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GENERAL PROVISIONS

NAC 116.010 Definitions. ([NRS 116.615](#)) As used in this chapter, unless the context otherwise requires, the words and terms defined in [NAC 116.013](#) to [116.080](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Real Estate Comm'n by R058-98, 6-26-98, eff. 7-1-98; A by R136-99, 4-3-2000; A by Comm'n for Common-Interest Communities by R129-04, 4-14-2005; R205-05, 9-18-2006; A by Comm'n for Common-Interest Communities & Condo. Hotels by R165-09, 12-16-2010)

NAC 116.013 "Administrator" defined. ([NRS 116.615](#)) "Administrator" means the Real Estate Administrator.

(Added to NAC by Real Estate Comm'n by R136-99, eff. 4-3-2000; A by Comm'n for Common-Interest Communities by R129-04, 4-14-2005)

NAC 116.020 "Certificate" defined. ([NRS 116.615](#)) "Certificate" means a certificate, other than a temporary certificate, for the management of a common-interest community issued by the Division.

(Added to NAC by Real Estate Comm'n by R058-98, 6-26-98, eff. 7-1-98; A by Comm'n for Common-Interest Communities by R129-04, 4-14-2005; A by Comm'n for Common-Interest Communities & Condo. Hotels by R165-09, 12-16-2010)

NAC 116.025 “Client” defined. ([NRS 116.615](#)) “Client” means an executive board that has entered into a management agreement with a community manager.

(Added to NAC by Real Estate Comm’n by R136-99, eff. 4-3-2000; A by Comm’n for Common-Interest Communities by R129-04, 4-14-2005)

NAC 116.030 “Commission” defined. ([NRS 116.615](#)) “Commission” means the Commission for Common-Interest Communities and Condominium Hotels created by [NRS 116.600](#).

(Added to NAC by Real Estate Comm’n by R058-98, 6-26-98, eff. 7-1-98; A by Comm’n for Common-Interest Communities by R129-04, 4-14-2005)

NAC 116.033 “Common elements” defined. ([NRS 116.615](#)) “Common elements” means the common elements of a common-interest community.

(Added to NAC by Comm’n for Common-Interest Communities by R129-04, eff. 4-14-2005)

NAC 116.035 “Community manager” defined. ([NRS 116.615](#)) “Community manager” means a person who holds a certificate or temporary certificate and who provides for or otherwise engages in the management of a common-interest community.

(Added to NAC by Real Estate Comm’n by R136-99, eff. 4-3-2000; A by Comm’n for Common-Interest Communities by R129-04, 4-14-2005; R205-05, 9-18-2006; A by Comm’n for Common-Interest Communities & Condo. Hotels by R165-09, 12-16-2010)

NAC 116.037 “Component inventory” defined. ([NRS 116.615](#)) “Component inventory” means a list of major components of the common elements identified in a reserve study that may require repair, replacement or restoration.

(Added to NAC by Comm’n for Common-Interest Communities by R129-04, eff. 4-14-2005)

NAC 116.040 “Division” defined. ([NRS 116.615](#)) “Division” means the Real Estate Division of the Department of Business and Industry.

(Added to NAC by Real Estate Comm’n by R058-98, 6-26-98, eff. 7-1-98)

NAC 116.043 “Executive board” defined. ([NRS 116.615](#)) “Executive board” has the meaning ascribed to it in [NRS 116.045](#).

(Added to NAC by Real Estate Comm’n by R136-99, eff. 4-3-2000; A by Comm’n for Common-Interest Communities by R129-04, 4-14-2005)

NAC 116.0433 “Financial records” defined. ([NRS 116.615](#)) “Financial records” means the financial or transaction records necessary to support the financial statements of an association which include, without limitation, receipts, bank statements, income tax reports, reserve studies, budgets, contracts, minutes of executive board meetings, inventories, investments, expenses, disbursements, obligations, depreciation in property or equipment, contingent liabilities and any other records deemed necessary by the Division or by the accountants or auditors of an association.

(Added to NAC by Comm’n for Common-Interest Communities by R205-05, eff. 9-18-2006)

NAC 116.0437 “Guide” defined. ([NRS 116.615](#)) “Guide” means the *Guide to Homeowners’ Associations and Other Common Interest Realty Associations*, as adopted by reference in [NAC 116.410](#).

(Added to NAC by Comm’n for Common-Interest Communities by R205-05, eff. 9-18-2006; A by Comm’n for Common-Interest Communities & Condo. Hotels by R186-07, 5-5-2011)

NAC 116.046 “Major components” defined. ([NRS 116.615](#)) “Major components” means the major components of the common elements, whether real or personal property, which the association is responsible for repairing, replacing or restoring, including, without limitation, amenities, improvements, furnishings, fixtures, finishes, systems and equipment.

(Added to NAC by Comm’n for Common-Interest Communities by R129-04, eff. 4-14-2005)

NAC 116.047 “Management agreement” defined. ([NRS 116.615](#)) “Management agreement” means an agreement for the management of a common-interest community.

(Added to NAC by Real Estate Comm’n by R136-99, eff. 4-3-2000; A by Comm’n for Common-Interest Communities by R129-04, 4-14-2005)

NAC 116.050 “Management of a common-interest community” defined. ([NRS 116.615](#)) “Management of a common-interest community” means the physical, administrative or financial maintenance and management of a common-interest community, or the supervision of those activities, for a fee, commission or other valuable consideration.

(Added to NAC by Real Estate Comm’n by R058-98, 6-26-98, eff. 7-1-98; A by Comm’n for Common-Interest Communities by R129-04, 4-14-2005)

NAC 116.065 “Provisional community manager” defined. ([NRS 116.615](#)) “Provisional community manager” means a person who has fulfilled the educational requirements for certification as set forth in [NAC 116A.120](#) but has not yet fulfilled the experience requirements for certification as set forth in [NAC 116A.155](#). A provisional community manager may perform the tasks of a community manager under the supervision of a supervising community manager.

(Added to NAC by Comm’n for Common-Interest Communities by R129-04, eff. 4-14-2005; A by R205-05, 9-18-2006)

NAC 116.070 “Reserve study” defined. ([NRS 116.615](#)) “Reserve study” means the study required pursuant to [NRS 116.31152](#).

(Added to NAC by Comm’n for Common-Interest Communities by R129-04, eff. 4-14-2005)

NAC 116.075 “Supervising community manager” defined. ([NRS 116.615](#)) “Supervising community manager” means a community manager who:

1. Meets the qualifications set forth in [NAC 116A.165](#); and
2. Is responsible for the supervision of one or more provisional community managers or community managers.

(Added to NAC by Comm’n for Common-Interest Communities by R129-04, eff. 4-14-2005; A by R205-05, 9-18-2006)

NAC 116.078 “Temporary certificate” defined. ([NRS 116.615](#)) “Temporary certificate” means a certificate which is:

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

(Added to NAC by Comm’n for Common-Interest Communities& Condo. Hotels by R165-09, eff. 12-16-2010)

NAC 116.080 “Unit’s owner” defined. ([NRS 116.615](#)) “Unit’s owner” has the meaning ascribed to it in [NRS 116.095](#).

