Legislative Update 2009
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Note: The author is an educator and real estate broker, not an attorney, and law/regulation interpretation is an opinion. Application of these laws/regulations will require an attorney.

In accordance with the Department of Business and Industry, Real Estate Division; the Real Estate Commission neither approves nor endorses any of the forms used in this class with the exception of those prescribed by State or Federal law.
Thank you for ordering this continuing education course from ABC Real Estate School! We hope that you will find the class very rewarding, and we hope to be able to assist you with other classes in the future. Please thoroughly read these directions before starting the course material.

**What is in my package?**
This booklet. This legislative update course covers the same 2009 laws covered in the *What Every Licensee Should Know* course. For any material that isn’t applicable to your specialty, think of it as a lesson in ethics, and try to figure out how it could be applied to your specialty.

**How long do I have to complete the course?**
You have a minimum of 1-day, and a maximum of 1-year to complete this course (including completion of the final examination).

**How do I complete the course?**
The course is broken into chapters. Read over the material and complete each quiz. The quiz answers for all quizzes except the last quiz can be found at the end of the booklet. The last quiz is a hand-in...either by fax, email, email attachment, mail, or in-person. Any method is fine.

**How can I receive my Certificate of Completion?**
You need to complete the entire course, including the hand-in quiz and final exam, to receive your certificate. You may complete the final exam online, at the school location, or at a proctor location.

**Where’s the final examination?**
Your final exam is not in you materials. It is an approximate 11 question, multiple-choice quiz. It can be taken online, at our school location, or at Title/Escrow Company in your area. You need to earn a score of 75% on the final exam in order to receive your certificate of completion.

**Can I retake my final examination?**
Should you fail your final quiz, you can retake it twice. You must review the material before you retake the quiz. An instructor will be available by phone, fax and email – during business hours on weekdays.

**Additional Questions:**
If you have any questions, feel free to contact ABC Real Estate School at 256-2801 or 1-800-977-8835 or by email. Rick Weber and Dr. Cindy Weber are both available for questions.
Chapter 1- Changes in Foreclosure Procedures

Learning Goals:
1. Follow Nevada statutes with regards to a foreclosure.

Chapters
NRS 21: Enforcement of Judgments
NRS 40: Actions and Proceedings in Particular Cases Concerning Property
NRS 107: Deeds of Trust
NRS 118A: Landlord and Tenant: Dwellings

Summary
Made various changes to provisions relations to Nevada foreclosures. Real property changes will be emphasized.

Bill Review per Legislative Counsel

Sections 2 and 7 of this bill revise existing law by requiring that a notice of sale of real property under execution or a notice of sale of real property pursuant to a trustee’s power of sale be served upon the State Board of Health if the real property is operated as a licensed health facility.

Sections 2 and 6.7 of this bill require, if the sale of property is a residential foreclosure, a separate notice to be served upon any tenant or
subtenant, other than the judgment debtor, in actual occupation of the real property subject to a notice of sale under execution or a notice of sale pursuant to a trustee’s power of sale to inform the tenant or subtenant that the property is subject to a notice of sale. (NRS 21.130)

Sections 3 and 8 of this bill make it unlawful for a person to willfully remove or deface a notice of sale under execution or a notice of sale pursuant to a trustee’s power of sale which is posted on real property. (NRS 21.140, 107.084)

Sections 4 and 6 of this bill require the purchaser of a vacant residential property at a foreclosure sale or a trustee’s sale to maintain the exterior of the property.

Sections 4 and 6 also authorize the appropriate governmental entity to assess a civil penalty of up to $1,000 per day, under certain circumstances, for failure to maintain the property. Existing law provides that a person who holds over and continues in possession of real property that has been foreclosed after a 3-day notice to quit has been served upon him may be removed. (NRS 40.255)

Section 5 of this bill provides that a tenant or subtenant, other than the person whose name appears on the mortgage or deed of trust, may be removed only after the expiration of a specified period not to exceed 60 days if the property has been sold as a residential foreclosure. Section 5 also requires the tenant or subtenant who remains in occupation of the real property to remit rent to the new owner of the property pending expiration of the specified period. Section 5 further prohibits any person from entering a record of eviction for a tenant or subtenant who vacates the property within the specified period if the property has been sold as a residential foreclosure. Finally, section 5 allows the new owner of the real property, if the property has been sold as a residential foreclosure, to negotiate a new purchase, lease or rental agreement with the tenant or subtenant in occupation of the property or to offer a payment in exchange for the tenant or subtenant vacating the property on a date earlier than the end of the specified period.

