115, a written affidavit filed with the Division pursuant  
28 to NRS 116.760, all documents and other information filed with the  
29 written affidavit and all documents and other information compiled  
30 as a result of an investigation conducted to determine whether to file  
31 a formal complaint with the Commission *and the Office of the*  
32 *Ombudsman* are confidential. The Division shall not disclose any  
33 information that is confidential pursuant to this subsection, in whole  
34 or in part, to any person, including, without limitation, a person who  
35 is the subject of an investigation or complaint, unless and until a  
36 formal complaint is filed pursuant to subsection 2 and the disclosure  
37 is required pursuant to subsection 2.

38 2. A formal complaint filed by the Administrator with the  
39 Commission and all documents and other information considered by  
40 the Commission or a hearing panel when determining whether to  
41 impose discipline or take other administrative action pursuant to  
42 NRS 116.745 to 116.795, inclusive, are public records.



\* A B 2 3 3 R 1 \*

1     **Sec. 11.** NRS 116B.645 is hereby amended to read as follows:

2     116B.645 1. The association or hotel unit owner, as  
3 applicable, shall also, after the expiration of the 90 days and before  
4 selling the unit:

5     (a) Give notice of the time and place of the sale in the manner  
6 and for a time not less than that required by law for the sale of real  
7 property upon execution, except that in lieu of following the  
8 procedure for service on a judgment debtor pursuant to NRS 21.130,  
9 service must be made on the residential unit owner as follows:

10     (1) A copy of the notice of sale must be mailed, on or before  
11 the date of first publication or posting, by certified or registered  
12 mail, return receipt requested, to the residential unit owner or his or  
13 her successor in interest at the residential unit owner's address, if  
14 known, and to the address of the residential unit; and

15     (2) A copy of the notice of sale must be served, on or before  
16 the date of first publication or posting, in the manner set forth in  
17 subsection 2; and

18     (b) Mail, on or before the date of first publication or posting, a  
19 copy of the notice by first-class mail to:

20     (1) Each person entitled to receive a copy of the notice of  
21 default and election to sell notice under NRS 116B.640;

22     (2) The holder of a recorded security interest or the purchaser  
23 of the residential unit, if either of them has notified the association,  
24 before the mailing of the notice of sale, of the existence of the  
25 security interest, lease or contract of sale, as applicable; and

26     (3) The Ombudsman.

27     2. In addition to the requirements set forth in subsection 1, a  
28 copy of the notice of sale must be served:

29     (a) By a person who is 18 years of age or older and who is not a  
30 party to or interested in the sale by personally delivering a copy of  
31 the notice of sale to an occupant of the residential unit who is of  
32 suitable age; or

33     (b) By posting a copy of the notice of sale in a conspicuous  
34 place on the residential unit.

35     3. Any copy of the notice of sale required to be served pursuant  
36 to this section must include:

37     (a) The amount necessary to satisfy the lien as of the date of the  
38 proposed sale; and

39     (b) The following warning in 14-point bold type:

40  
41     **WARNING! A SALE OF YOUR PROPERTY IS**  
42     **IMMINENT! UNLESS YOU PAY THE AMOUNT**  
43     **SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE,**  
44     **YOU COULD LOSE YOUR HOME, EVEN IF THE**  
45     **AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE**



\* A B 2 3 3 R 1 \*

1 THE SALE DATE. IF YOU HAVE ANY QUESTIONS,  
2 PLEASE CALL (name and telephone number of the contact  
3 person for the association or hotel unit owner). IF YOU  
4 NEED ASSISTANCE, PLEASE CALL THE  
5 FORECLOSURE SECTION OF THE OMBUDSMAN'S  
6 OFFICE, ~~NEVADA REAL ESTATE DIVISION;~~ **OFFICE**  
7 **OF THE ATTORNEY GENERAL** AT (toll-free telephone  
8 number designated by the ~~Division~~) **Office of the**  
9 **Ombudsman**) IMMEDIATELY.

10  
11 4. Proof of service of any copy of the notice of sale required to  
12 be served pursuant to this section must consist of:

13 (a) A certificate of mailing which evidences that the notice was  
14 mailed through the United States Postal Service; or

15 (b) An affidavit of service signed by the person who served the  
16 notice stating:

17 (1) The time of service, manner of service and location of  
18 service; and

19 (2) The name of the person served or, if the notice was not  
20 served on a person, a description of the location where the notice  
21 was posted on the residential unit.