(Added to NAC by Comm'n for Common-Interest Communities by R205-05, eff. 9-18-2006)

NAC 116.090 "Limited-purpose association" interpreted. ([NRS 116.1201](#), [116.615](#))

1. An association is a limited-purpose association pursuant to subparagraph (1) of paragraph (a) of subsection 6 of [NRS 116.1201](#) if:

(a) The association has been created for the sole purpose of maintaining the common elements consisting of landscaping, public lighting or security walls, or trails, parks and open space;

(b) The declaration states that the association has been created as a landscape maintenance association; and

(c) The declaration expressly prohibits:

(1) The association, and not a unit's owner, from enforcing a use restriction against a unit's owner;

(2) The association from adopting any rules or regulations concerning the enforcement of a use restriction against a unit's owner; and

(3) The imposition of a fine or any other penalty against a unit's owner for a violation of a use restriction.

2. An association is a limited-purpose association pursuant to subparagraph (2) of paragraph (a) of subsection 6 of [NRS 116.1201](#) if the association is created for the sole purpose of maintaining:

(a) Areas on an official plat that are designated as unsuitable for building;

(b) Areas required by the governing body to be designated as floodways, natural drainage or spillways; or

(c) Other areas that the governing body requires to be used for the purpose of collecting, facilitating, retaining or channeling storm water drainage of the residential property of the common-interest community.

3. An association is a limited-purpose association pursuant to subparagraph (3) of paragraph (a) of subsection 6 of [NRS 116.1201](#) if:

(a) The association has been created as a rural agricultural residential common-interest community;

(b) The residential lots in the common-interest community are a minimum of 1 acre and are zoned for agricultural purposes by the county in which the community is located; and

(c) The governing documents of the association authorize the residents to farm or raise livestock on the residential lots.

4. As used in this section:

(a) "Governing body" has the meaning ascribed to it in [NRS 278.015](#).

(b) "Landscaping" has the meaning ascribed to it in [NRS 278.4781](#).

(c) "Public lighting" has the meaning ascribed to it in [NRS 278.4783](#).

(d) "Security wall" has the meaning ascribed to it in [NRS 271.203](#).

(e) "Trails, parks and open space" means trails, parks and open space that provide a substantial public benefit or are required by the governing body for the primary use of the public. The term does not include a private street or roadway, gated entry, swimming pool, gazebo, clubhouse, pond, tennis court, miniature golf course or frisbee golf course.

(f) "Use restriction" means any provision of the governing documents of an association that restricts a unit's owner in the use of his or her unit.

(Added to NAC by Real Estate Div. by R114-99, eff. 5-5-2000; A by Comm'n for Common-Interest Communities by R129-04, 4-14-2005; R205-05, 9-18-2006)

NAC 116.095 Limited-purpose associations: Compliance with certain statutory provisions. ([NRS 116.1201](#), [116.615](#)) A limited-purpose association must comply with all the provisions of [NRS 116.4101](#) to [116.412](#), inclusive.

(Added to NAC by Comm'n for Common-Interest Communities by R205-05, eff. 9-18-2006)

PROTECTION OF PURCHASERS

NAC 116.151 Escrow of deposits: Money deemed to be held in this State. ([NRS 116.411](#), [116.615](#)) For purposes of [NRS 116.411](#), money deposited in an escrow account in connection with the purchase or reservation of a unit from a person required to deliver a public offering statement pursuant to subsection 3 of [NRS 116.4102](#) is deemed to be held in this State if the escrow holder:

1. Is authorized to do business in this State;
2. Has appointed a resident agent pursuant to subsection 1 of [NRS 14.020](#); and
3. Has consented to the jurisdiction of the courts of this State by:
 - (a) Maintaining a physical address in this State; or
 - (b) Executing written consent to such jurisdiction over any lawsuit or claim, whether brought by or against the declarant or purchaser, relating to or arising from the sale of a unit or the related escrow agreement.

(Added to NAC by Comm'n for Common-Interest Communities & Condo. Hotels by R145-06, eff. 4-17-2008)

MANAGEMENT OF COMMON-INTEREST COMMUNITIES

Unit-Owners' Associations

NAC 116.385 Executive board: Submission to Division of contact information for members. ([NRS 116.615](#), [116.625](#))

1. An executive board shall provide to the Division the names, mailing addresses and telephone numbers of the members of the executive board in accordance with [NRS 116.625](#). The information required pursuant to this subsection must be kept confidential by the Division and may only be used by the Division for purposes of notifying a member of the executive board of any action or proceeding involving the association.

2. The executive board shall:

- (a) Indicate on a form prescribed by the Division any change in the contact information of a member of the executive board; and
- (b) Submit the form to the Division within 30 days of any such change.

(Added to NAC by Comm'n for Common-Interest Communities & Condo. Hotels by R108-08, eff. 4-20-2010)

NAC 116.395 Executive board: Fiduciary duty with respect to institutions holding money of association. ([NRS 116.3103](#), [116.615](#)) The executive board has a fiduciary duty to ensure that any institution which holds money of the association:

1. Is authorized to do business in the State of Nevada; or
2. Has consented to the jurisdiction of the courts of this State.

(Added by Comm'n for Common-Interest Communities & Condo. Hotels by R145-06, eff. 4-17-2008)

NAC 116.405 Executive board: Determination by Commission of whether members have performed their duties. ([NRS 116.3103](#), [116.615](#)) In determining whether a member of the executive board has performed his or her duties pursuant to [NRS 116.3103](#), the Commission may consider whether the member of the executive board has:

1. Acted outside the scope of the authority granted in the governing documents;
2. Acted for reasons of self-interest, gain, prejudice or revenge;
3. Committed an act or omission which amounts to incompetence, negligence or gross negligence;

4. Except as otherwise required by law or court order, disclosed confidential information relating to a unit's owner, a member of the executive board or an officer, employee or authorized agent of the association unless the disclosure is consented to by the person to whom the information relates;
 5. Impeded or otherwise interfered with an investigation of the Division by:
 - (a) Failing to comply with a request by the Division to provide information or documents;
 - (b) Supplying false or misleading information to an investigator, auditor or any other officer or agent of the Division; or
 - (c) Concealing any facts or documents relating to the business of the association;
 6. Kept informed of laws, regulations and developments relating to common-interest communities;
 7. Cooperated with the Division in resolving complaints filed with the Division; and
 8. Caused the association to:
 - (a) Comply with all applicable federal, state and local laws and regulations and the governing documents of the association;
 - (b) Uniformly enforce the governing documents of the association;
 - (c) Hold meetings of the executive board with such frequency as to properly and efficiently address the affairs of the association;
 - (d) Obtain, when practicable, at least three bids from reputable service providers who possess the proper licensing before purchasing any such service for use by the association;
 - (e) Consult with appropriate professionals as necessary before making any major decision affecting the association or the common elements;
 - (f) Deposit all funds of the association for investment in government securities that are backed by the full faith and credit of the United States or in a financial institution whose accounts are insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund, the Securities Investor Protection Corporation or a private insurer approved pursuant to [NRS 678.755](#);
 - (g) Maintain current, accurate and properly documented financial records;
 - (h) Establish policies and procedures for the disclosure of potential conflicts of interest and the appropriate manner by which to resolve such conflicts;
 - (i) Establish policies and procedures that are designed to provide reasonable assurances in the reliability of financial reporting, including, without limitation, proper maintenance of accounting records, documentation of the authorization for receipts and disbursements, verification of the integrity of the data used in making business decisions, facilitation of fraud detection and prevention, and compliance with the applicable laws and regulations governing financial records;
 - (j) Prepare interim and annual financial statements that will allow the Division, the executive board, the units' owners and the accountant or auditor to determine whether the financial position of the association is fairly presented in accordance with the provisions of [NAC 116.451](#) to [116.461](#), inclusive;
 - (k) Make the financial records of the association available for inspection by the Division in accordance with the applicable laws and regulations of this State;
 - (l) Cooperate with the Division in resolving complaints filed with the Division; and
 - (m) Adopt and fairly enforce the collection policies of the association.
- (Added to NAC by Comm'n for Common-Interest Communities by R129-04, eff. 4-14-2005; A by Comm'n for Common-Interest Communities & Condo. Hotels by R108-08, 4-20-2010)