Section 5.5 of this bill requires a landlord to file proof of service with the court of any notice required to be served before the removal of a person who holds over and continues in possession of real property after receiving a 3-day notice to quit.

(NRS 40.280)
Section 9 of this bill requires a landlord to disclose in writing to a prospective tenant if the property to be leased or rented is the subject of foreclosure proceedings. Section 9 also makes it a deceptive trade practice for any landlord to willfully fail to make such a disclosure.

Section 10 of this bill amends section 3 of Assembly Bill No. 149 of this session to ensure that social security numbers are redacted from the copy of a promissory note before it is attached to a notice given before a trustee’s power of sale is carried out. (NRS 107.085)

?? So what changed?

Changes to NRS 21.130  (NRS 21: Enforcement of Judgments)

There are distinctive procedures that a debtor must follow if the property requiring a foreclosure judgment is operated as a facility licensed under the Nevada State Board of Health. A property licensed under the State Board of Health requires any foreclosure notices to be provided to the State Board of Health, rather than at the business or another location.

There are specific procedures that must be followed when foreclosing on a residential real property owner regardless if it is occupied by an owner, occupied by a tenant, or unoccupied. There are additional rules when the property is occupied by a tenant.

What is the correct procedure?

Prior to a Nevada real property foreclosure sale, certain procedures must be followed.

✓ Personal service upon each judgment debtor or by registered mail to the last known address of each judgment debtor.
✓ Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold; [and]
✓ Publishing a copy of the notice three times, once each week, for 3 successive weeks, in a newspaper, if there is one in the county, following legal cost constraints.
✓ Recording a copy of the notice in the office of the county recorder; and
✓ If the sale of property is a residential foreclosure:
i. Post a copy of the notice in a conspicuous place on the property, until the transfer of title is recorded or the property becomes occupied after completion of the sale, whichever is earlier.
   1. The notice must include these items:
      a. The physical address of the property; and
      b. The contact information of the party who is authorized to provide information relating to the foreclosure status of the property.
   2. The separate notice must be posted in a conspicuous place on the property; [and]
      a. Mailed, with a certificate of mailing issued by the United States Postal Service or another mail delivery service, to any tenant or subtenant, if any, other than the judgment debtor, in actual occupation of the premises not later than 3 business days after the notice of the sale is given pursuant to subsection ii.

ii. This separate notice must include the following information.

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**NOTICE TO TENANTS OF THE PROPERTY**

Foreclosure proceedings against this property have started, and a notice of sale of the property to the highest bidder has been issued.

You may either:
(1) terminate your lease or rental agreement and move out; or
(2) remain and possibly be subject to eviction proceedings under chapter 40 of the Nevada Revised Statutes. Any subtenants may also be subject to eviction proceedings.

Between now and the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the landlord. After the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the successful bidder, in accordance with chapter 118A of the Nevada Revised Statutes.

Under the Nevada Revised Statutes eviction proceedings may begin against you after you have been given a notice to quit.

If the property is sold and you pay rent by the week or another period of time that is shorter than 1 month, you should generally receive notice after not less than the number of days in that period of time. If the property is sold and you pay rent by the month or any other period of time that is 1 month or longer, you should generally receive notice at least 60 days in advance.
Under Nevada Revised Statutes 40.280, notice must generally be served on you pursuant to chapter 40 of the Nevada Revised Statutes and may be served by:

(1) Delivering a copy to you personally in the presence of a witness;
(2) If you are absent from your place of residence or usual place of business, leaving a copy with a person of suitable age and discretion at either place and mailing a copy to you at your place of residence or business; or
(3) If your place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, posting a copy in a conspicuous place on the leased property, delivering a copy to a person residing there, if a person can be found, and mailing a copy to you at the place where the leased property is.

If the property is sold and a landlord, successful bidder or subsequent purchaser files an eviction action against you in court, you will be served with a summons and complaint and have the opportunity to respond. Eviction actions may result in temporary evictions, permanent evictions, the awarding of damages pursuant to Nevada Revised Statutes 40.360 or some combination of those results.

