

Amendment No. 80

Senate Amendment to Senate Bill No. 30 (BDR 10-477)

Proposed by: Senate 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 underlining* is newly added transitory language.

DP/KEL



Date: 3/30/2011

S.B. No. 30—Makes various changes relating to common-interest communities.
(BDR 10-477)



SENATE BILL NO. 30—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE REAL ESTATE DIVISION)

PREFILED DECEMBER 14, 2010

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to common-interest communities.
(BDR 10-477)

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 for the electronic transfer of money to the ~~{State Treasurer}~~ **United States Government or federal or state agencies** under certain circumstances; ~~{requiring the executive board of}~~ **authorizing** an association to ~~{establish certain procedures if the association uses}~~ **use** electronic signatures to withdraw money from ~~{certain accounts}~~ **the operating account of the association under certain circumstances**; revising provisions relating to the requirement that the executive board of an association make certain records available for review at a designated location; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires certain signatures for the withdrawal of money from an account of a unit-owners' association of a common-interest community. (NRS 116.31153) **Section 1** of this bill allows the withdrawal of money, without the required signatures, from the operating account of an association to **make an electronic transfer of money** to the ~~{State Treasurer}~~ **United States Government or a federal or state agency**. **Section 1** also ~~{requires the executive board of}~~ **authorizes** an association to ~~{establish written procedures for internal controls to protect the money of the association if the association uses}~~ **use** electronic signatures to withdraw money from ~~{certain accounts}~~ **the operating account of the association under certain circumstances**.

Existing law requires the executive board of a unit-owners' association to make certain financial records available for review at the business office of the association or some other location within the county in which the common-interest community is located. Existing law also requires the board to provide, upon request, a copy of those records to a unit's owner or the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels and authorizes the board to charge a certain fee to cover the actual costs of preparing the copy. (NRS 116.31177) **Section 3** of this bill repeals that provision and instead, **section 2** of this bill requires the executive board of a unit-owners' association to make those records available for review at the business office of the association or a designated business location not to exceed 60 miles from the physical location of the common-interest community. **Section 2** also retains

the requirement that the board provide, upon request, a copy of such records to a unit's owner or the Ombudsman and the authority of the board to charge a fee to cover the actual costs of preparing the copy.

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

Section 1. NRS 116.31153 is hereby amended to read as follows:

116.31153 1. Money in the reserve account of an association required by paragraph (b) of subsection 2 of NRS 116.3115 may not be withdrawn without the signatures of at least two members of the executive board or the signatures of at least one member of the executive board and one officer of the association who is not a member of the executive board.

2. Except as otherwise provided in subsection 3, money in the operating account of an association may not be withdrawn without the signatures of at least one member of the executive board or one officer of the association and a member of the executive board, an officer of the association or the community manager.

3. Money in the operating account of an association may be withdrawn without the signatures required pursuant to subsection 2 to:

(a) Transfer money to the reserve account of the association at regular intervals; ~~for~~

(b) Make automatic payments for utilities ~~for~~; ~~for~~

~~(c) Electronically transfer to the State Treasurer the fees required to be deposited pursuant to this chapter if the amount of those fees is not less than \$10,000.~~

~~4. If an association uses electronic signatures to withdraw money in the reserve account or operating account of the association, the executive board of the association must have written procedures for adequate internal controls to ensure security of the money and proper authorization to withdraw the money.~~

(c) Make an electronic transfer of money to a state agency pursuant to NRS 353.1467; or

(d) Make an electronic transfer of money to the United States Government, or any agency thereof, pursuant to any federal law requiring transfers of money to be made by an electronic means authorized by the United States Government or the agency thereof.

4. An association may use electronic signatures to withdraw money in the operating account of the association if:

(a) The electronic transfer of money is made pursuant to a written agreement entered into between the association and the financial institution where the operating account of the association is maintained;

(b) The executive board has expressly authorized the electronic transfer of money; and

(c) The association has established internal accounting controls which comply with generally accepted accounting principles to safeguard the assets of the association.