NAC 116.410 Adoption by reference of reporting principles and practices of financial accounting.
([NRS 116.615](#))

1. For purposes of providing recommended reporting principles and practices of financial accounting for common-interest communities, the Commission hereby adopts by reference the *Guide to Homeowners' Associations and Other Common Interest Realty Associations*. A copy of the publication may be obtained for the price of \$222 from Practitioners Publishing Company, P.O. Box 966, Fort Worth,

TX 76101-0966, by telephone at (800) 431-9025 or at the Internet address <http://ppc.thomson.com/SiteComposer2/Index.cfm?numProdClassID=201&txtFuse=dspShellProductDetail&numSiteID=2&numTaxonomyTypeID=29&numTaxonomyID=232>.

2. If the publication adopted by reference in subsection 1 is revised, the Commission will review the revision to determine its suitability for this State. If the Commission determines that the revision is not suitable for this State, the Commission will hold a public hearing to review its determination and give notice of that hearing within 90 days after the date of the publication of the revision. If, after the hearing, the Commission does not revise its determination, the Commission will give notice that the revision is not suitable for this State within 90 days after the hearing. If the Commission does not give such notice, the revision becomes part of the publication adopted by reference pursuant to subsection 1.

(Added to NAC by Comm'n for Common-Interest Communities by R129-04, eff. 4-14-2005; A by Comm'n for Common-Interest Communities & Condo. Hotels by R186-07, 5-5-2011)

NAC 116.415 Contents of budget to maintain reserve. ([NRS 116.31151](#), [116.615](#)) An executive board shall, in addition to the requirements set forth in paragraph (b) of subsection 1 of [NRS 116.31151](#), include in the budget to maintain the reserve:

1. An estimate of the amount of reserve funds necessary in the projected fiscal year, based on comparative bids or industry standards, to complete the repairs, replacement or restoration of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore as recommended in the study of reserves conducted pursuant to [NRS 116.31152](#); and

2. If the projected balance of the reserve account at the end of the budgeted fiscal year is less than the amount required to adequately fund the reserves on a reasonable basis at the end of the budgeted fiscal year, as determined by the study of reserves conducted pursuant to [NRS 116.31152](#):

(a) The reason for the difference; and

(b) How this difference is proposed to be resolved by the executive board.

(Added to NAC by Comm'n for Common-Interest Communities by R129-04, eff. 4-14-2005; A by Comm'n for Common-Interest Communities & Condo. Hotels by R135-09, 8-13-2010)

NAC 116.425 Reserve study: Contents. ([NRS 116.31152](#), [116.615](#))

1. A reserve study must, in addition to the requirements set forth in [NRS 116.31152](#), include:

(a) A copy of the component inventory from the previous reserve study if such copy was provided by the executive board to the person conducting the reserve study;

(b) A 30-year schedule which shows:

(1) The projected increase in assessments that will be required in any given year to provide an adequately funded reserve;

(2) The projected inflation and estimated interest income from the reserve fund; and

(3) The projected ending balance of the reserve fund;

(c) The names and credentials of any consultants and other persons with expertise used to assist in the preparation of the reserve study;

(d) Any written reports prepared by consultants and other persons with expertise;

(e) If there are any conflicting recommendations of the consultants or other persons with expertise while preparing the reserve study, a written explanation as to which recommendations are selected and the reasons for their selection;

(f) The number of units in the association;

(g) A general statement describing the current status of the reserve fund;

- (h) A general statement describing the objectives of the reserve study and the methods used in computing and evaluating the current status of the reserve fund;
- (i) A statement of the beginning and the end of the fiscal year for which the reserve study is prepared;
- (j) A projection of the initial balance of the reserve fund;
- (k) A general statement describing the development or computation of the initial balance of the reserve fund;
- (l) A tabular statement showing the remaining useful life of each major component of the common elements from the time of each component's initial installation;
- (m) A general statement prepared in accordance with generally accepted accounting principles describing the objectives of the funding plan that is designed to allocate the costs for the repair, replacement and restoration of the major components of the common elements and the methods used in carrying out the funding plan, and discussing, where applicable:
 - (1) Cash flow;
 - (2) Full funding;
 - (3) Threshold funding; and
 - (4) Baseline funding;
- (n) A statement identifying the sources relied upon to obtain an estimate for the cost to repair, replace or restore a major component of the common elements;
- (o) A detailed description of the type of reserve study that was performed and the level of service accorded to the reserve study, including whether the reserve study was:
 - (1) A full reserve study;
 - (2) An update to a previous reserve study made pursuant to a visit to the site of the common-interest community; or
 - (3) An update to a previous reserve study made without a visit to the site of the common-interest community;
- (p) The disclosures set forth in [NAC 116.430](#); and
- (q) A statement, prominently displayed, which reads substantially as follows:

The projected life expectancy of the major components and the funding needs of the reserves of the association are based upon the association performing appropriate routine and preventative maintenance for each major component. Failure to perform such maintenance can negatively impact the remaining useful life of the major components and dramatically increase the funding needs of the reserves of the association.

2. As used in this section, "adequately funded reserve" means the funds sufficient to maintain the common elements:

- (a) At the level described in the governing documents and in a reserve study; and
- (b) Without using the funds from the operating budget or without special assessments, except for occurrences that are a result of unforeseen catastrophic events.

(Added to NAC by Comm'n for Common-Interest Communities by R129-04, eff. 4-14-2005; A by Comm'n for Common-Interest Communities & Condo. Hotels by R145-06, 4-17-2008)

NAC 116.430 Reserve study: Required disclosures. ([NRS 116.31152](#), [116.615](#)) A person conducting a reserve study and any consultant assisting in the preparation of a reserve study shall include in the reserve study the following disclosures:

1. The background, training, qualifications and references that would qualify the person conducting or assisting in the preparation of the reserve study as competent to conduct or assist in the preparation of the reserve study.
2. Any relationship which could result in actual or perceived conflicts of interest.
3. Whether the person conducting or assisting in the preparation of the reserve study is bonded or has professional liability insurance.
4. The method for determining the common area components based on:
 - (a) An actual field inspection of the common elements with representative sampling;
 - (b) An inventory and material information provided by the client; or
 - (c) A previous reserve study and the date of that study.
5. Industry sources used for determining:
 - (a) The life of a major component; and
 - (b) The cost of repairing, replacing or restoring a major component.
6. Any guarantees, express or implied, that are given with the predictions for the cost or life expectancy of any of the major components.
7. The source of the information regarding the initial reserve fund balance presented in the reserve study.
8. Whether a special assessment is anticipated during the time of the contracted reserve study.
9. A statement, prominently displayed, which reads substantially as follows:

Information provided to the preparer of a reserve study by an official representative of the association regarding financial, historical, physical, quantitative or reserve project issues will be deemed reliable by the preparer. A reserve study will be a reflection of information provided to the preparer of the reserve study. The total of actual or projected reserves required as presented in the reserve study is based upon information provided that was not audited.

A reserve study is not intended to be used to perform an audit, an analysis of quality, a forensic study or a background check of historical records. An on-site inspection conducted in conjunction with a reserve study should not be deemed to be a project audit or quality inspection.

