

SENATE BILL NO. 114—SENATOR WOODHOUSE

PREFILED FEBRUARY 13, 2017

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to common-interest communities. (BDR 18-681)

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

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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 1 and 5** of this bill transfer the Office of the
6 Ombudsman from the Real Estate Division to the Office of the Attorney General.
7 **Sections 2, 3, 10 and 11** of this bill make conforming changes to certain required
8 forms. **Section 6** 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, which is administered by the Administrator of the Real
11 Estate Division. **Sections 7, 8, 14 and 15** of this bill provide for the continuing
12 jurisdiction and protection from liability of the transferred Office of the
13 Ombudsman. Finally, **section 16** of this bill provides that all pending claims or
14 complaints will transfer to the new Office of the Ombudsman on July 1, 2017.

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

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

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



* S B 1 1 4 *

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

3 (b) *Appoint the Ombudsman in accordance with the provisions*
4 *of NRS 116.625.*

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

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

16 **Sec. 2.** NRS 116.311635 is hereby amended to read as
17 follows:

18 116.311635 1. The association or other person conducting
19 the sale shall also, after the expiration of the 90-day period
20 described in paragraph (c) of subsection 1 of NRS 116.31162 and
21 before selling the unit, give notice of the time and place of the sale
22 by recording the notice of sale and by:

23 (a) Posting a similar notice particularly describing the unit, for
24 20 days consecutively, in a public place in the county where the unit
25 is situated;

26 (b) Publishing a copy of the notice three times, once each week
27 for 3 consecutive weeks, in a newspaper of general circulation in the
28 county where the unit is situated;

29 (c) Notifying the unit's owner or his or her successor in interest
30 as follows:

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

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

39 (d) Mailing, on or before the date of first publication or posting,
40 a copy of the notice by certified mail to:

41 (1) Each person entitled to receive a copy of the notice of
42 default and election to sell notice under subsection 1 of
43 NRS 116.31163;

44 (2) The holder of a security interest recorded before the
45 mailing of the notice of sale, at the address of the holder that is



1 provided pursuant to NRS 657.110 on the Internet website
2 maintained by the Division of Financial Institutions of the
3 Department of Business and Industry; and

4 (3) The Ombudsman.

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

7 (a) By a person who is 18 years of age or older and who is not a
8 party to or interested in the sale by personally delivering a copy of
9 the notice of sale to an occupant of the unit who is of suitable age;
10 or

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

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

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

17 (b) The following warning in 14-point bold type:
18

19 **WARNING! A SALE OF YOUR PROPERTY IS**
20 **IMMINENT! UNLESS YOU PAY THE AMOUNT**
21 **SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE,**
22 **YOU COULD LOSE YOUR HOME, EVEN IF THE**
23 **AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE**
24 **THE SALE DATE. IF YOU HAVE ANY QUESTIONS,**
25 **PLEASE CALL (name and telephone number of the contact**
26 **person for the association). IF YOU NEED ASSISTANCE,**
27 **PLEASE CALL THE FORECLOSURE SECTION OF THE**
28 **OMBUDSMAN'S OFFICE, ~~NEVADA REAL ESTATE~~**
29 **~~DIVISION~~ OFFICE OF THE ATTORNEY GENERAL,**
30 **AT (toll-free telephone number designated by the ~~Division~~)**
31 **Office of the Ombudsman) IMMEDIATELY.**
32

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

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

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

39 (1) The time of service, manner of service and location of
40 service; and

41 (2) The name of the person served or, if the notice was not
42 served on a person, a description of the location where the notice
43 was posted on the unit.



1 **Sec. 3.** NRS 116.41095 is hereby amended to read as follows:
2 116.41095 The information statement required by NRS
3 116.4103 and 116.4109 must be in substantially the following form:

4
5 BEFORE YOU PURCHASE PROPERTY IN A
6 COMMON-INTEREST COMMUNITY
7 DID YOU KNOW . . .

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

10 When you enter into a purchase agreement to buy a home or
11 unit in a common-interest community, in most cases you
12 should receive either a public offering statement, if you are
13 the original purchaser of the home or unit, or a resale
14 package, if you are not the original purchaser. The law
15 generally provides for a 5-day period in which you have the
16 right to cancel the purchase agreement. The 5-day period
17 begins on different starting dates, depending on whether you
18 receive a public offering statement or a resale package. Upon
19 receiving a public offering statement or a resale package, you
20 should make sure you are informed of the deadline for
21 exercising your right to cancel. In order to exercise your right
22 to cancel, the law generally requires that you hand deliver the
23 notice of cancellation to the seller within the 5-day period, or
24 mail the notice of cancellation to the seller by prepaid United
25 States mail within the 5-day period. For more information
26 regarding your right to cancel, see Nevada Revised Statutes
27 116.4108, if you received a public offering statement, or
28 Nevada Revised Statutes 116.4109, if you received a resale
29 package.

