

Amendment No. 750

Assembly Amendment to Senate Bill No. 351 First Reprint (BDR 10-1145)

Proposed by: Assembly Committee on Judiciary**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold dashed underlining* is newly added transitory language.

NMB/BAW



Date: 5/16/2009

S.B. No. 351—Makes various changes relating to common-interest communities.
(BDR 10-1145)



SENATE BILL NO. 351—COMMITTEE ON JUDICIARY

MARCH 23, 2009

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to common-interest communities.
(BDR 10-1145)

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; providing that money collected by a unit-owners' association must be deposited or invested in certain institutions or securities; ~~revising the provisions relating to amendment of the governing documents to conform with the laws of this State;~~ providing that an executive board of an association may not fill a vacancy on the executive board if the governing documents require a vote of the membership of the association; ~~providing that an executive board may conduct a workshop without complying with certain requirements;~~ making various other changes relating to common-interest communities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 3 of this bill provides that a unit-owners' association must deposit all funds of the association into certain financial institutions. **Section 3** also provides that an association shall invest all funds of the association in certain investments.

~~[Section 6 of this bill amends existing law to authorize the executive board of an association to amend the declaration or governing documents of the association to conform with the laws of this State without complying with the procedural requirements or obtaining the approval of the members of the association. (NRS 116.1206)]~~

Section 7 of this bill clarifies existing law to provide that a change in the use of a unit which requires unanimous approval of the units' owners includes only changes to the boundary of a unit or the allocated interests of a unit. (NRS 116.2117)

~~[Existing law provides that an association may take certain actions, subject to the provisions of the declaration. (NRS 116.2102) Section 8 of this bill provides that an association may take certain actions, unless the governing documents expressly prohibit the association from doing so.]~~

Section 9 of this bill provides that the executive board of an association may not fill a vacancy on the board without a vote of the units' owners if the governing documents provide that the vacancy must be filled by a vote of the membership of the association. (NRS 116.3103)

~~[Section 10 of this bill clarifies existing law to provide that a special meeting of the units' owners includes a special meeting at which the units' owners will vote to remove a member of the executive board. (NRS 116.2108)]~~

~~Section 11 of this bill provides that the executive board of an association may conduct a workshop, which is not considered a meeting of the executive board as long as no action is taken, without complying with the requirements imposed on the executive board for holding a meeting. (NRS 116.21092.)~~

Existing law requires an association to: (1) establish reserves for the repair, replacement and restoration of the major components of the common elements; (2) include in the annual budget certain information pertaining to the repair, replacement and restoration of the major components of the common elements; and (3) conduct a study every 5 years of the reserves required to repair, replace and restore the major components of the common elements. (NRS 116.3115 116.31151, 116.31152) **Sections 12, 12.3 and 12.7** of this bill require an association to perform such functions with respect to any other portion of the common-interest community which the association has a duty to maintain, repair, replace or restore in addition to the major components of the common elements.

Section 13 of this bill amends existing law to exempt architectural records submitted by a unit's owner from the records which must be made available by an association. (NRS 116.31175)

Section 14 of this bill amends existing law to add to the information statement provided as part of a purchase of a unit in a common-interest community a statement that the provisions of the Declaration of Covenants, Conditions and Restrictions or other governing documents may be superseded by provisions of chapter 116 of NRS. (NRS 116.41095)

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

Section 1. Chapter 116 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. (Deleted by amendment.)

Sec. 3. 1. *Except as otherwise provided in subsection 2, an association, a member of the executive board, or a community manager shall deposit or invest all funds of the association at a financial institution which:*

(a) Is located in this State;

(b) Is qualified to conduct business in this State; or

(c) Has consented to be subject to the jurisdiction, including the power to subpoena, of the courts of this State and the Division.

2. *Except as otherwise provided by the governing documents, in addition to the requirements of subsection 1, an association shall deposit, maintain and invest all funds of the association:*

(a) In a financial institution whose accounts are insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or the Securities Investor Protection Corporation;

(b) With a private insurer approved pursuant to NRS 678.755; or

(c) In a government security backed by the full faith and credit of the Government of the United States.