10. Material issues which, if not disclosed, would cause the condition of the association to be misrepresented.
11. For updated reserve studies, a statement, prominently displayed, which reads substantially as follows:

Quantities of major components as reported in previous reserve studies are deemed to be accurate and reliable. The reserve study relies upon the validity of previous reserve studies.

(Added to NAC by Comm'n for Common-Interest Communities by R129-04, eff. 4-14-2005; A by Comm'n for Common-Interest Communities & Condo. Hotels by R145-06, 4-17-2008)

NAC 116.435 Reserve study: Dissemination of summary of results. ([NRS 116.31152](#), [116.615](#))
An executive board shall submit a summary of the results of the reserve study to the Commission pursuant to subsection 4 of [NRS 116.31152](#) by filing, electronically if possible, on a form prescribed by the Division, the summary of the results of the reserve study with the Division. The Division may post the summary of the results of the reserve studies filed with the Division on its website.

(Added to NAC by Comm'n for Common-Interest Communities by R129-04, eff. 4-14-2005)

NAC 116.440 Availability of records of association: “Regular working hours” interpreted. ([NRS 116.31175](#), [116.615](#)) As used in [NRS 116.31175](#), “regular working hours” means a period of at least 4 consecutive hours per week.

(Added to NAC by Comm’n for Common-Interest Communities by R129-04, eff. 4-14-2005)

NAC 116.445 Annual fee required from certain associations for deposit in Account for Common-Interest Communities and Condominium Hotels. ([NRS 116.31155](#)) The amount of the fee that an association is required to pay pursuant to [NRS 116.31155](#) is \$3 for each unit in the association.

(Added to NAC by Real Estate Div. by R066-98, eff. 6-26-98)—(Substituted in revision for NAC 116.250)

NAC 116.448 Delivery by declarant of audited financial statements: Satisfaction of obligation. ([NRS 116.31038](#), [116.615](#)) The obligation of a declarant to deliver the audited financial statements pursuant to subsection 2 of [NRS 116.31038](#) may be satisfied by the declarant if, within 30 days after units’ owners other than the declarant may elect a majority of the members of the executive board, the declarant delivers to the association:

1. All financial records of the association;
2. All records relating to audits that were completed during the period of the declarant’s control, including, without limitation, applicable signed audit management and representation letters; and
3. Payment for the cost of the required ancillary audit for the ancillary period from the date of the last audit of the association to the date the period of the declarant’s control ends, as required by subsection 2 of [NRS 116.31038](#). The ancillary audit representation letter for the period described in this subsection must be signed by the declarant.

(Added to NAC by Comm’n for Common-Interest Communities& Condo. Hotels by R108-08, eff. 4-20-2010)

NAC 116.451 Preparation, contents and distribution of interim financial statements. ([NRS 116.31142](#), [116.615](#)) The interim financial statements of an association may be prepared using fund accounting or a single-column presentation and must:

1. Include, at a minimum, a month-to-date and year-to-date presentation of:
 - (a) The balance sheet, including operating and reserve for future repairs and replacement assets, liabilities and fund balances or members’ equity if a single-column format is used;
 - (b) The statement of revenues and expenses for all operating and reserve activities, presenting information about all assessments, revenues and expenses;
 - (c) A schedule comparing the details of the actual expenses of the association with the expenses budgeted for the association;
 - (d) Any changes in the fund balances to be presented on the statement of revenues and expenses if fund accounting is used; and
 - (e) A footnote which states that the association is in compliance with paragraph (b) of subsection 2 of [NRS 116.3115](#) and that reserve funds have not been used for daily maintenance.
2. Be prepared on a full accrual basis.
3. Be prepared by, or the preparation of the interim financial statements must be supervised by, a person with accounting knowledge and experience in the preparation of financial statements.
4. Be distributed monthly, promptly upon completion, to the treasurer of the association, the community manager and each member of the executive board.

(Added to NAC by Comm’n for Common-Interest Communities by R205-05, eff. 9-18-2006)

NAC 116.453 Presentation and contents of interim financial statements subject to audit or review. ([NRS 116.31142](#), [116.31144](#), [116.615](#)) The financial statements of an association subject to an audit or review must be presented using fund accounting and must include, at a minimum:

1. An operating fund which reflects the accounting transactions surrounding the normal maintenance and service operations of the association; and
2. A reserve fund which reflects the accounting transactions pertaining to the long-term, major repair and replacement requirements of the association and the restrictions of its use as described in paragraph (b) of subsection 2 of [NRS 116.3115](#).

(Added to NAC by Comm'n for Common-Interest Communities by R205-05, eff. 9-18-2006)

REVISER'S NOTE.

The regulation of the Commission for Common-Interest Communities (now the Commission for Common-Interest Communities and Condominium Hotels) filed with the Secretary of State on September 18, 2006 (LCB File No. R205-05), the source of this section, contains the following provisions not included in NAC:

"1. If an association has not previously caused the financial statements of the association to be audited on an annual basis, the association must cause the financial statements of the association to be audited pursuant to [NRS 116.31144](#) for the first fiscal year that begins on or after July 1, 2006.

2. If an association which is required to cause the financial statements of the association to be audited at least once every 4 years pursuant to [NRS 116.31144](#) has caused the financial statements of the association to be audited for the fiscal year immediately preceding the first fiscal year that begins on or after July 1, 2006, the association is not required to cause the financial statements of the association to be audited for another 4 years."

NAC 116.457 Preparation, contents and availability of audited financial statements; qualifications of auditor. ([NRS 116.31142](#), [116.31144](#), [116.615](#))

1. The audited financial statement of an association must:

(a) Include a full presentation of accrual-basis accounting prepared in accordance with generally accepted accounting principles which includes, at a minimum:

(1) A balance sheet for the operating fund and reserve fund, presenting assets, liabilities and fund balances;

(2) A statement of revenues and expenses for the operating fund and reserve fund which presents information about all assessments, revenues and expenses;

(3) A statement of changes in fund balances which reconciles beginning and ending fund balances with results of operations;

(4) A statement of cash flows;

(5) Any note disclosures as required by the *Guide*; and

(6) The following unaudited supplementary information:

(I) Any reserve disclosures as required by the *Guide* and [NRS 116.31152](#); and

(II) An accompanying schedule which compares details of the actual expenses of the association to the budgeted amounts of the association.

(b) Be prepared and completed not later than 210 days after the end of the fiscal year for the association.

(c) Be made available to the Division not later than 30 days after requested by the Division.

(d) Include on the annual registration form with the Division the following information:

(1) The amount of budgeted revenues;

(2) Whether the financial statements were audited or reviewed and, if so, the date on which the audit or review of the financial statements was completed; and

(3) Whether the audit opinion is qualified or unqualified or whether the review report is modified or unmodified.

2. An auditor performing the annual audit for an association must:

(a) Be a certified public accountant licensed pursuant to [chapter 628](#) of NRS.

(b) Be independent of the association as set forth in the *Guide*.

(Added to NAC by Comm'n for Common-Interest Communities by R205-05, eff. 9-18-2006; A by Comm'n for Common-Interest Communities & Condo. Hotels by R186-07, 5-5-2011)

REVISER'S NOTE.

The regulation of the Commission for Common-Interest Communities (now the Commission for Common-Interest Communities and Condominium Hotels) filed with the Secretary of State on September 18, 2006 (LCB File No. R205-05), the source of this section, contains the following provisions not included in NAC:

"1. If an association has not previously caused the financial statements of the association to be audited on an annual basis, the association must cause the financial statements of the association to be audited pursuant to [NRS 116.31144](#) for the first fiscal year that begins on or after July 1, 2006.