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

32 These restrictions are contained in a document known as the
33 Declaration of Covenants, Conditions and Restrictions. The
34 CC&Rs become a part of the title to your property. They bind
35 you and every future owner of the property whether or not
36 you have read them or had them explained to you. The
37 CC&Rs, together with other "governing documents" (such as
38 association bylaws and rules and regulations), are intended to
39 preserve the character and value of properties in the
40 community, but may also restrict what you can do to improve
41 or change your property and limit how you use and enjoy
42 your property. By purchasing a property encumbered by
43 CC&Rs, you are agreeing to limitations that could affect your
44 lifestyle and freedom of choice. You should review the
45 CC&Rs, and other governing documents before purchasing to



1 make sure that these limitations and controls are acceptable to
2 you. Certain provisions in the CC&Rs and other governing
3 documents may be superseded by contrary provisions of
4 chapter 116 of the Nevada Revised Statutes. The Nevada
5 Revised Statutes are available at the Internet address
6 <http://www.leg.state.nv.us/nrs/>.

7 3. YOU WILL HAVE TO PAY OWNERS'
8 ASSESSMENTS FOR AS LONG AS YOU OWN YOUR
9 PROPERTY?

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

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

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

39 5. YOU MAY BECOME A MEMBER OF A
40 HOMEOWNERS' ASSOCIATION THAT HAS THE
41 POWER TO AFFECT HOW YOU USE AND ENJOY
42 YOUR PROPERTY?

43 Many common-interest communities have a homeowners'
44 association. In a new development, the association will
45 usually be controlled by the developer until a certain number



1 of units have been sold. After the period of developer control,
2 the association may be controlled by property owners like
3 yourself who are elected by homeowners to sit on an
4 executive board and other boards and committees formed by
5 the association. The association, and its executive board, are
6 responsible for assessing homeowners for the cost of
7 operating the association and the common or shared elements
8 of the community and for the day to day operation and
9 management of the community. Because homeowners sitting
10 on the executive board and other boards and committees of
11 the association may not have the experience or professional
12 background required to understand and carry out the
13 responsibilities of the association properly, the association
14 may hire professional community managers to carry out these
15 responsibilities.

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



1 arbitration is unsuccessful, you may have to file a lawsuit and
2 ask a court to resolve the dispute. In addition to your personal
3 cost in mediation or arbitration, or to prosecute a lawsuit, you
4 may be responsible for paying your share of the association's
5 cost in defending against your claim.

6 6. YOU ARE REQUIRED TO PROVIDE
7 PROSPECTIVE PURCHASERS OF YOUR PROPERTY
8 WITH INFORMATION ABOUT LIVING IN YOUR
9 COMMON-INTEREST COMMUNITY?

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

26 7. YOU HAVE CERTAIN RIGHTS REGARDING
27 OWNERSHIP IN A COMMON-INTEREST COMMUNITY
28 THAT ARE GUARANTEED YOU BY THE STATE?

29 Pursuant to provisions of chapter 116 of Nevada Revised
30 Statutes, you have the right:

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

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

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

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

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



8. QUESTIONS?

Although they may be voluminous, you should take the time to read and understand the documents that will control your ownership of a property in a common-interest community. You may wish to ask your real estate professional, lawyer or other person with experience to explain anything you do not understand. You may also request assistance from the Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels, ~~the Nevada Real Estate Division,~~ *Office of the Attorney General*, at (telephone number ~~to be~~ *designated by the Office of the Ombudsman*).

Buyer or prospective buyer's initials: _____

Date: _____

Sec. 4. NRS 116.615 is hereby amended to read as follows:

116.615 1. ~~The~~ *Except as otherwise provided in section 1 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 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.

Sec. 5. NRS 116.625 is hereby amended to read as follows:

116.625 1. The Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels is hereby created within the ~~the~~ *Office of the Attorney General*.



1 2. The ~~Administrator~~ *Attorney General* shall appoint the
2 Ombudsman. The Ombudsman is in the unclassified service of the
3 State.

