

ASSEMBLY BILL NO. 484—ASSEMBLYMEN CHOWNING, GIBBONS, PRICE, OHRENSCHALL, ANDERSON, BEERS, BERMAN, BROWN, CEGAVSKE, CLABORN, DE BRAGA, DINI, FREEMAN, GIUNCHIGLIANI, GOLDWATER, GUSTAVSON, HETTRICK, HUMKE, LESLIE, MANENDO, MCCLAIN, MORTENSON, NOLAN, PARKS, PERKINS, SMITH AND TIFFANY

MARCH 19, 2001

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing disclosure statement required upon sale of unit in common-interest community. (BDR 10-584)

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

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

AN ACT relating to common-interest communities; revising the information that must be furnished by a unit's owner to a prospective purchaser before the sale of the unit; and providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 116.4109 is hereby amended to read as follows:
2 116.4109 1. Except in the case of a sale in which delivery of a public
3 offering statement is required, or unless exempt under subsection 2 of NRS
4 116.4101, a unit's owner shall furnish to a purchaser before *the* execution
5 of any contract for *the* sale of a unit, or otherwise before conveyance:
6 (a) A copy of the declaration, other than any plats and plans, the bylaws,
7 the rules or regulations of the association and, except for a time share
8 governed by the provisions of chapter 119A of NRS, the information
9 statement required by NRS 116.41095;
10 (b) A statement setting forth the amount of the monthly assessment for
11 common expenses , *any other fees payable by a unit's owner* and any
12 unpaid assessment of any kind currently due from the selling unit's owner
13 ~~that~~ *that the purchaser will be obligated to pay;*
14 (c) *A statement setting forth any unpaid fines due from the selling*
15 *unit's owner that the purchaser will be obligated to pay;*
16 (d) *A statement listing all written notices of a violation of the*
17 *governing documents of the association associated with the unit which*



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1 *the association has previously provided to the selling unit's owner and*
2 *which the purchaser will be obligated to correct or repair;*
3 (e) The current operating budget of the association and a financial
4 statement for the association; ~~and~~
5 ~~—(d)—~~ (f) A statement of any unsatisfied judgments or pending legal
6 actions ~~against~~ *to which* the association *is a party* and the status of any
7 *such* pending legal actions ~~relating to the common interest community of~~
8 ~~which the unit's owner has actual knowledge.~~ ;
9 (g) *A statement of any pending claims submitted to arbitration or*
10 *mediation to which the association is a party; and*
11 (h) *A statement of any claim for a constructional defect of which the*
12 *association has actual knowledge and for which the association will be a*
13 *party.*
14 2. The association, within 10 days after *receipt of a written* request by
15 a unit's owner, shall furnish a certificate *addressed to the unit's owner at*
16 *the address included in the written request* containing the information
17 necessary to enable the unit's owner to comply with this section. *The*
18 *certificate must be signed by a member of the executive board of the*
19 *association or an authorized agent of the association.* A unit's owner
20 providing a certificate pursuant to subsection 1 is not liable to the
21 purchaser for any erroneous information provided by the association and
22 included in the certificate.
23 3. ~~Neither~~ *Except as otherwise provided in subsection 6, neither* a
24 purchaser nor the purchaser's interest in a unit is liable *to the association*
25 *for any* :
26 (a) *Any* unpaid assessment , ~~for~~ *fee or fine* greater than the amount ~~set~~
27 ~~forth in the certificate prepared by the association.~~ *disclosed pursuant to*
28 *this section; or*
29 (b) *The correction or repair of any violation of the governing*
30 *documents of the association that is not disclosed pursuant to paragraph*
31 *(d) of subsection 1.*
32 4. If the association fails to furnish the certificate within the 10 days
33 allowed by subsection 2, the seller is not liable *to the association* for ~~the~~ :
34 (a) *Any* delinquent assessment ~~+~~ , *fee or fine owed to the association;*
35 *or*
36 (b) *The correction or repair of any violation of the governing*
37 *documents of the association associated with the unit that is required to*
38 *be disclosed pursuant to paragraph (d) of subsection 1.*
39 5. *A certificate issued by an association pursuant to this section*
40 *becomes effective on the date the certificate is signed pursuant to*
41 *subsection 2.*
42 6. *The association is not liable to any person for undisclosed*
43 *information if a unit's owner does not make a written request for a*
44 *certificate pursuant to subsection 2.*
45 **Sec. 2.** NRS 116.41095 is hereby amended to read as follows:
46 116.41095 The information statement required by NRS 116.4103 and
47 116.4109 must be in substantially the following form:



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

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

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

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

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

3. IF YOU FAIL TO PAY OWNERS' ASSESSMENTS, YOU
COULD LOSE YOUR HOME?

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

4. YOU MAY BECOME A MEMBER OF A HOMEOWNER'S
ASSOCIATION THAT HAS THE POWER TO AFFECT HOW YOU
USE AND ENJOY YOUR PROPERTY?