2. If an association which is required to cause the financial statements of the association to be audited at least once every 4 years pursuant to [NRS 116.31144](#) has caused the financial statements of the association to be audited for the fiscal year immediately preceding the first fiscal year that begins on or after July 1, 2006, the association is not required to cause the financial statements of the association to be audited for another 4 years."

NAC 116.459 Inclusion of additional funds in financial statements. ([NRS 116.31142](#), [116.31144](#), [116.615](#)) The financial statements of an association described in [NAC 116.451](#), [116.453](#) and [116.457](#) may provide for such other funds as the association deems appropriate to report the transactions of separate business activities, special assessments and contingency or other restricted funds.

(Added to NAC by Comm'n for Common-Interest Communities by R205-05, eff. 9-18-2006)

NAC 116.461 Review of financial statements; qualifications of auditor. ([NRS 116.31142](#), [116.31144](#), [116.615](#))

1. The review of the financial statements of an association must be performed in accordance with the *Guide*. The financial statements must include a full presentation of accrual-basis accounting prepared pursuant to subsection 1 of [NAC 116.457](#). The supplementary information may be compiled or reviewed.

2. An auditor performing the annual review for an association must:

(a) Be a certified public accountant licensed pursuant to [chapter 628](#) of NRS.

(b) Be independent of the association as set forth in the *Guide*.

(Added to NAC by Comm'n for Common-Interest Communities by R205-05, eff. 9-18-2006; A by Comm'n for Common-Interest Communities & Condo. Hotels by R186-07, 5-5-2011)

NAC 116.465 Fees for preparation of certificate for resale of unit. ([NRS 116.4109](#), [116.615](#))

1. Except as otherwise provided in subsection 2, an association may not charge more than \$160 for preparing the certificate furnished pursuant to [NRS 116.4109](#).

2. If a unit's owner or an authorized agent thereof requests that the certificate be furnished sooner than 3 business days after the date of the request, the association may charge a fee not to exceed \$125 to expedite the preparation of the certificate.

3. Nothing in this section is to be construed to prohibit an association from requiring a fee for any other copy, form or service.

(Added to NAC by Comm'n for Common-Interest Communities by R205-05, eff. 9-18-2006)

NAC 116.470 Fees and costs for collection of past due obligations of unit's owner. ([NRS 116.310313](#), [116.615](#))

1. Except as otherwise provided in subsection 5, to cover the costs of collecting any past due obligation of a unit's owner, an association or a person acting on behalf of an association to collect a past due obligation of a unit's owner may not charge the unit's owner fees in connection with a notice of delinquent assessment pursuant to paragraph (a) of subsection 1 of [NRS 116.31162](#) which exceed a total of \$1,950, plus the costs and fees described in subsections 3 and 4.

2. An association or a person acting on behalf of an association to collect a past due obligation of a unit's owner may not charge the unit's owner fees in connection with a notice of delinquent assessment pursuant to paragraph (a) of subsection 1 of [NRS 116.31162](#) which exceed the following amounts:

(a) Demand or intent to lien letter.....	\$150
(b) Notice of delinquent assessment lien.....	325
(c) Intent to notice of default letter.....	90
(d) Notice of default.....	400
(e) Intent to notice of sale letter.....	90
(f) Notice of sale.....	275
(g) Intent to conduct foreclosure sale.....	25
(h) Conduct foreclosure sale.....	125
(i) Prepare and record transfer deed.....	125
(j) Payment plan agreement - One-time set-up fee.....	30
(k) Payment plan breach letter.....	25
(l) Release of notice of delinquent assessment lien.....	30
(m) Notice of rescission fee.....	30
(n) Bankruptcy package preparation and monitoring.....	100
(o) Mailing fee per piece for demand or intent to lien letter, notice of delinquent assessment lien, notice of default and notice of sale.....	2
(p) Insufficient funds fee.....	20
(q) Escrow payoff demand fee.....	150
(r) Substitution of agent document fee.....	25
(s) Postponement fee.....	75
(t) Foreclosure fee.....	150

3. If, in connection with an activity described in subsection 2, any costs are charged to an association or a person acting on behalf of an association to collect a past due obligation by a person who is not an officer, director, agent or affiliate of the community manager of the association or of an agent of the association, including, without limitation, the cost of a trustee's sale guarantee and other title costs, recording costs, posting and publishing costs, sale costs, mailing costs, express delivery costs and skip trace fees, the association or person acting on behalf of an association may recover from the unit's owner the actual costs incurred without any increase or markup.

4. If an association or a person acting on behalf of an association is attempting to collect a past due obligation from a unit's owner, the association or person acting on behalf of an association may recover from the unit's owner:

- (a) Reasonable management company fees which may not exceed a total of \$200; and
- (b) Reasonable attorney's fees and actual costs, without any increase or markup, incurred by the association for any legal services which do not include an activity described in subsection 2.

5. If an association or a person acting on behalf of an association to collect a past due obligation of a unit's owner is engaging in the activities set forth in [NRS 116.31162](#) to [116.31168](#), inclusive, with respect to more than 25 units owned by the same unit's owner, the association or person acting on behalf of an association may not charge the unit's owner fees to cover the costs of collecting a past due obligation which exceed a total of \$1,950 multiplied by the number of units for which such activities are occurring, as reduced by an amount set forth in a resolution adopted by the executive board, plus the costs and fees described in subsections 3 and 4.

6. For a one-time period of 15 business days immediately following a request for a payoff amount from the unit's owner or his or her agent, no fee to cover the cost of collecting a past due obligation may be charged to the unit's owner, except for the fee described in paragraph (q) of subsection 2 and

any other fee to cover any cost of collecting a past due obligation which is imposed because of an action required by statute to be taken within that 15-day period.

7. As used in this section, "affiliate of the community manager of the association or of an agent of the association" means any person who controls, is controlled by or is under common control with a community manager or such agent. For the purposes of this subsection:

(a) A person "controls" a community manager or agent if the person:

- (1) Is a general partner, officer, director or employer of the community manager or agent;
- (2) Directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote or holds proxies representing, more than 20 percent of the voting interest in the community manager or agent;

(3) Controls in any manner the election of a majority of the directors of the community manager or agent; or

(4) Has contributed more than 20 percent of the capital of the community manager or its agent.

(b) A person "is controlled by" a community manager or agent if the community manager or agent:

- (1) Is a general partner, officer, director or employer of the person;
- (2) Directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote or holds proxies representing, more than 20 percent of the voting interest in the person;

(3) Controls in any manner the election of a majority of the directors of the person; or

(4) Has contributed more than 20 percent of the capital of the person.

(c) Control does not exist if the powers described in this subsection are held solely as security for an obligation and are not exercised.

(Added to NAC by Comm'n for Common-Interest Communities & Condo. Hotels by R199-09, eff. 5-5-2011)

Receipt of Gifts, Incentives, Gratuities, Rewards or Other Items of Value

NAC 116.480 Restriction on and statements by members of executive boards and officers of associations. ([NRS 116.31185](#), [116.615](#))

1. No member of an executive board or officer of an association shall receive, in the aggregate, any gift, incentive, gratuity, reward or other item of value pursuant to subsection 2 of [NRS 116.31185](#) in any calendar year which exceeds the sum of \$100.