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

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

8 (a) Assist in processing claims submitted to mediation or
9 arbitration or referred to a program pursuant to NRS 38.300 to
10 38.360, inclusive;

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

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

19 (d) When appropriate, investigate disputes involving the
20 provisions of this chapter or chapter 116B of NRS or the governing
21 documents of an association and assist in resolving such disputes;
22 and

23 (e) Compile and maintain a registration of each association
24 organized within the State which includes, without limitation, the
25 following information:

26 (1) The name, address and telephone number of the
27 association;

28 (2) The name of each community manager for the common-
29 interest community or the association of a condominium hotel and
30 the name of any other person who is authorized to manage the
31 property at the site of the common-interest community or
32 condominium hotel;

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

35 (4) The name of the declarant;

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

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

39 (7) The number of foreclosures which were completed on
40 units within the common-interest community or condominium hotel
41 and which were based on liens for the failure of the unit's owner to
42 pay any assessments levied against the unit or any fines imposed
43 against the unit's owner; and



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

4 **Sec. 6.** NRS 116.630 is hereby amended to read as follows:

5 116.630 1. There is hereby created the Account for Common-
6 Interest Communities and Condominium Hotels in the State General
7 Fund. The Account must be administered by the Administrator.

8 2. Except as otherwise provided in subsection 3, all money
9 received by the Commission, a hearing panel or the Division
10 pursuant to this chapter or chapter 116B of NRS, including, without
11 limitation, the fees collected pursuant to NRS 116.31155 and
12 116B.620, must be deposited into the Account.

13 3. If the Commission imposes a fine or penalty, the
14 Commission shall deposit the money collected from the imposition
15 of the fine or penalty with the State Treasurer for credit to the State
16 General Fund. If the money is so deposited, the Commission may
17 present a claim to the State Board of Examiners for recommendation
18 to the Interim Finance Committee if money is required to pay
19 attorney's fees or the costs of an investigation, or both.

20 4. The interest and income earned on the money in the
21 Account, after deducting any applicable charges, must be credited to
22 the Account.

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

24 (a) The costs and expenses of the Commission and the Office of
25 the Ombudsman;

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

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

33 **6. *To the extent that money in the Account is available for***
34 ***that purpose, the Administrator shall pay any claims submitted by***
35 ***the Office of the Attorney General pursuant to section 1 of this act***
36 ***to reimburse the costs and expenses of the Office of the***
37 ***Ombudsman.***

38 **Sec. 7.** NRS 116.635 is hereby amended to read as follows:

39 116.635 The Commission and its members, each hearing panel
40 and its members, the Administrator, the ***Ombudsman, the Office of***
41 ***the Ombudsman***, the Division, and the experts, attorneys,
42 investigators, consultants and other personnel of the Commission ,
43 ***the Office of the Ombudsman*** and the Division are immune from
44 any civil liability for any decision or action taken in good faith and



1 without malicious intent in carrying out the provisions of this
2 chapter.

3 **Sec. 8.** NRS 116.750 is hereby amended to read as follows:

4 116.750 1. In carrying out the provisions of NRS 116.745 to
5 116.795, inclusive, the Division and the *Office of the* Ombudsman
6 have jurisdiction to investigate and the Commission and each
7 hearing panel has jurisdiction to take appropriate action against any
8 person who commits a violation, including, without limitation:

9 (a) Any association and any officer, employee or agent of an
10 association.

11 (b) Any member of an executive board.

12 (c) Any community manager who holds a certificate and any
13 other community manager.

14 (d) Any person who is registered as a reserve study specialist, or
15 who conducts a study of reserves, pursuant to chapter 116A of NRS.

16 (e) Any declarant or affiliate of a declarant.

17 (f) Any unit's owner.

18 (g) Any tenant of a unit's owner if the tenant has entered into an
19 agreement with the unit's owner to abide by the governing
20 documents of the association and the provisions of this chapter and
21 any regulations adopted pursuant thereto.

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

25 (a) Currently holds his or her office, employment, agency or
26 position or who held the office, employment, agency or position at
27 the commencement of proceedings against him or her.

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

29 (1) After the commencement of proceedings against him or
30 her; or

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

33 **Sec. 9.** NRS 116.757 is hereby amended to read as follows:

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



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

6 **Sec. 10.** NRS 116B.645 is hereby amended to read as follows:

7 116B.645 1. The association or hotel unit owner, as
8 applicable, shall also, after the expiration of the 90 days and before
9 selling the unit:

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

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

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

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

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

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

31 (3) The Ombudsman.