3. *The Commission shall adopt regulations prescribing the contents of the declaration to be executed and signed by a financial institution located outside of this State to submit to consent to the jurisdiction of the courts of this State and the Division.*

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. ~~NRS 116.1206 is hereby amended to read as follows:~~

~~116.1206 1. Any provision contained in a declaration, bylaw or other governing document of a common-interest community that violates the provisions of this chapter shall be deemed to conform with those provisions by operation of~~

law, and any such declaration, bylaw or other governing document is not required to be amended to conform to those provisions:

~~2. In~~

~~2. A declaration, bylaw or other governing document of a common interest community that violates the provisions of this chapter may be changed to conform to those provisions. A declaration, bylaw or other governing document of a common interest community that is changed for the sole purpose of conforming with the provisions of this chapter may be changed by the executive board without the approval of the members of the association and without complying with the procedural requirements of NRS 116.2117 or any other provision generally applicable to the adoption of an amendment to such declaration, bylaw or other governing document.~~

~~3. Except as otherwise provided in subsection 2, in the case of amendments to the declaration, bylaws or plats and plans of any common interest community created before January 1, 1992:~~

~~(a) If the result accomplished by the amendment was permitted by law before January 1, 1992, the amendment may be made either in accordance with that law, in which case that law applies to that amendment, or it may be made under this chapter; and~~

~~(b) If the result accomplished by the amendment is permitted by this chapter, and was not permitted by law before January 1, 1992, the amendment may be made under this chapter.~~

~~[3. An]~~

~~4. Except as otherwise provided in subsection 2, an amendment to the declaration, bylaws or plats and plans authorized by this section to be made under this chapter must be adopted in conformity with the applicable provisions of chapter 117 or 278A of NRS and with the procedures and requirements specified by those instruments. If an amendment grants to any person any rights, powers or privileges permitted by this chapter, all correlative obligations, liabilities and restrictions in this chapter also apply to that person.~~ **(Deleted by amendment.)**

Sec. 7. NRS 116.2117 is hereby amended to read as follows:

116.2117 1. Except as otherwise provided in NRS 116.21175, and except in cases of amendments that may be executed by a declarant under subsection 6 of NRS 116.2109 or NRS 116.211, or by the association under NRS 116.1107, **[subsection 4 of NRS]** 116.2106, subsection 3 of NRS 116.2108, subsection 1 of NRS 116.2112 or NRS 116.2113, or by certain units' owners under subsection 2 of NRS 116.2108, subsection 1 of NRS 116.2112, subsection 2 of NRS 116.2113 or subsection 2 of NRS 116.2118, and except as otherwise limited by subsection 4, the declaration, including any plats and plans, may be amended only by vote or agreement of units' owners of units to which at least a majority of the votes in the association are allocated, or any larger majority the declaration specifies. The declaration may specify a smaller number only if all of the units are restricted exclusively to nonresidential use.

2. No action to challenge the validity of an amendment adopted by the association pursuant to this section may be brought more than 1 year after the amendment is recorded.

3. Every amendment to the declaration must be recorded in every county in which any portion of the common-interest community is located and is effective only upon recordation. An amendment, except an amendment pursuant to NRS 116.2112, must be indexed in the grantee's index in the name of the common-interest community and the association and in the grantor's index in the name of the parties executing the amendment.

4. Except to the extent expressly permitted or required by other provisions of this chapter, no amendment may change the boundaries of any unit ~~or~~ **or** the allocated interests of a unit ~~for the uses to which any unit is restricted,~~ in the absence of unanimous consent of the units' owners affected and the consent of a majority of the owners of the remaining units.

5. Amendments to the declaration required by this chapter to be recorded by the association must be prepared, executed, recorded and certified on behalf of the association by any officer of the association designated for that purpose or, in the absence of designation, by the president of the association.