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

16 Homeowner's associations operate on democratic principles. Some
17 decisions require all homeowners to vote, some decisions are made by the
18 executive board or other boards or committees established by the
19 association or governing documents. Although the actions of the
20 association and its executive board are governed by state laws, the C, C &
21 R's and other documents that govern the common-interest community,
22 decisions made by these persons will affect your use and enjoyment of
23 your property, your lifestyle and freedom of choice, and your cost of living
24 in the community. You may not agree with decisions made by the
25 association or its governing bodies even though the decisions are ones
26 which the association is authorized to make. Decisions may be made by a
27 few persons on the executive board or governing bodies that do not
28 necessarily reflect the view of the majority of homeowners in the
29 community. If you do not agree with decisions made by the association, its
30 executive board or other governing bodies, your remedy is typically to
31 attempt to use the democratic processes of the association to seek the
32 election of members of the executive board or other governing bodies that
33 are more responsive to your needs. If persons controlling the association or
34 its management are not complying with state laws or the governing
35 documents, your remedy is typically to seek to mediate or arbitrate the
36 dispute and, if mediation or arbitration is unsuccessful, file a lawsuit and
37 ask a court to resolve the dispute. In addition to your personal cost in
38 mediation or arbitration, or to prosecute a lawsuit, you may be responsible
39 for paying your share of the association's cost in defending against your
40 claim. There is no government agency in this state that investigates or
41 intervenes to resolve disputes in homeowner's associations.

42 5. YOU ARE REQUIRED TO PROVIDE PROSPECTIVE BUYERS
43 OF YOUR PROPERTY WITH INFORMATION ABOUT LIVING IN
44 YOUR COMMON-INTEREST COMMUNITY?

45 The law requires you to provide to a prospective purchaser of your
46 property, before you enter into a purchase agreement ~~to~~:

47 (a) A copy of the community's governing documents, including the C,
48 C & R's, association bylaws, and rules and regulations, as well as a copy of
49 this document. ~~You are also required to provide a~~



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1 (b) A copy of the association's current financial statement, operating
2 budget and information regarding the amount of the monthly assessment
3 for common expenses, including the amount set aside as reserves for the
4 repair, replacement and restoration of common elements. ~~You are also~~
5 ~~required to inform prospective purchasers~~

6 (c) A statement setting forth any other fees payable by a unit's owner
7 and any unpaid assessment or fine that the purchaser will be obligated to
8 pay.

9 (d) A statement listing all written notices of a violation of the
10 governing documents of the association associated with the unit which
11 the association has previously provided to you and which the purchaser
12 will be obligated to correct or repair.

13 (e) A statement of any outstanding judgments or ~~lawsuits pending~~
14 ~~against~~ pending legal actions to which the association ~~of which you are~~
15 ~~aware. You are also required to provide a~~ is a party and the status of such
16 pending legal actions.

17 (f) A statement of any pending claims submitted to arbitration or
18 mediation to which the association is a party.

19 (g) A statement of any claim for a constructional defect of which the
20 association has actual knowledge and for which the association will be a
21 party.

22 (h) A copy of the minutes from the most recent meeting of the
23 homeowner's association or its executive board.

24 For more information regarding these requirements, see Nevada Revised
25 Statutes 116.4103 ~~+~~ and 116.4109.

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

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

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

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

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

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

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

42 7. QUESTIONS?

43 Although they may be voluminous, you should take the time to read and
44 understand the documents that will control your ownership of a property in
45 a common-interest community. You may wish to ask your real estate
46 professional, lawyer or other person with experience to explain anything
47 you do not understand. You may also request assistance from the
48 ombudsman for owners in common-interest communities, Nevada Real
49 Estate Division, at (telephone number).



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- 1 Buyer or prospective buyer's initials: _____
- 2 Date: _____