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

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

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

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

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

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



1 WARNING! A SALE OF YOUR PROPERTY IS
2 IMMIDENT! UNLESS YOU PAY THE AMOUNT
3 SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE,
4 YOU COULD LOSE YOUR UNIT, EVEN IF THE
5 AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE
6 THE SALE DATE. IF YOU HAVE ANY QUESTIONS,
7 PLEASE CALL (name and telephone number of the contact
8 person for the association or hotel unit owner). IF YOU
9 NEED ASSISTANCE, PLEASE CALL THE
10 FORECLOSURE SECTION OF THE OMBUDSMAN'S
11 OFFICE, ~~NEVADA REAL ESTATE DIVISION,~~ OFFICE
12 OF THE ATTORNEY GENERAL, AT (toll-free telephone
13 number designated by the ~~Division~~) Office of the
14 Ombudsman) IMMEDIATELY.
15

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

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

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

22 (1) The time of service, manner of service and location of
23 service; and

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

27 **Sec. 11.** NRS 116B.765 is hereby amended to read as follows:

28 116B.765 The information statement required by NRS
29 116B.735 and 116B.760 must be in substantially the following
30 form:
31

32 BEFORE YOU PURCHASE PROPERTY IN A
33 CONDOMINIUM HOTEL
34 DID YOU KNOW...

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

37 When you enter into a purchase agreement to buy a home or
38 unit in a condominium hotel, in most cases you should
39 receive either a public offering statement, if you are the
40 original purchaser of the home or unit, or a resale package, if
41 you are not the original purchaser. The law generally provides
42 for a 5-day period in which you have the right to cancel the
43 purchase agreement. The 5-day period begins on different
44 starting dates, depending on whether you receive a public
45 offering statement or a resale package. Upon receiving a



1 public offering statement or a resale package, you should
2 make sure you are informed of the deadline for exercising
3 your right to cancel. In order to exercise your right to cancel,
4 the law generally requires that you hand deliver the notice of
5 cancellation to the seller within the 5-day period, or mail the
6 notice of cancellation to the seller by prepaid United States
7 mail within the 5-day period. For more information regarding
8 your right to cancel, see NRS 116B.755, if you received a
9 public offering statement, or NRS 116B.760, if you received
10 a resale package.

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

13 These restrictions are contained in a document known as the
14 Declaration of Covenants, Conditions and Restrictions. The
15 CC&Rs become a part of the title to your property. They bind
16 you and every future owner of the property whether or not
17 you have read them or had them explained to you. The
18 CC&Rs, together with other "governing documents" (such as
19 association bylaws and rules and regulations), are intended to
20 preserve the character and value of properties in the
21 condominium hotel, but may also restrict what you can do to
22 improve or change your property and limit how you use and
23 enjoy your property. By purchasing a property encumbered
24 by CC&Rs, you are agreeing to limitations that could affect
25 your lifestyle and freedom of choice. You should review the
26 CC&Rs, and other governing documents before purchasing to
27 make sure that these limitations and controls are acceptable to
28 you. Certain provisions in the CC&Rs and other governing
29 documents may be superseded by contrary provisions of
30 chapter 116B of the Nevada Revised Statutes. The Nevada
31 Revised Statutes are available at the Internet address
32 <http://www.leg.state.nv.us/nrs/>.

33 3. YOU WILL HAVE TO PAY OWNERS'
34 ASSESSMENTS AND CHARGES FOR AS LONG AS
35 YOU OWN YOUR PROPERTY?

36 As an owner in a condominium hotel, you are responsible for
37 paying your share of expenses relating to the common
38 elements and shared components. The obligation to pay these
39 expenses binds you and every future owner of the property.
40 Owners' fees are usually assessed for these expenses
41 monthly. You have to pay dues whether or not you agree with
42 the way the association or the hotel unit owner is managing
43 the property or spending the assessments or charges. The
44 hotel unit owner executive board of the association may have
45 the power to change and increase the amount of the



1 assessment or charges and to levy special assessments or
2 special charges against your property to meet extraordinary
3 expenses.

4 4. IF YOU FAIL TO PAY OWNERS' ASSESSMENTS
5 OR CHARGES, YOU COULD LOSE YOUR HOME?