Sec. 8. ~~NRS 116.3102 is hereby amended to read as follows:~~

~~1. Except as otherwise provided in subsection 2, and [subject to the provisions of the declaration,] unless the governing documents expressly prohibit the association from doing so, the association may do any or all of the following:~~

~~(a) Adopt and amend bylaws, rules and regulations;~~

~~(b) Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from the units' owners;~~

~~(c) Hire and discharge managing agents and other employees, agents and independent contractors;~~

~~(d) Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common interest community;~~

~~(e) Make contracts and incur liabilities;~~

~~(f) Regulate the use, maintenance, repair, replacement and modification of common elements;~~

~~(g) Cause additional improvements to be made as a part of the common elements;~~

~~(h) Acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:~~

~~(1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and~~

~~(2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112.~~

~~(i) Grant easements, leases, licenses and concessions through or over the common elements;~~

~~(j) Impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units' owners;~~

~~(k) Impose charges for late payment of assessments;~~

~~(l) Impose construction penalties when authorized pursuant to NRS 116.310305;~~

~~(m) Impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031;~~

~~(n) Impose reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section;~~

~~(o) Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance;~~

~~(p) Assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides;~~

~~(q) Exercise any other powers conferred by the declaration or bylaws;
(r) Exercise all other powers that may be exercised in this State by legal entities of the same type as the association;~~

~~(s) Direct the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:~~

~~(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or~~

~~(2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community;~~

~~(t) Exercise any other powers necessary and proper for the governance and operation of the association;~~

~~2. The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.] (Deleted by amendment.)~~

Sec. 9. NRS 116.3103 is hereby amended to read as follows:

116.3103 1. Except as otherwise provided in the declaration, the bylaws, this section or other provisions of this chapter, the executive board may act in all instances on behalf of the association. In the performance of their duties, the officers and members of the executive board are fiduciaries. The members of the executive board are required to exercise the ordinary and reasonable care of directors of a corporation, subject to the business-judgment rule.

2. ~~The~~ *Except as otherwise provided in NRS 116.1206, the* executive board may not act on behalf of the association to amend the declaration, to terminate the common-interest community, or to elect members of the executive board or determine their qualifications, powers and duties or terms of office, but the executive board may fill vacancies in its membership for the unexpired portion of any term ~~if~~ *unless the governing documents provide that a vacancy on the executive board must be filled by a vote of the membership of the association.*

Sec. 10. ~~NRS 116.3108 is hereby amended to read as follows:~~

~~116.3108 1. A meeting of the units' owners must be held at least once each year. If the governing documents do not designate an annual meeting date of the units' owners, a meeting of the units' owners must be held 1 year after the date of the last meeting of the units' owners. If the units' owners have not held a meeting for 1 year, a meeting of the units' owners must be held on the following March 1.~~

~~2. Special meetings of the units' owners, including a special meeting at which the units' owners will vote on the removal of a member of the executive board, may be called by the president, by a majority of the executive board or by units' owners constituting at least 10 percent, or any lower percentage specified in the bylaws, of the total number of voting members of the association. The same number of units' owners may also call a removal election pursuant to NRS 116.31036. To call a special meeting or a removal election, the units' owners must submit a written petition which is signed by the required percentage of the total number of voting members of the association pursuant to this section and which is~~

1 mailed, return receipt requested, or served by a process server to the executive
2 board or the community manager for the association. If the petition calls for a
3 special meeting, the executive board shall set the date for the special meeting so
4 that the special meeting is held not less than 15 days or more than 60 days after the
5 date on which the petition is received. If the petition calls for a removal election
6 and:

7 ~~—(a) The voting rights of the units' owners will be exercised by delegates or~~
8 ~~representatives as set forth in NRS 116.31105, the executive board shall set the date for~~
9 ~~the removal election so that the removal election is held not less than 15 days or~~
10 ~~more than 60 days after the date on which the petition is received; or~~

11 ~~—(b) The voting rights of the units' owners will be exercised through the use of~~
12 ~~secret written ballots pursuant to NRS 116.31036, the secret written ballots for the~~
13 ~~removal election must be sent in the manner required by NRS 116.31036 not less~~
14 ~~than 15 days or more than 60 days after the date on which the petition is received,~~
15 ~~and the executive board shall set the date for the meeting to open and count the~~
16 ~~secret written ballots so that the meeting is held not more than 15 days after the~~
17 ~~deadline for returning the secret written ballots.~~

