

SENATE BILL NO. 68—SENATOR SCHNEIDER

PREFILED DECEMBER 12, 2008

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Referred to Committee on Judiciary

SUMMARY—Establishes responsibility for the maintenance of certain security walls within certain common-interest communities. (BDR 10-281)

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.

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AN ACT relating to real property; establishing the responsibility for the maintenance of certain security walls within certain common-interest communities; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

1 **Section 1** of this bill revises the responsibilities of unit-owners' associations of  
2 certain common-interest communities to provide that each such association is  
3 responsible for the maintenance, repair, restoration and replacement of any security  
4 wall which is located within the common-interest community, unless the governing  
5 documents provide otherwise. **Section 2** of this bill similarly revises the law with  
6 respect to such security walls located in such common-interest communities which  
7 are governed by certain limited-purpose associations. (NRS 116.1201) **Section 6** of  
8 this bill provides that if a common-interest community was created before  
9 October 1, 2009, the requirements of the bill do not apply to the common-interest  
10 community until January 1, 2013, unless the governing documents provide that the  
11 association is responsible for the maintenance, repair, restoration and replacement  
12 of the security wall.

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

1 **Section 1.** Chapter 116 of NRS is hereby amended by adding  
2 thereto a new section to read as follows:  
3 *1. Except as otherwise provided in subsection 2 and NRS*  
4 *116.31135, the association is responsible for the maintenance,*



1 *repair, restoration and replacement of any security wall which is*  
2 *located within the common-interest community.*

3 2. *The provisions of this section do not apply if the governing*  
4 *documents provide that a unit's owner or an entity other than the*  
5 *association is responsible for the maintenance, repair, restoration*  
6 *and replacement of the security wall.*

7 3. *For the purpose of carrying out the maintenance, repair,*  
8 *restoration and replacement of a security wall pursuant to this*  
9 *section:*

10 (a) *The association, the members of its executive board and its*  
11 *officers, employees, agents and community manager may enter the*  
12 *grounds of a unit after providing written notice and,*  
13 *notwithstanding any other provision of law, are not liable for*  
14 *trespass.*

15 (b) *Any such maintenance, repair, restoration and*  
16 *replacement of a security wall must be performed:*

17 (1) *During normal business hours;*

18 (2) *Within a reasonable length of time; and*

19 (3) *In a manner that does not adversely affect access to a*  
20 *unit or the legal rights of a unit's owner to enjoy the use of his*  
21 *unit.*

22 (c) *Notwithstanding any other provision of law, the executive*  
23 *board is prohibited from imposing an assessment without*  
24 *obtaining prior approval of the units' owners unless the total*  
25 *amount of the assessment is less than 5 percent of the annual*  
26 *budget of the association.*

27 4. *As used in this section, "security wall" means any wall*  
28 *composed of stone, brick, concrete, concrete blocks, masonry or*  
29 *similar building material, including, without limitation,*  
30 *ornamental iron or other fencing material, together with footings,*  
31 *pilasters, outriggers, grillwork, gates and other appurtenances,*  
32 *constructed around the perimeter of a residential subdivision with*  
33 *respect to which a final map has been recorded pursuant to NRS*  
34 *278.360 to 278.460, inclusive, to protect the several tracts in the*  
35 *subdivision and their occupants from vandalism.*

36 **Sec. 2.** NRS 116.1201 is hereby amended to read as follows:

37 116.1201 1. Except as otherwise provided in this section and  
38 NRS 116.1203, this chapter applies to all common-interest  
39 communities created within this State.

40 2. This chapter does not apply to:

41 (a) A limited-purpose association, except that a limited-purpose  
42 association:

43 (1) Shall pay the fees required pursuant to NRS 116.31155;

44 (2) Shall register with the Ombudsman pursuant to  
45 NRS 116.31158;



(3) Shall comply with the provisions of:

(I) NRS 116.31038, 116.31083 and 116.31152; ~~and~~

(II) *Section 1 of this act, if the limited-purpose association is created for maintaining the landscape of the common elements of the common-interest community; and*

(III) NRS 116.31075, if the limited-purpose association is created for a rural agricultural residential common-interest community;

(4) Shall comply with the provisions of NRS 116.4101 to 116.412, inclusive, as required by the regulations adopted by the Commission pursuant to paragraph (b) of subsection 5; and

(5) Shall not enforce any restrictions concerning the use of units by the units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter does apply to that planned community. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted only if the declaration so provides or if the real estate comprising the units that may be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.

(c) Common-interest communities or units located outside of this State, but the provisions of NRS 116.4102 to 116.4108, inclusive, apply to all contracts for the disposition thereof signed in this State by any party unless exempt under subsection 2 of NRS 116.4101.

(d) A common-interest community that was created before January 1, 1992, is located in a county whose population is less than 50,000, and has less than 50 percent of the units within the community put to residential use, unless a majority of the units' owners otherwise elect in writing.

(e) Except as otherwise provided in this chapter, time shares governed by the provisions of chapter 119A of NRS.

3. The provisions of this chapter do not:

(a) Prohibit a common-interest community created before January 1, 1992, from providing for separate classes of voting for the units' owners;

(b) Require a common-interest community created before January 1, 1992, to comply with the provisions of NRS 116.2101 to 116.2122, inclusive;



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(c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992; or

(d) Prohibit a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government.

4. The provisions of chapters 117 and 278A of NRS do not apply to common-interest communities.

5. The Commission shall establish, by regulation:

(a) The criteria for determining whether an association, a limited-purpose association or a common-interest community satisfies the requirements for an exemption or limited exemption from any provision of this chapter; and

(b) The extent to which a limited-purpose association must comply with the provisions of NRS 116.4101 to 116.412, inclusive.

6. As used in this section, "limited-purpose association" means an association that:

(a) Is created for the limited purpose of maintaining:

(1) The landscape of the common elements of a common-interest community;

(2) Facilities for flood control; or

(3) A rural agricultural residential common-interest community; and

(b) Is not authorized by its governing documents to enforce any restrictions concerning the use of units by units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

**Sec. 3.** NRS 116.1203 is hereby amended to read as follows:

116.1203 1. Except as otherwise provided in subsection 2, if a planned community contains no more than 12 units and is not subject to any developmental rights, it is subject only to NRS 116.1106 and 116.1107 unless the declaration provides that this entire chapter is applicable.

2. Except for NRS 116.3104, 116.31043, 116.31046 and 116.31138, the provisions of NRS 116.3101 to 116.350, inclusive, **and section 1 of this act**, and the definitions set forth in NRS 116.005 to 116.095, inclusive, to the extent that such definitions are necessary in construing any of those provisions, apply to a residential planned community containing more than six units.

**Sec. 4.** (Deleted by amendment.)

**Sec. 5.** (Deleted by amendment.)

**Sec. 6.** Notwithstanding the amendatory provisions of this act, if a common-interest community was created before October 1, 2009, the amendatory provisions of this act do not apply to the common-interest community until January 1, 2013, unless the



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- 1 governing documents provide that the association is responsible for
- 2 the maintenance, repair, restoration and replacement of the security
- 3 wall.



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