22 **Sec. 12.** NRS 116B.765 is hereby amended to read as follows:

23 116B.765 The information statement required by NRS  
24 116B.735 and 116B.760 must be in substantially the following  
25 form:

26  
27 BEFORE YOU PURCHASE PROPERTY IN A  
28 CONDOMINIUM HOTEL  
29 DID YOU KNOW...

30 1. YOU GENERALLY HAVE 5 DAYS TO CANCEL  
31 THE PURCHASE AGREEMENT?

32 When you enter into a purchase agreement to buy a home or  
33 unit in a condominium hotel, in most cases you should  
34 receive either a public offering statement, if you are the  
35 original purchaser of the home or unit, or a resale package, if  
36 you are not the original purchaser. The law generally provides  
37 for a 5-day period in which you have the right to cancel the  
38 purchase agreement. The 5-day period begins on different  
39 starting dates, depending on whether you receive a public  
40 offering statement or a resale package. Upon receiving a  
41 public offering statement or a resale package, you should  
42 make sure you are informed of the deadline for exercising  
43 your right to cancel. In order to exercise your right to cancel,  
44 the law generally requires that you hand deliver the notice of  
45 cancellation to the seller within the 5-day period, or mail the



1 notice of cancellation to the seller by prepaid United States  
2 mail within the 5-day period. For more information regarding  
3 your right to cancel, see NRS 116B.755, if you received a  
4 public offering statement, or NRS 116B.760, if you received  
5 a resale package.

6 2. YOU ARE AGREEING TO RESTRICTIONS ON  
7 HOW YOU CAN USE YOUR PROPERTY?

8 These restrictions are contained in a document known as the  
9 Declaration of Covenants, Conditions and Restrictions. The  
10 CC&Rs become a part of the title to your property. They bind  
11 you and every future owner of the property whether or not  
12 you have read them or had them explained to you. The  
13 CC&Rs, together with other “governing documents” (such as  
14 association bylaws and rules and regulations), are intended to  
15 preserve the character and value of properties in the  
16 condominium hotel, but may also restrict what you can do to  
17 improve or change your property and limit how you use and  
18 enjoy your property. By purchasing a property encumbered  
19 by CC&Rs, you are agreeing to limitations that could affect  
20 your lifestyle and freedom of choice. You should review the  
21 CC&Rs, and other governing documents before purchasing to  
22 make sure that these limitations and controls are acceptable to  
23 you.

24 3. YOU WILL HAVE TO PAY OWNERS’  
25 ASSESSMENTS AND CHARGES FOR AS LONG AS  
26 YOU OWN YOUR PROPERTY?

27 As an owner in a condominium hotel, you are responsible for  
28 paying your share of expenses relating to the common  
29 elements and shared components. The obligation to pay these  
30 expenses binds you and every future owner of the property.  
31 Owners’ fees are usually assessed for these expenses  
32 monthly. You have to pay dues whether or not you agree with  
33 the way the association or the hotel unit owner is managing  
34 the property or spending the assessments or charges. The  
35 hotel unit owner executive board of the association may have  
36 the power to change and increase the amount of the  
37 assessment or charges and to levy special assessments or  
38 special charges against your property to meet extraordinary  
39 expenses.

40 4. IF YOU FAIL TO PAY OWNERS’ ASSESSMENTS  
41 OR CHARGES, YOU COULD LOSE YOUR HOME?

42 If you do not pay these assessments or charges when due, the  
43 hotel unit owner or the association usually has the power to  
44 collect them by selling your property in a nonjudicial  
45 foreclosure sale. If fees become delinquent, you may also be



\* A B 2 3 3 R 1 \*

1 required to pay penalties and the association's or hotel unit  
2 owner's costs, as applicable, and attorney's fees to become  
3 current. If you dispute the obligation or its amount, your only  
4 remedy to avoid the loss of your home may be to file a  
5 lawsuit and ask a court to intervene in the dispute.

6 5. YOU MAY BECOME A MEMBER OF A  
7 HOMEOWNERS' ASSOCIATION THAT HAS THE  
8 POWER TO AFFECT HOW YOU USE AND ENJOY  
9 YOUR PROPERTY?