6 If you do not pay these assessments or charges when due, the
7 hotel unit owner or the association usually has the power to
8 collect them by selling your property in a nonjudicial
9 foreclosure sale. If fees become delinquent, you may also be
10 required to pay penalties and the association's or hotel unit
11 owner's costs, as applicable, and attorney's fees to become
12 current. If you dispute the obligation or its amount, your only
13 remedy to avoid the loss of your home may be to file a
14 lawsuit and ask a court to intervene in the dispute.

15 5. YOU MAY BECOME A MEMBER OF A
16 HOMEOWNERS' ASSOCIATION THAT HAS THE
17 POWER TO AFFECT HOW YOU USE AND ENJOY
18 YOUR PROPERTY?

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

36 Homeowners' associations operate on democratic principles.
37 Some decisions require all homeowners to vote, some
38 decisions are made by the executive board or other boards or
39 committees established by the association or governing
40 documents. Although the actions of the association and its
41 executive board are governed by state laws, the CC&Rs and
42 other documents that govern the condominium hotel,
43 decisions made by these persons will affect your use and
44 enjoyment of your property, your lifestyle and freedom of
45 choice, and your cost of living in the condominium hotel.



1 You may not agree with decisions made by the association or
2 its governing bodies even though the decisions are ones
3 which the association is authorized to make. Decisions may
4 be made by a few persons on the executive board or
5 governing bodies that do not necessarily reflect the view of
6 the majority of residential unit in the condominium hotel. If
7 you do not agree with decisions made by the association, its
8 executive board or other governing bodies, your remedy is
9 typically to attempt to use the democratic processes of the
10 association to seek the election of members of the executive
11 board or other governing bodies that are more responsive to
12 your needs. If you have a dispute with the association, its
13 executive board or other governing bodies, you may be able
14 to resolve the dispute through the complaint, investigation
15 and intervention process administered by the Office of the
16 Ombudsman for Owners in Common-Interest Communities
17 and Condominium Hotels, the Nevada Real Estate Division
18 and the Commission for Common-Interest Communities and
19 Condominium Hotels. However, to resolve some disputes,
20 you may have to mediate or arbitrate the dispute and, if
21 mediation or arbitration is unsuccessful, you may have to file
22 a lawsuit and ask a court to resolve the dispute. In addition to
23 your personal cost in mediation or arbitration, or to prosecute
24 a lawsuit, you may be responsible for paying your share of
25 the association's cost in defending against your claim.

26 **6. YOU ARE REQUIRED TO PROVIDE**
27 **PROSPECTIVE PURCHASERS OF YOUR PROPERTY**
28 **WITH INFORMATION ABOUT LIVING IN YOUR**
29 **CONDOMINIUM HOTEL?**

30 The law requires you to provide a prospective purchaser of
31 your property with a copy of the condominium hotel's
32 governing documents, including the CC&Rs, association
33 bylaws, and rules and regulations, as well as a copy of this
34 document. You are also required to provide a copy of the
35 association's current year-to-date financial statement,
36 including, without limitation, the most recent audited or
37 reviewed financial statement, a copy of the association's
38 operating budget and information regarding the amount of the
39 monthly assessment for common expenses, including the
40 amount set aside as reserves for the repair, replacement and
41 restoration of common elements. You are also required to
42 provide a copy of the current year-to-date statement of the
43 shared expenses charged to your unit by the declarant or hotel
44 unit owner, as applicable. You are also required to inform
45 prospective purchasers of any outstanding judgments or



1 lawsuits pending against the association of which you are
2 aware. For more information regarding these requirements,
3 see NRS 116B.725 to 116B.795, inclusive.

4 7. YOU HAVE CERTAIN RIGHTS REGARDING
5 OWNERSHIP IN A CONDOMINIUM HOTEL THAT ARE
6 GUARANTEED YOU BY THE STATE?

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

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

10 (b) To attend and speak at all meetings of the association
11 and its executive board, except in some cases where the
12 executive board is authorized to meet in closed, executive
13 session.

14 (c) To request a special meeting of the association.

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

17 (e) To be notified of all changes in the condominium
18 hotel's rules and regulations and other actions by the
19 association or board that affect you.

20 8. QUESTIONS?

21 Although they may be voluminous, you should take the time
22 to read and understand the documents that will control your
23 ownership of a property in a condominium hotel. You may
24 wish to ask your real estate professional, lawyer or other
25 person with experience to explain anything you do not
26 understand. You may also request assistance from the Office
27 of the Ombudsman for Owners in Common-Interest
28 Communities and Condominium Hotels, ~~Nevada Real Estate~~
29 ~~Division,~~ *Office of the Attorney General*, at (telephone
30 number).