2. On or before the annual distribution to each unit's owner of the budgets of the association pursuant to subsection 1 of [NRS 116.31151](#), each member of an executive board and officer of an association shall deliver to the executive board for inclusion in the annual distribution of the budgets a statement of any gifts, incentives, gratuities, rewards or other items of value which exceed \$15 received pursuant to subsection 2 of [NRS 116.31185](#).

(Added to NAC by Comm'n for Common-Interest Communities by R205-05, eff. 9-18-2006)

NAC 116.482 Restriction on and statements by community managers and employees of community managers. ([NRS 116.31185](#), [116.615](#))

1. No community manager or employee of the community manager shall receive, in the aggregate, any gift, incentive, gratuity, reward or other item of value pursuant to subsection 2 of [NRS 116.31185](#) in any calendar year which exceeds the sum of \$500.

2. On or before the date of renewal of a license for a community manager, each community manager shall disclose to the Division, in the renewal form, a statement of any gifts, incentives, gratuities, rewards or other items of value which exceed \$15 received pursuant to subsection 2 of [NRS 116.31185](#) during each of the years following the last renewal.

(Added to NAC by Comm'n for Common-Interest Communities by R205-05, eff. 9-18-2006)

NAC 116.484 Attendance of or participation in approved class. (NRS 116.31185, 116.615)

1. As used in [NRS 116.31185](#), the term “gifts, incentives, gratuities, rewards or other items of value” does not include:

- (a) Any prepaid tuition for an approved class within the State for members of an executive board, officers of an association, community managers or employees of the community manager;
- (b) The cost or value of an approved class that is offered free of charge; and
- (c) The cost or value of any breakfast, lunch, snack or hot or cold nonalcoholic beverage provided at an approved class or during the breaks of an approved class.

2. A member of the executive board or an officer of the association who attends or participates in an approved class must disclose his or her attendance or participation in the approved class to the executive board at the next meeting of the executive board after the date of the approved class.

3. As used in this section, “approved class” means a course which has been approved pursuant to the provisions of this chapter and which at all times satisfies the requirements of this chapter.

(Added to NAC by Comm'n for Common-Interest Communities by R205-05, eff. 9-18-2006)

NAC 116.486 Compliance with statutory prohibition. (NRS 116.31185, 116.615) Nothing in [NAC 116.480](#), [116.482](#) and [116.484](#) is to be construed as permitting a member of an executive board, an officer of an association, a community manager or an employee of the community manager to solicit or accept any form of compensation, gratuity or other remuneration in violation of the provisions of subsection 1 of [NRS 116.31185](#).

(Added to NAC by Comm'n for Common-Interest Communities by R205-05, eff. 9-18-2006)

ADMINISTRATION AND ENFORCEMENT

General Provisions

NAC 116.500 Public inspection of records maintained by Division. (NRS 116.615) Records kept in the office of the Division under authority of this chapter are open to public inspection in the same manner as records are available for inspection pursuant to [chapters 645](#) of NRS and NAC, except that the Division may refuse to make public, unless ordered to do so by a court:

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

(Added to NAC by Real Estate Comm'n by R136-99, eff. 4-3-2000; A by Comm'n for Common-Interest Communities by R129-04, 4-14-2005; A by Comm'n for Common-Interest Communities & Condo. Hotels by R165-09, 12-16-2010)—(Substituted in revision for NAC 116.390)

NAC 116.520 Subsidization of proceedings for mediation. (NRS 116.615, 116.670)

1. The Division may subsidize proceedings for mediation conducted pursuant to [NRS 38.300](#) to [38.360](#), inclusive, to the extent that funds are available in the Account for Common-Interest Communities and Condominium Hotels in the State General Fund for that purpose.

2. A party who wishes to have a proceeding for mediation subsidized must:

- (a) Submit an application to the Division on a form prescribed by the Division;
- (b) File a claim for mediation within 1 year after the date of discovery of the alleged violation; and
- (c) If the applicant is an association, be registered and in good standing with:

(1) The Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels; and

(2) The Secretary of State, if the association is required to register with the Secretary of State pursuant to title 7 of NRS.

3. A unit's owner is eligible to have one proceeding for mediation subsidized per fiscal year for each unit that he or she owns.

4. An association is eligible to have one proceeding for mediation subsidized per fiscal year against the same unit's owner for each unit that he or she owns.

5. The funds used to subsidize a proceeding for mediation pursuant to this section must not:

(a) Be applied to the fee required when filing a written claim pursuant to [NRS 38.320](#) or any attorneys' costs or fees associated with the claim; and

(b) Exceed \$500 or \$250 for each party who is eligible to have the proceeding for mediation subsidized pursuant to this section, whichever is less.

6. The Division shall provide notice to the mediator that a proceeding for mediation may be subsidized by forwarding to the mediator a copy of the application received pursuant to subsection 2.

7. If an application for subsidy is approved by the Division, the mediator shall, within 10 business days after the issuance of the mediator's statement concerning whether the mediation was successful or unsuccessful in resolving the dispute, submit to the Division:

(a) On a form prescribed by the Division, a request for payment of the cost of mediation; and

(b) A copy of the mediator's statement concerning whether the mediation was successful or unsuccessful in resolving the dispute.

8. The Division shall pay the cost of mediation pursuant to this section in accordance with the Division's procedures after the Division receives a copy of the mediator's statement concerning whether the mediation was successful or unsuccessful in resolving the dispute.

9. A party to a mediation is not eligible to receive a subsidy pursuant to this section if the party was a party to a claim in which the same or substantially similar issues were heard by the referee program established by the Division pursuant to [NRS 38.325](#).

(Added to NAC by Comm'n for Common-Interest Communities by R129-04, eff. 4-14-2005; A by Comm'n for Common-Interest Communities & Condo. Hotels by R125-12, 10-24-2014)

NAC 116.525 Duties of Ombudsman for Owners in Common-Interest Communities and Condominium Hotels: "Annual assessment" interpreted. ([NRS 116.615](#), [116.625](#)) As used in [NRS 116.625](#), "annual assessment" means both the per unit assessments and the total budget revenues for the association.

(Added to NAC by Comm'n for Common-Interest Communities by R129-04, eff. 4-14-2005)

Administrative Proceedings

NAC 116.550 Investigation and audit of financial accounts of association; remedial and disciplinary action. ([NRS 116.615](#))

1. The Division may investigate and audit all financial accounts related to an association if the Division has reasonable cause to believe that the accounts or records of the association have not been properly maintained and the Division:

(a) Has reasonable cause to believe or has received a credible complaint that the association is insolvent or is in any financial condition or has engaged in any financial practice which creates a substantial risk of insolvency; or

(b) Determines that the investigation and audit are reasonably necessary to assist the Division in administering or enforcing any other provision of this chapter, [chapter 116](#) of NRS or any other statute that the Division is charged with administering or enforcing.

2. The Commission may, after notice and hearing, take action pursuant to [NRS 116.785](#) if the Division finds that a person has committed a violation of this chapter or [chapter 116](#) of NRS.

3. As used in this section, “insolvent” or “insolvency” means a condition in which an association is unable to meet its, or a community manager is unable to meet his or her, liabilities as those liabilities become due in the regular course of the association’s or community manager’s business and which creates a substantial risk of harm to the association.

(Added to NAC by Comm’n for Common-Interest Communities by R129-04, eff. 4-14-2005)

NAC 116.553 Hearing panels: Powers; qualifications of independent hearing officers. ([NRS 116.615, 116.675](#))

1. A hearing panel appointed by the Commission has the power of the Commission to conduct hearings and other proceedings, determine violations, impose fines and penalties and take other disciplinary action authorized by the provisions of this chapter or [chapter 116](#) of NRS.