5. As used in this section, "electronic transfer of money" has the meaning ascribed to it in NRS 353.1467.

Sec. 2. NRS 116.31175 is hereby amended to read as follows:

116.31175 1. Except as otherwise provided in ~~this~~ subsection ~~1~~ 2, the executive board of an association shall, upon the written request of a unit's owner,

1 make available the books, records and other papers of the association for review at
2 the business office of the association or a designated business location not to
3 exceed 60 miles from the physical location of the common-interest community and
4 during the regular working hours of the association, including, without limitation ~~the~~
5 ~~and~~ :

6 *(a) The financial statement of the association;*

7 *(b) The budgets of the association required to be prepared pursuant to NRS*
8 *116.31151;*

9 *(c) The study of the reserves of the association required to be conducted*
10 *pursuant to NRS 116.31152; and*

11 *(d) All contracts to which the association is a party and all records filed with a*
12 *court relating to a civil or criminal action to which the association is a party.*

13 2. The provisions of ~~this subsection~~ *subsection 1* do not apply to:

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

17 (b) The records of the association relating to another unit's owner, including,
18 without limitation, any architectural plan or specification submitted by a unit's
19 owner to the association during an approval process required by the governing
20 documents, except for those records described in subsection ~~2.4~~ 4; and

21 (c) Any document, including, without limitation, minutes of an executive board
22 meeting, a reserve study and a budget, if the document:

23 (1) Is in the process of being developed for final consideration by the
24 executive board; and

25 (2) Has not been placed on an agenda for final approval by the executive
26 board.

27 3. *The executive board shall provide a copy of any of the records required to*
28 *be made available pursuant to subsection 1 to a unit's owner or the Ombudsman*
29 *within 14 days after receiving a written request therefor. The executive board*
30 *may charge a fee to cover the actual costs of preparing a copy, but not to exceed*
31 *25 cents per page.*

32 ~~2.4~~ 4. The executive board of an association shall maintain a general record
33 concerning each violation of the governing documents, other than a violation
34 involving a failure to pay an assessment, for which the executive board has imposed
35 a fine, a construction penalty or any other sanction. The general record:

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

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

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

47 ~~3.4~~ 5. If the executive board refuses to allow a unit's owner to review the
48 books, records or other papers of the association, the Ombudsman may:

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

(b) If the Ombudsman 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.

~~6.4~~ 6. 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.

~~6.5~~ 7. 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.

~~6.6~~ 8. If an official publication contains or will contain any mention of a candidate or ballot question, the official publication must, upon request and without charge, provide equal space to the candidate or a representative of an organization which supports the passage or defeat of the ballot question.

~~6.7~~ 9. If an official publication contains or will contain the views or opinions of the association, the executive board, a community manager or an officer, employee or agent of an association concerning an issue of official interest, the official publication must, upon request and without charge, provide equal space to opposing views and opinions of a unit's owner, tenant or resident of the common-interest community.

~~6.8~~ 10. The association and its officers, employees and agents are immune from criminal or civil liability for any act or omission which arises out of the publication or disclosure of any information related to any person and which occurs in the course of carrying out any duties required pursuant to subsection ~~6.6~~ 8 or ~~6.7~~ 9.

~~6.9~~ 9. As used in this section:

(a) "Issue of official interest" includes, without limitation:

(1) Any issue on which the executive board or the units' owners will be voting, including, without limitation, the election of members of the executive board; and

(2) The enactment or adoption of rules or regulations that will affect a common-interest community.

(b) "Official publication" means:

(1) An official website;

(2) An official newsletter or other similar publication that is circulated to each unit's owner; or

(3) An official bulletin board that is available to each unit's owner, which is published or maintained at the cost of an association and by an association, an executive board, a member of an executive board, a community manager or an officer, employee or agent of an association.

Sec. 3. NRS 116.31177 is hereby repealed.

Sec. 4. This act becomes effective on July 1, 2011.

TEXT OF REPEALED SECTION

116.31177 Maintenance and availability of certain financial records of association; provision of copies to units' owners and Ombudsman.

1. The executive board of an association shall maintain and make 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:

- (a) The financial statement of the association;
- (b) The budgets of the association required to be prepared pursuant to NRS 116.31151; and
- (c) The study of the reserves of the association required to be conducted pursuant to NRS 116.31152.

2. The executive board shall provide a copy of any of the records required to be maintained pursuant to subsection 1 to a unit's owner or the Ombudsman within 14 days after receiving a written request therefor. The executive board may charge a fee to cover the actual costs of preparing a copy, but not to exceed 25 cents per page.