31
32 Buyer or prospective buyer's initials: _____

33 Date: _____

34 **Sec. 12.** NRS 116B.800 is hereby amended to read as follows:

35 116B.800 ~~The~~ *Except as otherwise provided in section 1 of*
36 *this act, the* Commission for Common-Interest Communities and
37 Condominium Hotels created by NRS 116.600, the Division and the
38 Director of the Department of Business and Industry have
39 jurisdiction over the enforcement of this chapter as set forth herein.

40 **Sec. 13.** NRS 116B.805 is hereby amended to read as follows:

41 116B.805 1. ~~The~~ *Except as otherwise provided in section 1*
42 *of this act, the* provisions of this chapter must be administered by
43 the Division, subject to the administrative supervision of the
44 Director of the Department of Business and Industry.



1 2. The Commission and the Division may do all things
2 necessary and convenient to carry out the provisions of this chapter,
3 including, without limitation, prescribing such forms and adopting
4 such procedures as are necessary to carry out the provisions of this
5 chapter.

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

9 4. The Commission may by regulation delegate any authority
10 conferred upon it by the provisions of this chapter to the
11 Administrator to be exercised pursuant to the regulations adopted by
12 the Commission.

13 5. When regulations are proposed by the Administrator, in
14 addition to other notices required by law, the Administrator shall
15 provide copies of the proposed regulations to the Commission not
16 later than 30 days before the next meeting of the Commission. The
17 Commission shall approve, amend or disapprove any proposed
18 regulations at that meeting.

19 6. All regulations adopted by the Commission, or adopted by
20 the Administrator with the approval of the Commission, must be
21 published by the Division, posted on its website and offered for sale
22 at a reasonable fee.

23 **Sec. 14.** NRS 116B.820 is hereby amended to read as follows:

24 116B.820 The Commission and its members, each hearing
25 panel and its members, the Administrator, the *Ombudsman, the*
26 *Office of the* Ombudsman, the Division, and the experts, attorneys,
27 investigators, consultants and other personnel of the Commission ,
28 *the Office of the Ombudsman* and the Division are immune from
29 any civil liability for any decision or action taken in good faith and
30 without malicious intent in carrying out the provisions of this
31 chapter.

32 **Sec. 15.** NRS 116B.870 is hereby amended to read as follows:

33 116B.870 1. In carrying out the provisions of NRS 116B.870
34 to 116B.920, inclusive, the Division and the *Office of the*
35 Ombudsman have jurisdiction to investigate and the Commission
36 and each hearing panel has jurisdiction to take appropriate action
37 against any person who commits a violation, including, without
38 limitation:

39 (a) Any association and any officer, employee or agent of an
40 association.

41 (b) Any member of an executive board.

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

43 (d) Any unit's owner.

44 (e) Any tenant of a unit's owner if the tenant has entered into an
45 agreement with the unit's owner to abide by the governing



1 documents of the association and the provisions of this chapter and
2 any regulations adopted pursuant thereto.

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

6 (a) Currently holds his or her office, employment, agency or
7 position or who held his or her office, employment, agency or
8 position at the commencement of proceedings against him or her.

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

10 (1) After the commencement of proceedings against him or
11 her; or

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

14 **Sec. 16.** 1. Any claim or complaint submitted to or being
15 processed by the Office of the Ombudsman for Owners in Common-
16 Interest Communities and Condominium Hotels within the Real
17 Estate Division of the Department of Business and Industry before
18 July 1, 2017, shall be deemed to be the responsibility of the Office
19 of the Ombudsman for Owners in Common-Interest Communities
20 and Condominium Hotels within the Office of the Attorney General.

21 2. Any person who, on July 1, 2017, is serving as the
22 Ombudsman for Owners in Common-Interest Communities and
23 Condominium Hotels may, if he or she is otherwise qualified on that
24 date, continue to serve in that capacity until his or her successor is
25 appointed pursuant to NRS 116.625, as amended by section 5 of this
26 act.

27 **Sec. 17.** This act becomes effective:

28 1. Upon passage and approval for the purpose of adopting any
29 regulations and performing any preparatory administrative tasks
30 necessary to carry out the provisions of this act; and

31 2. On July 1, 2017, for all other purposes.