2. An independent hearing officer appointed to a hearing panel must be a licensed member, in good standing, of the State Bar of Nevada.

(Added to NAC by Comm’n for Common-Interest Communities by R142-06, eff. 12-7-2006)

NAC 116.555 Informality of proceedings; rules of evidence. ([NRS 116.615, 116.675](#))

1. In conducting any investigation, inquiry or hearing, the Commission and its members, each hearing panel and its members, and the employees of the Division are not bound by the technical rules of evidence, and any informality in a proceeding or in the manner of taking testimony does not invalidate any order, decision, rule or regulation made, approved or confirmed by the Commission or a hearing panel. The rules of evidence of courts of this State will be followed generally but may be relaxed at the discretion of the Commission or a hearing panel if deviation from the technical rules of evidence will aid in determining the facts.

2. Any evidence offered at a hearing must be material and relevant to the issues of the hearing.

3. The Commission or a hearing panel may exclude inadmissible, incompetent, repetitious or irrelevant evidence or order that presentation of that evidence be discontinued.

4. A party who objects to the introduction of evidence shall briefly state the grounds of the objection at the time the evidence is offered. The party who offers the evidence may present a rebuttal argument to the objection.

5. If an objection is made to the admissibility of evidence, the Commission or a hearing panel may:

(a) Note the objection and admit the evidence;

(b) Sustain the objection and refuse to admit the evidence; or

(c) Receive the evidence subject to a subsequent ruling by the Commission or a hearing panel.

(Added to NAC by Comm’n for Common-Interest Communities by R129-04, eff. 4-14-2005)

NAC 116.557 Prehearing conferences. ([NRS 116.615, 116.675](#))

1. The Commission or a hearing panel may, upon its own motion or a motion made by a party of record, hold a prehearing conference to accomplish one or more of the following purposes:

- (a) Formulate or simplify the issues involved in the hearing.
- (b) Obtain admissions of fact or any stipulation of the parties.
- (c) Arrange for the exchange of proposed exhibits or prepared expert testimony.
- (d) Identify the witnesses and the subject matter of their expected testimony and limit the number of witnesses, if necessary.
- (e) Rule on any pending prehearing motions or matters.
- (f) Establish a schedule for the completion of discovery.
- (g) Establish any other procedure that may expedite the orderly conduct and disposition of the proceedings or settlements thereof.

2. Notice of any prehearing conference must be provided to all parties of record. Unless otherwise ordered for good cause shown, the failure of a party of record to attend a prehearing conference constitutes a waiver of any objection to the agreements reached or rulings made at the conference.

3. The action taken and the agreements made at a prehearing conference:

- (a) Must be made a part of the record.
- (b) Control the course of subsequent proceedings unless modified at the hearing by the Commission or hearing panel.
- (c) Are binding upon all parties of record and persons who subsequently become parties of record.
(Added to NAC by Comm'n for Common-Interest Communities by R142-06, eff. 12-7-2006)

NAC 116.560 Motions. ([NRS 116.615](#), [116.675](#))

1. All motions, unless made during a hearing, must be in writing.
2. A written motion must be served on the opposing party and the Commission or a hearing panel at least 10 working days before the time set for the hearing on the motion.
3. An opposing party may file a written response to a motion within 7 working days after the receipt of the motion by serving the written response on all parties and the Commission or a hearing panel, except that a written response may be filed less than 3 working days before the time set for the hearing on the motion only with the permission of the Commission or a hearing panel upon good cause shown.
4. The Commission or a hearing panel may require oral argument or the submission of additional information or evidence to decide the motion.
(Added to NAC by Comm'n for Common-Interest Communities by R129-04, eff. 4-14-2005)

NAC 116.565 Amendment and withdrawal of complaints; continuances. ([NRS 116.615](#), [116.675](#))

1. A complaint may be amended at any time.
2. The Commission or a hearing panel may grant a continuance if the amendment materially alters the complaint or a respondent demonstrates an inability to prepare for the case in a timely manner.
3. A complaint may be withdrawn at any time before the hearing begins.
(Added to NAC by Comm'n for Common-Interest Communities by R129-04, eff. 4-14-2005)

NAC 116.570 Complaint or disciplinary hearing concerning provisional community manager. ([NRS 116.615](#), [116.675](#))

1. The Division shall provide a copy of any complaint filed against, or a disciplinary hearing or other proceeding commenced against, a provisional community manager to the supervising community manager with whom the provisional community manager is associated.
2. The supervising community manager with whom the provisional community manager is associated shall attend any disciplinary hearing before the Commission or a hearing panel concerning that provisional community manager.

(Added to NAC by Comm'n for Common-Interest Communities by R129-04, eff. 4-14-2005)

NAC 116.575 Responsibilities of respondent. (NRS 116.615, 116.675)

1. Not less than 5 working days before a hearing before the Commission or a hearing panel, the respondent must provide to the Division:
 - (a) A copy of all documents that are reasonably available to the respondent which the respondent reasonably anticipates will be used in support of his or her position; and
 - (b) A list of witnesses whom the respondent intends to call at the time of the hearing, which must include for each witness:
 - (1) The name of the witness;
 - (2) The company for whom the witness works and the title of the witness; and
 - (3) A brief summary of the expected testimony of the witness.
2. The respondent shall promptly supplement and update any documents and lists provided to the Division pursuant to this section.
3. The respondent shall provide, at the time of the hearing, 10 copies of each document he or she wishes to have admitted into evidence at the hearing.
4. If the respondent fails to provide any document required to be provided by the provisions of this section, the Commission or a hearing panel may exclude the document.

(Added to NAC by Comm'n for Common-Interest Communities by R129-04, eff. 4-14-2005)

NAC 116.580 Failure of party to appear. (NRS 116.615, 116.675) If a party fails to appear at a hearing scheduled by the Commission or a hearing panel and a continuance has not been requested or granted, upon an offer of proof by the other party that the absent party was given proper notice and upon a determination by the Commission or a hearing panel that proper notice was given, the Commission or a hearing panel may proceed to consider the case without the participation of the absent party and may dispose of the matter on the basis of the evidence before it. If a party fails to appear at the hearing or fails to reply to the notice, the charges specified in the complaint may be considered as true.

(Added to NAC by Comm'n for Common-Interest Communities by R129-04, eff. 4-14-2005)

NAC 116.585 Procedure for hearings; date of decision. (NRS 116.615, 116.675)

1. The presiding officer of a hearing shall:
 - (a) Ascertain whether all persons commanded to appear under subpoena are present and whether all documents, books, records and other evidence under subpoena are present in the hearing room.
 - (b) Administer the oath to the reporter as follows:

Do you solemnly swear or affirm that you will report this hearing to the best of your stenographic ability?

- (c) Administer the oath to all persons whose testimony will be taken:

Do you and each of you solemnly swear or affirm to tell the truth and nothing but the truth in these proceedings?

- (d) Ascertain whether either party wishes to have a witness excluded from the hearing except during the testimony of the witness. A witness may be excluded upon the motion of the Commission or a hearing panel or upon the motion of either party. If a witness is excluded, he or she will be instructed not to discuss the case during the pendency of the proceeding. The respondent will be allowed to

remain present at the hearing. The Division may designate a person who is a member of the staff of the Division and who may also be a witness to act as its representative. Such a representative will be allowed to remain present at the hearing.