18 ~~—3. Not less than 15 days or more than 60 days in advance of any meeting of~~
19 ~~the units' owners, the secretary or other officer specified in the bylaws shall cause~~
20 ~~notice of the meeting to be hand-delivered, sent prepaid by United States mail to~~
21 ~~the mailing address of each unit or to any other mailing address designated in~~
22 ~~writing by the unit's owner or, if the association offers to send notice by electronic~~
23 ~~mail, sent by electronic mail at the request of the unit's owner to an electronic mail~~
24 ~~address designated in writing by the unit's owner. The notice of the meeting must~~
25 ~~state the time and place of the meeting and include a copy of the agenda for the~~
26 ~~meeting. The notice must include notification of the right of a unit's owner to:~~

27 ~~—(a) Have a copy of the minutes or a summary of the minutes of the meeting~~
28 ~~provided to the unit's owner upon request and, if required by the executive board,~~
29 ~~upon payment to the association of the cost of providing the copy to the unit's~~
30 ~~owner.~~

31 ~~—(b) Speak to the association or executive board, unless the executive board is~~
32 ~~meeting in executive session.~~

33 ~~—4. The agenda for a meeting of the units' owners must consist of:~~

34 ~~—(a) A clear and complete statement of the topics scheduled to be considered~~
35 ~~during the meeting, including, without limitation, any proposed amendment to the~~
36 ~~declaration or bylaws, any fees or assessments to be imposed or increased by the~~
37 ~~association, any budgetary changes and any proposal to remove an officer of the~~
38 ~~association or member of the executive board.~~

39 ~~—(b) A list describing the items on which action may be taken and clearly~~
40 ~~denoting that action may be taken on those items. In an emergency, the units'~~
41 ~~owners may take action on an item which is not listed on the agenda as an item on~~
42 ~~which action may be taken.~~

43 ~~—(c) A period devoted to comments by units' owners and discussion of those~~
44 ~~comments. Except in emergencies, no action may be taken upon a matter raised~~
45 ~~under this item of the agenda until the matter itself has been specifically included~~
46 ~~on an agenda as an item upon which action may be taken pursuant to paragraph (b).~~

47 ~~—5. If the association adopts a policy imposing fines for any violations of the~~
48 ~~governing documents of the association, the secretary or other officer specified in~~
49 ~~the bylaws shall prepare and cause to be hand-delivered or sent prepaid by United~~
50 ~~States mail to the mailing address of each unit or to any other mailing address~~
51 ~~designated in writing by the unit's owner, a schedule of the fines that may be~~
52 ~~imposed for those violations.~~

~~6. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the units' owners. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meeting to be made available to the units' owners. A copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.~~

~~7. Except as otherwise provided in subsection 8, the minutes of each meeting of the units' owners must include:~~

~~(a) The date, time and place of the meeting;~~

~~(b) The substance of all matters proposed, discussed or decided at the meeting; and~~

~~(c) The substance of remarks made by any unit's owner at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.~~

~~8. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of a meeting of the units' owners.~~

~~9. The association shall maintain the minutes of each meeting of the units' owners until the common interest community is terminated.~~

~~10. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the units' owners if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the other units' owners who are in attendance at the meeting.~~

~~11. The units' owners may approve, at the annual meeting of the units' owners, the minutes of the prior annual meeting of the units' owners and the minutes of any prior special meetings of the units' owners. A quorum is not required to be present when the units' owners approve the minutes.~~

~~12. As used in this section, "emergency" means any occurrence or combination of occurrences that:~~

~~(a) Could not have been reasonably foreseen;~~

~~(b) Affects the health, welfare and safety of the units' owners or residents of the common interest community;~~

~~(c) Requires the immediate attention of, and possible action by, the executive board; and~~

~~(d) Makes it impracticable to comply with the provisions of subsection 3 or 4.]~~

~~(Deleted by amendment.)~~

Sec. 11. [NRS 116.31083 is hereby amended to read as follows:

~~116.31083 1. A meeting of the executive board must be held at least once every 90 days.~~

~~2. Except in an emergency or unless the bylaws of an association require a longer period of notice, the secretary or other officer specified in the bylaws of the association shall, not less than 10 days before the date of a meeting of the executive board, cause notice of the meeting to be given to the units' owners. Such notice must be:~~

~~(a) Sent prepaid by United States mail to the mailing address of each unit within the common interest community or to any other mailing address designated in writing by the unit's owner;~~

~~(b) If the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner; or~~

~~— (c) Published in a newsletter or other similar publication that is circulated to each unit's owner;~~

~~— 3. In an emergency, the secretary or other officer specified in the bylaws of the association shall, if practicable, cause notice of the meeting to be sent prepaid by United States mail to the mailing address of each unit within the common interest community. If delivery of the notice in this manner is impracticable, the notice must be hand-delivered to each unit within the common interest community or posted in a prominent place or places within the common elements of the association;~~

~~— 4. The notice of a meeting of the executive board must state the time and place of the meeting and include a copy of the agenda for the meeting or the date on which and the locations where copies of the agenda may be conveniently obtained by the units' owners. The notice must include notification of the right of a unit's owner to:~~

~~— (a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner;~~

~~— (b) Speak to the association or executive board, unless the executive board is meeting in executive session;~~

~~— 5. The agenda of the meeting of the executive board must comply with the provisions of subsection 4 of NRS 116.3108. The period required to be devoted to comments by the units' owners and discussion of those comments must be scheduled for the beginning of each meeting. In an emergency, the executive board may take action on an item which is not listed on the agenda as an item on which action may be taken;~~

~~— 6. At least once every 90 days, unless the declaration or bylaws of the association impose more stringent standards, the executive board shall review, at a minimum, the following financial information at one of its meetings:~~

~~— (a) A current year-to-date financial statement of the association;~~

~~— (b) A current year-to-date schedule of revenues and expenses for the operating account and the reserve account, compared to the budget for those accounts;~~

~~— (c) A current reconciliation of the operating account of the association;~~

~~— (d) A current reconciliation of the reserve account of the association;~~

~~— (e) The latest account statements prepared by the financial institutions in which the accounts of the association are maintained; and~~

~~— (f) The current status of any civil action or claim submitted to arbitration or mediation in which the association is a party;~~

~~— 7. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the executive board. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meetings to be made available to the units' owners. A copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner;~~

~~— 8. Except as otherwise provided in subsection 9 and NRS 116.31085, the minutes of each meeting of the executive board must include:~~

~~— (a) The date, time and place of the meeting;~~

~~— (b) Those members of the executive board who were present and those members who were absent at the meeting;~~

~~— (c) The substance of all matters proposed, discussed or decided at the meeting;~~

~~(d) A record of each member's vote on any matter decided by vote at the meeting; and~~

~~(e) The substance of remarks made by any unit's owner who addresses the executive board at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.~~

~~9. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of its meetings.~~

~~10. The association shall maintain the minutes of each meeting of the executive board until the common-interest community is terminated.~~

~~11. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the executive board, unless the executive board is meeting in executive session, if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the members of the executive board and the other units' owners who are in attendance at the meeting.~~

~~12. Notwithstanding any other provision of this chapter, the executive board may conduct a workshop to prepare for a meeting of the executive board. A workshop shall not be deemed to be a meeting of the executive board as long as the executive board does not take any action on any matter discussed during the workshop. If the executive board conducts a workshop, the executive board is not required to:~~

~~(a) Provide to the units' owners notice of the workshop pursuant to subsection 2 or 3;~~

~~(b) Permit a unit's owner to attend or speak at a workshop pursuant to subsections 4 and 5;~~

~~(c) Comply with the requirements of this section for creating or distributing an agenda for a workshop; or~~

~~(d) Comply with the requirements of this section for recording or distributing minutes for a workshop.~~

~~13. As used in this section, "emergency" means any occurrence or combination of occurrences that:~~