10 Many condominium hotels have a homeowners'  
11 association. In a new development, the association will  
12 usually be controlled by the developer until a certain number  
13 of units have been sold. After the period of developer control,  
14 the association may be controlled by property owners like  
15 yourself who are elected by homeowners to sit on an  
16 executive board and other boards and committees formed by  
17 the association. The association, and its executive board,  
18 are responsible for assessing homeowners for the cost of  
19 operating the association and the common elements  
20 of the condominium hotel. Because homeowners sitting on  
21 the executive board and other boards and committees of the  
22 association may not have the experience or professional  
23 background required to understand and carry out the  
24 responsibilities of the association properly, the association  
25 may hire professional condominium association managers to  
26 carry out these responsibilities.

27 Homeowners' associations operate on democratic principles.  
28 Some decisions require all homeowners to vote, some  
29 decisions are made by the executive board or other boards or  
30 committees established by the association or governing  
31 documents. Although the actions of the association and its  
32 executive board are governed by state laws, the CC&Rs and  
33 other documents that govern the condominium hotel,  
34 decisions made by these persons will affect your use and  
35 enjoyment of your property, your lifestyle and freedom of  
36 choice, and your cost of living in the condominium hotel.  
37 You may not agree with decisions made by the association or  
38 its governing bodies even though the decisions are ones  
39 which the association is authorized to make. Decisions may  
40 be made by a few persons on the executive board or  
41 governing bodies that do not necessarily reflect the view of  
42 the majority of residential unit in the condominium hotel. If  
43 you do not agree with decisions made by the association, its  
44 executive board or other governing bodies, your remedy is  
45 typically to attempt to use the democratic processes of the



1 association to seek the election of members of the executive  
2 board or other governing bodies that are more responsive to  
3 your needs. If you have a dispute with the association, its  
4 executive board or other governing bodies, you may be able  
5 to resolve the dispute through the complaint, investigation  
6 and intervention process administered by the Office of the  
7 Ombudsman for Owners in Common-Interest Communities  
8 and Condominium Hotels, the Nevada Real Estate Division  
9 and the Commission for Common-Interest Communities and  
10 Condominium Hotels. However, to resolve some disputes,  
11 you may have to mediate or arbitrate the dispute and, if  
12 mediation or arbitration is unsuccessful, you may have to file  
13 a lawsuit and ask a court to resolve the dispute. In addition to  
14 your personal cost in mediation or arbitration, or to prosecute  
15 a lawsuit, you may be responsible for paying your share of  
16 the association's cost in defending against your claim.

17 **6. YOU ARE REQUIRED TO PROVIDE**  
18 **PROSPECTIVE PURCHASERS OF YOUR PROPERTY**  
19 **WITH INFORMATION ABOUT LIVING IN YOUR**  
20 **CONDOMINIUM HOTEL?**

21 The law requires you to provide a prospective purchaser of  
22 your property with a copy of the condominium hotel's  
23 governing documents, including the CC&Rs, association  
24 bylaws, and rules and regulations, as well as a copy of this  
25 document. You are also required to provide a copy of the  
26 association's current year-to-date financial statement,  
27 including, without limitation, the most recent audited or  
28 reviewed financial statement, a copy of the association's  
29 operating budget and information regarding the amount of the  
30 monthly assessment for common expenses, including the  
31 amount set aside as reserves for the repair, replacement and  
32 restoration of common elements. You are also required to  
33 provide a copy of the current year-to-date statement of the  
34 shared expenses charged to your unit by the declarant or hotel  
35 unit owner, as applicable. You are also required to inform  
36 prospective purchasers of any outstanding judgments or  
37 lawsuits pending against the association of which you are  
38 aware. For more information regarding these requirements,  
39 see NRS 116B.725 to 116B.795, inclusive.

40 **7. YOU HAVE CERTAIN RIGHTS REGARDING**  
41 **OWNERSHIP IN A CONDOMINIUM HOTEL THAT ARE**  
42 **GUARANTEED YOU BY THE STATE?**

43 Pursuant to provisions of this chapter, you have the right:

44 (a) To be notified of all meetings of the association and  
45 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.

(d) To inspect, examine, photocopy and audit financial and other records of the association.