(e) Ascertain whether a copy of the complaint or decision to deny has been filed and whether an answer has been filed as part of the record in the proceedings.

(f) Hear any preliminary motions, stipulations or orders upon which the parties agree and address any administrative details.

(g) Request the Division to proceed with the presentation of its case.

2. The Division may not submit any evidence to the Commission or a hearing panel before the hearing except for the complaint and answer.

3. The respondent may cross-examine witnesses in the order that the Division presents them.

4. Witnesses or counsel may be questioned by the members of the Commission or a hearing panel at any time during the proceeding.

5. Evidence which is to be introduced:

(a) Must first be marked for identification; and

(b) May be received by the Commission or a hearing panel at any point during the proceeding.

6. When the Division has completed its presentation, the presiding officer shall request the respondent to proceed with the introduction of evidence and calling of witnesses on his or her behalf.

7. The Division may cross-examine witnesses in the order that the respondent presents them.

8. When the respondent has completed his or her presentation, the Division may call any rebuttal witnesses.

9. When all testimony for the Division and respondent has been given and all evidence submitted, the presiding officer may request the Division and the respondent to summarize their presentations.

10. The Commission or a hearing panel may waive any provision of this section if necessary to expedite or ensure the fairness of the hearing.

11. The date of decision is the date the written decision is signed by a commissioner or a member of a hearing panel or filed with the Commission, whichever occurs later.

12. In the absence of the Chair of the Commission, any matter which must be acted upon may be submitted to the Vice Chair or, if the Vice Chair is unavailable, to the Secretary.

13. Upon the presentation of evidence that the respondent received notice of the hearing and has not filed an answer within the time prescribed pursuant to [NRS 116.770](#), his or her default may be entered and a decision may be issued based upon the allegations of the complaint.

(Added to NAC by Comm'n for Common-Interest Communities by R129-04, eff. 4-14-2005)

NAC 116.586 Recess of hearing for conference. ([NRS 116.615](#), [116.675](#)) In any hearing, the Commission or hearing panel may recess the hearing for a conference in order to discuss matters relating to the testimony about to be given by a witness or for any other purpose that may expedite the orderly conduct and disposition of the proceedings or settlements thereof. The Commission or hearing panel will state on the record the results of such a conference.

(Added to NAC by Comm'n for Common-Interest Communities by R142-06, eff. 12-7-2006)

NAC 116.588 Preparation and dissemination of final decision after hearing. ([NRS 116.615](#), [116.675](#)) After a hearing, the Commission or hearing panel will, within 30 days:

1. Prepare findings of fact, conclusions of law and a final decision on the issues presented at the hearing; and

2. Provide a copy of the findings of fact, conclusions of law and final decision to the Division, which will then serve the parties of record and the Commission.

(Added to NAC by Comm'n for Common-Interest Communities by R142-06, eff. 12-7-2006)

NAC 116.600 Appeal of final order of hearing panel; filing of briefs. ([NRS 116.615](#), [116.675](#))

1. Pursuant to [NRS 116.675](#), a final order of a hearing panel may be appealed and a review hearing held by the Commission. If a final order of a hearing panel is appealed, the order is stayed until the Commission issues its ruling, order or decision after the review hearing.
2. A written notice of appeal filed pursuant to [NRS 116.675](#) must be accompanied by an appellant's brief which must describe the basis for the appeal, cite any supporting authorities and designate any part of the record which was before the hearing panel and is relevant to the appeal.
3. A respondent may file a respondent's brief within 20 days after service of the appellant's brief.
4. An appellant may then file a reply brief within 12 days after service of a respondent's brief. The reply brief may only respond to issues raised in a respondent's brief. Any issues raised for the first time which are contained in the reply brief will not be considered by the Commission.
5. The Division may file an amicus brief which describes the Division's position on any issue raised by a final order of a hearing panel. The Division's brief must be filed within 20 days after the filing of the appellant's brief.

(Added to NAC by Comm'n for Common-Interest Communities by R142-06, eff. 12-7-2006)

NAC 116.605 Review hearings: Setting; notice. ([NRS 116.615](#), [116.675](#))

1. After the date for the filing of a reply brief has passed, the Commission will set the matter for a review hearing to be conducted as soon as practicable.
2. The review hearing must be held at such time and place as the Commission prescribes. At least 15 days before the date set for the review hearing, the Commission will notify in writing each party of record of the date. Written notice of the review hearing may be served by delivery personally to each party or by mailing the notice by certified mail to the last known address of each party.

(Added to NAC by Comm'n for Common-Interest Communities by R142-06, eff. 12-7-2006)

NAC 116.610 Review hearings: Oral argument. ([NRS 116.615](#), [116.675](#))

1. The Commission may, in the written notice described in [NAC 116.605](#), provide for oral argument at the review hearing. The written notice must state whether the oral argument is limited to a particular issue or inquiry.
2. Unless extended by the Commission, an oral argument will be limited to 10 minutes.
3. The Commission may allow the Division to participate as an amicus party at oral argument.

(Added to NAC by Comm'n for Common-Interest Communities by R142-06, eff. 12-7-2006)

NAC 116.615 Review hearings: Issuance of written decision. ([NRS 116.615](#), [116.675](#))

1. The Commission will render a written decision on any appeal within 30 days after the review hearing and will notify the parties to the proceedings, in writing, of its ruling, order or decision within 15 days after it is made.
2. The Commission may affirm, reverse or modify a decision of the hearing panel.

(Added to NAC by Comm'n for Common-Interest Communities by R142-06, eff. 12-7-2006)

NAC 116.620 Review of final order of hearing panel not appealed by party. ([NRS 116.615](#), [116.675](#))

1. If a final order of a hearing panel is not appealed to the Commission by a party and if:
 - (a) The Chair determines that the Commission should review the final order; or
 - (b) A member of the Commission makes a written or oral request to the Chair that the Commission review the final order,

↳ the Chair of the Commission shall, not later than 7 days after the date that a final order may be appealed by a party pursuant to [NRS 116.675](#), direct the Division to provide written notice to all parties that the Commission will review the final order at the next meeting of the Commission.

2. Any final order by a hearing panel which is under review by the Commission pursuant to this section is stayed until the Commission issues its ruling, order or decision.

(Added to NAC by Comm'n for Common-Interest Communities by R142-06, eff. 12-7-2006)

NAC 116.625 Payment of costs for transcript of hearing. ([NRS 116.615](#), [116.675](#))

1. Except as otherwise provided in this section, a party which seeks a transcript of its hearing must pay the reasonable costs of transcription.

2. If the Commission determines that a transcript is reasonably necessary for a party for a review hearing, the Commission will pay the costs of transcription.

(Added to NAC by Comm'n for Common-Interest Communities by R142-06, eff. 12-7-2006)

NAC 116.630 Request for hearing prohibited after initiation of civil action or submission for mediation or arbitration. ([NRS 116.615](#), [116.675](#)) A party may not request a hearing before the Commission or a hearing panel if a civil action based upon the same claim has already been initiated in any court in this State or has already been submitted to mediation or arbitration pursuant to the provisions of [NRS 38.300](#) to [38.360](#), inclusive.

(Added to NAC by Comm'n for Common-Interest Communities by R142-06, eff. 12-7-2006)

NAC 116.635 Request for hearing prohibited for improper purpose. ([NRS 116.615](#), [116.675](#)) A party shall not request a review hearing for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

(Added to NAC by Comm'n for Common-Interest Communities by R142-06, eff. 12-7-2006)