~~(a) Could not have been reasonably foreseen;~~

~~(b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;~~

~~(c) Requires the immediate attention of, and possible action by, the executive board; and~~

~~(d) Makes it impracticable to comply with the provisions of subsection 2 or 5.]~~

~~(Deleted by amendment.)~~

Sec. 12. NRS 116.3115 is hereby amended to read as follows:

116.3115 1. Until the association makes an assessment for common expenses, the declarant shall pay all common expenses. After an assessment has been made by the association, assessments must be made at least annually, based on a budget adopted at least annually by the association in accordance with the requirements set forth in NRS 116.31151. Unless the declaration imposes more stringent standards, the budget must include a budget for the daily operation of the association and a budget for the reserves required by paragraph (b) of subsection 2.

2. Except for assessments under subsections 4 to 7, inclusive:

(a) All common expenses, including the reserves, must be assessed against all the units in accordance with the allocations set forth in the declaration pursuant to subsections 1 and 2 of NRS 116.2107.

(b) The association shall establish adequate reserves, funded on a reasonable basis, for the repair, replacement and restoration of the major components of the common elements **and any other portion of the common-interest community**

1 *that the association is obligated to maintain, repair, replace or restore.* The
2 reserves may be used only for those purposes, including, without limitation,
3 repairing, replacing and restoring roofs, roads and sidewalks, and must not be used
4 for daily maintenance. The association may comply with the provisions of this
5 paragraph through a funding plan that is designed to allocate the costs for the
6 repair, replacement and restoration of the major components of the common
7 elements *and any other portion of the common-interest community that the*
8 *association is obligated to maintain, repair, replace or restore* over a period of
9 years if the funding plan is designed in an actuarially sound manner which will
10 ensure that sufficient money is available when the repair, replacement and
11 restoration of the major components of the common elements *or any other portion*
12 *of the common-interest community that the association is obligated to maintain,*
13 *repair, replace or restore* are necessary.

14 3. Any past due assessment for common expenses or installment thereof bears
15 interest at the rate established by the association not exceeding 18 percent per year.

16 4. ~~[To the extent required by the declaration:]~~ *Except as otherwise provided*
17 *in the governing documents:*

18 (a) Any common expense associated with the maintenance, repair, restoration
19 or replacement of a limited common element must be assessed against the units to
20 which that limited common element is assigned, equally, or in any other proportion
21 the declaration provides;

22 (b) Any common expense or portion thereof benefiting fewer than all of the
23 units must be assessed exclusively against the units benefited; and

24 (c) The costs of insurance must be assessed in proportion to risk and the costs
25 of utilities must be assessed in proportion to usage.

26 5. Assessments to pay a judgment against the association may be made only
27 against the units in the common-interest community at the time the judgment was
28 entered, in proportion to their liabilities for common expenses.

29 6. If any common expense is caused by the misconduct of any unit's owner,
30 the association may assess that expense exclusively against his unit.

31 7. The association of a common-interest community created before January 1,
32 1992, is not required to make an assessment against a vacant lot located within the
33 community that is owned by the declarant.

34 8. If liabilities for common expenses are reallocated, assessments for common
35 expenses and any installment thereof not yet due must be recalculated in
36 accordance with the reallocated liabilities.

37 9. The association shall provide written notice to each unit's owner of a
38 meeting at which an assessment for a capital improvement is to be considered or
39 action is to be taken on such an assessment at least 21 calendar days before the date
40 of the meeting.

41 **Sec. 12.3.** NRS 116.31151 is hereby amended to read as follows:

42 116.31151 1. Except as otherwise provided in subsection 2 and unless the
43 declaration of a common-interest community imposes more stringent standards,
44 the executive board shall, not less than 30 days or more than 60 days before the
45 beginning of the fiscal year of the association, prepare and distribute to each unit's
46 owner a copy of:

47 (a) The budget for the daily operation of the association. The budget must
48 include, without limitation, the estimated annual revenue and expenditures of the
49 association and any contributions to be made to the reserve account of the
50 association.