(e) To be notified of all changes in the condominium hotel'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 condominium hotel. 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, ~~the Nevada Real Estate Division,~~ *Office of the Attorney General* at (telephone number ~~the~~ *designated by the Office of the Ombudsman*).

Buyer or prospective buyer's initials: \_\_\_\_\_

Date: \_\_\_\_\_

**Sec. 13.** NRS 116B.800 is hereby amended to read as follows:

116B.800 ~~The~~ *Except as otherwise provided in section 2 of this act, the* Commission for Common-Interest Communities and Condominium Hotels created by NRS 116.600, the Division and the Director of the Department of Business and Industry have jurisdiction over the enforcement of this chapter as set forth herein.

**Sec. 14.** NRS 116B.805 is hereby amended to read as follows:

116B.805 1. ~~The~~ *Except as otherwise provided in section 2 of this act, 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



1 Administrator to be exercised pursuant to the regulations adopted by  
2 the Commission.

3 5. When regulations are proposed by the Administrator, in  
4 addition to other notices required by law, the Administrator shall  
5 provide copies of the proposed regulations to the Commission not  
6 later than 30 days before the next meeting of the Commission. The  
7 Commission shall approve, amend or disapprove any proposed  
8 regulations at that meeting.

9 6. All regulations adopted by the Commission, or adopted by  
10 the Administrator with the approval of the Commission, must be  
11 published by the Division, posted on its website and offered for sale  
12 at a reasonable fee.

13 **Sec. 15.** NRS 116B.820 is hereby amended to read as follows:

14 116B.820 The Commission and its members, each hearing  
15 panel and its members, the Administrator, the *Office of the*  
16 Ombudsman, the Division, and the experts, attorneys, investigators,  
17 consultants and other personnel of the Commission, *the Office of*  
18 *the Ombudsman* and the Division are immune from any civil  
19 liability for any decision or action taken in good faith and without  
20 malicious intent in carrying out the provisions of this chapter.

21 **Sec. 16.** NRS 116B.870 is hereby amended to read as follows:

22 116B.870 1. In carrying out the provisions of NRS 116B.870  
23 to 116B.920, inclusive, the Division and the *Office of the*  
24 Ombudsman have jurisdiction to investigate and the Commission  
25 and each hearing panel has jurisdiction to take appropriate action  
26 against any person who commits a violation, including, without  
27 limitation:

28 (a) Any association and any officer, employee or agent of an  
29 association.

30 (b) Any member of an executive board.

31 (c) Any declarant, affiliate of a declarant or hotel unit owner.

32 (d) Any unit's owner.

33 (e) Any tenant of a unit's owner if the tenant has entered into an  
34 agreement with the unit's owner to abide by the governing  
35 documents of the association and the provisions of this chapter and  
36 any regulations adopted pursuant thereto.

37 2. The jurisdiction set forth in subsection 1 applies to any  
38 officer, employee or agent of an association or any member of an  
39 executive board who commits a violation and who:

40 (a) Currently holds his or her office, employment, agency or  
41 position or who held his or her office, employment, agency or  
42 position at the commencement of proceedings against him or her.

43 (b) Resigns his or her office, employment, agency or position:

44 (1) After the commencement of proceedings against him or  
45 her; or



1 (2) Within 1 year after the violation is discovered or  
2 reasonably should have been discovered.

3 **Sec. 17.** 1. Any claim or complaint submitted to or being  
4 processed by the Office of the Ombudsman for Owners in Common-  
5 Interest Communities and Condominium Hotels within the Real  
6 Estate Division of the Department of Business and Industry before  
7 July 1, 2015, shall be deemed to be the responsibility of the Office  
8 of the Ombudsman for Owners in Common-Interest Communities  
9 and Condominium Hotels within the Office of the Attorney General.

10 2. Any person who, on July 1, 2015, is serving as the  
11 Ombudsman for Owners in Common-Interest Communities and  
12 Condominium Hotels may, if he or she is otherwise qualified on that  
13 date, continue to serve in that capacity until his or her successor is  
14 appointed pursuant to NRS 116.625, as amended by section 6 of this  
15 act.

16 **Sec. 18.** This act becomes effective:

17 1. Upon passage and approval for the purposes of adopting any  
18 regulations and performing any preparatory administrative tasks  
19 necessary to carry out the provisions of this act; and

20 2. On July 1, 2015, for all other purposes.