51 (b) The budget to provide adequate funding for the reserves required by
52 paragraph (b) of subsection 2 of NRS 116.3115. The budget must include, without
53 limitation:

(1) The current estimated replacement cost, estimated remaining life and estimated useful life of each major component of the common elements ~~and~~ *and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;*

(2) As of the end of the fiscal year for which the budget is prepared, the current estimate of the amount of cash reserves that are necessary, and the current amount of accumulated cash reserves that are set aside, to repair, replace or restore the major components of the common elements ~~and~~ *and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;*

(3) A statement as to whether the executive board has determined or anticipates that the levy of one or more special assessments will be necessary to repair, replace or restore any major component of the common elements *or any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore* or to provide adequate funding for the reserves designated for that purpose; and

(4) A general statement describing the procedures used for the estimation and accumulation of cash reserves pursuant to subparagraph (2), including, without limitation, the qualifications of the person responsible for the preparation of the study of the reserves required by NRS 116.31152.

2. In lieu of distributing copies of the budgets of the association required by subsection 1, the executive board may distribute to each unit's owner a summary of those budgets, accompanied by a written notice that:

(a) The budgets are available for review at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties; and

(b) Copies of the budgets will be provided upon request.

3. Within 60 days after adoption of any proposed budget for the common-interest community, the executive board shall provide a summary of the proposed budget to each unit's owner and shall set a date for a meeting of the units' owners to consider ratification of the proposed budget not less than 14 days or more than 30 days after the mailing of the summaries. Unless at that meeting a majority of all units' owners, or any larger vote specified in the declaration, reject the proposed budget, the proposed budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the units' owners must be continued until such time as the units' owners ratify a subsequent budget proposed by the executive board.

Sec. 12.7. NRS 116.31152 is hereby amended to read as follows:

116.31152 1. The executive board shall:

(a) At least once every 5 years, cause to be conducted a study of the reserves required to repair, replace and restore the major components of the common elements ~~and~~ *and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;*

(b) At least annually, review the results of that study to determine whether those reserves are sufficient; and

(c) At least annually, make any adjustments to the association's funding plan which the executive board deems necessary to provide adequate funding for the required reserves.

2. The study of the reserves required by subsection 1 must be conducted by a person who holds a permit issued pursuant to chapter 116A of NRS.

3. The study of the reserves must include, without limitation:

(a) A summary of an inspection 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;

(b) An identification 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 which have a remaining useful life of less than 30 years;

(c) An estimate of the remaining useful life of each major component of the common elements *and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore* identified pursuant to paragraph (b);

(d) An estimate of the cost of *maintenance*, repair, replacement or restoration of each major component of the common elements *and any other portion of the common-interest community* identified pursuant to paragraph (b) during and at the end of its useful life; and

(e) An estimate of the total annual assessment that may be necessary to cover the cost of *maintaining*, repairing, replacement or restoration of the major components of the common elements *and any other portion of the common-interest community* identified pursuant to paragraph (b), after subtracting the reserves of the association as of the date of the study, and an estimate of the funding plan that may be necessary to provide adequate funding for the required reserves.

4. A summary of the study of the reserves required by subsection 1 must be submitted to the Division not later than 45 days after the date that the executive board adopts the results of the study.

5. If a common-interest community was developed as part of a planned unit development pursuant to chapter 278A of NRS and is subject to an agreement with a city or county to receive credit against the amount of the residential construction tax that is imposed pursuant to NRS 278.4983 and 278.4985, the association that is organized for the common-interest community may use the money from that credit for the repair, replacement or restoration of park facilities and related improvements if:

(a) The park facilities and related improvements are identified as major components of the common elements of the association; and

(b) The association is obligated to repair, replace or restore the park facilities and related improvements in accordance with the study of the reserves required by subsection 1.

Sec. 13. NRS 116.31175 is hereby amended to read as follows:

116.31175 1. Except as otherwise provided in this subsection, the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review during the regular working hours of the association, including, without limitation, all contracts to which the association is a party and all records filed with a court relating to a civil or criminal action to which the association is a party. The provisions of this subsection do not apply to:

(a) The personnel records of the employees of the association, except for those records relating to the number of hours worked and the salaries and benefits of those employees;

(b) The records of the association relating to another unit's owner, *including, without limitation, any architectural plan or specification submitted by a unit's owner to the association during an approval process required by the governing documents*, except for those records described in subsection 2; and

(c) A contract between the association and an attorney.

2. The executive board of an association shall maintain a general record concerning each violation of the governing documents, other than a violation involving a failure to pay an assessment, for which the executive board has imposed a fine, a construction penalty or any other sanction. The general record:

(a) Must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction imposed was a fine or construction penalty, the general record must specify the amount of the fine or construction penalty.

(b) Must not contain the name or address of the person against whom the sanction was imposed or any other personal information which may be used to identify the person or the location of the unit, if any, that is associated with the violation.

(c) Must be maintained in an organized and convenient filing system or data system that allows a unit's owner to search and review the general records concerning violations of the governing documents.

3. If the executive board refuses to allow a unit's owner to review the books, records or other papers of the association, the Ombudsman may:

(a) On behalf of the unit's owner and upon written request, review the books, records or other papers of the association during the regular working hours of the association; and

(b) If he is denied access to the books, records or other papers, request the Commission, or any member thereof acting on behalf of the Commission, to issue a subpoena for their production.

4. The books, records and other papers of an association must be maintained for at least 10 years. The provisions of this subsection do not apply to:

(a) The minutes of a meeting of the units' owners which must be maintained in accordance with NRS 116.3108; or

(b) The minutes of a meeting of the executive board which must be maintained in accordance with NRS 116.31083.

5. The executive board shall not require a unit's owner to pay an amount in excess of \$10 per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of this section.

Sec. 14. NRS 116.41095 is hereby amended to read as follows:

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

**BEFORE YOU PURCHASE PROPERTY IN A
COMMON-INTEREST COMMUNITY**

DID YOU KNOW . . .

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

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

1 right to cancel, see Nevada Revised Statutes 116.4108, if you received a public
2 offering statement, or Nevada Revised Statutes 116.4109, if you received a resale
3 package.

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

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

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

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

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

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

45 5. YOU MAY BECOME A MEMBER OF A HOMEOWNERS'
46 ASSOCIATION THAT HAS THE POWER TO AFFECT HOW YOU USE AND
47 ENJOY YOUR PROPERTY?

48 Many common-interest communities have a homeowners' association. In a new
49 development, the association will usually be controlled by the developer until a
50 certain number of units have been sold. After the period of developer control, the
51 association may be controlled by property owners like yourself who are elected by
52 homeowners to sit on an executive board and other boards and committees formed
53 by the association. The association, and its executive board, are responsible for

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

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

34 **6. YOU ARE REQUIRED TO PROVIDE PROSPECTIVE PURCHASERS**
35 **OF YOUR PROPERTY WITH INFORMATION ABOUT LIVING IN YOUR**
36 **COMMON-INTEREST COMMUNITY?**

37 The law requires you to provide a prospective purchaser of your property with a
38 copy of the community's governing documents, including the CC&Rs, association
39 bylaws, and rules and regulations, as well as a copy of this document. You are also
40 required to provide a copy of the association's current year-to-date financial
41 statement, including, without limitation, the most recent audited or reviewed
42 financial statement, a copy of the association's operating budget and information
43 regarding the amount of the monthly assessment for common expenses, including
44 the amount set aside as reserves for the repair, replacement and restoration of
45 common elements. You are also required to inform prospective purchasers of any
46 outstanding judgments or lawsuits pending against the association of which you are
47 aware. For more information regarding these requirements, see Nevada Revised
48 Statutes 116.4109.

49 **7. YOU HAVE CERTAIN RIGHTS REGARDING OWNERSHIP IN A**
50 **COMMON-INTEREST COMMUNITY THAT ARE GUARANTEED YOU BY**
51 **THE STATE?**

52 Pursuant to provisions of chapter 116 of Nevada Revised Statutes, you have the
53 right:

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

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

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

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

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

12 8. QUESTIONS?

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

20
21 Buyer or prospective buyer's initials: _____

22 Date: _____