Under the Justice Court Rules of Civil Procedure:

(1) You will be given at least 10 days to answer a summons and complaint;
(2) If you do not file an answer, an order evicting you by default may be obtained against you;
(3) A hearing regarding a temporary eviction may be called as soon as 11 days after you are served with the summons and complaint; and
(4) A hearing regarding a permanent eviction may be called as soon as 20 days after you are served with the summons and complaint.

The sheriff shall not conduct a sale of the property on execution or deliver the judgment debtor’s property to the judgment creditor if the judgment debtor or any other person entitled to notice has not been properly notified as required in this section and NRS 21.075 and 21.076.

As used in this section, “residential foreclosure” means the sale of a single family residence pursuant to NRS 40.430. As used in this subsection, “single family residence” means a structure that is comprised of not more than four units.
So what changed?

Changes to NRS 21.140.

NRS 21.140 was amended. An officer selling without the notice stated above must forfeit $500 to the wounded party, in addition to his actual damages. In addition, it is unlawful for a person to:

(1) Willfully take down or deface the notice, if done before the sale, [or]
(2) If the judgment is satisfied before sale, before the satisfaction of the judgment.

In addition to any other penalty, any person who violates this statute shall forfeit $500 to the aggrieved party.

So what changed?

Changes to NRS 40.

(NRS 40: Actions and Proceedings in Particular Cases Concerning Property)

1) NRS 40 experienced these additions with regards to a purchaser maintaining foreclosure property.

(1) Any vacant residential property purchased or acquired by a person at a foreclosure sale pursuant to NRS 40.430 must be maintained by that person. In addition to complying with any other ordinance or rule as required by the applicable governmental entity, the purchaser must care for the exterior of the property. At a minimum, the purchaser must:

   (a) Limit the excessive growth of foliage which would otherwise diminish the value of that property or of the surrounding properties;
   (b) Prevent trespassers from remaining on the property;
   (c) Prevent mosquito larvae from growing in standing water; and
   (d) Prevent any other condition that creates a public nuisance.

If these rules are violated, the applicable governmental entity shall mail to the last known address of the person, by certified mail, a notice in the following form:
(a) Describe the violation;
(b) Inform the person that a civil penalty may be imposed unless the person acts to correct the violation within 14 days after the date of receipt of the notice and completes the correction within 30 days after the date of receipt of the notice; and
(c) Inform the person that he may dispute the allegation within 5 days of the notice, if he requests a hearing to contest the allegation of a violation.
If the correct procedure is followed, the applicable governmental entity must apply for a hearing before a court of competent jurisdiction.

**Consequences**
In addition to any other penalty, the applicable governmental entity may enforce a civil penalty of not more than $1,000 per day for a violation. Collected penalties must be given to local nuisance abatement programs.

The applicable governmental entity may not assess any additional penalties, in addition to any penalty given by a local ordinance. This section shall not prevent any local ordinance penalties. If the applicable governmental entity assesses any penalty, the lien related must be recorded in the county recorder’s office.

Who is the “applicable governmental entity”? If the property is located within the city limits, the city is the entity. If the property is not located within the city limits, it is the board of county commissioners of the county in which the property is located.

This penalty will:
(1) Start on the day following the expiration of the notice period, or
(2) If the person requested a hearing, start on the day following a determination of a government’s win in court.

The timeframe may be waived or extend by the applicable governmental entity if the accused:
✓ Makes a good faith effort to correct the violation; and
✓ The violation cannot be corrected in stated period of time.
2) NRS 40.255 experienced additions with regards to mobile home foreclosure property. It
does not apply to the tenant of a mobile home lot in a mobile home park.

If the property has been sold as a residential foreclosure, the tenant or subtenant occupying the
premises may be removed after the required notice period that provided notice of the change
of ownership of the real property or mobile home. Before a person may be removed, a
landlord shall file proof of service of any notice with the courts.

The notice period length varies, depending on the type of lease and length of lease. For all
periodic tenancies with a period of less than 1 month, the minimum notice length is the
number of days in the period; and for all other periodic tenancies or tenancies at will, the
minimum notice length is not less than 60 days.

During the notice period:
(a) The new owner has all the legal rights, obligations and liabilities of the previous owner or
landlord under the lease or rental agreement which the previous owner or landlord entered
into with the tenant or subtenant regarding the property; and
(b) The tenant or subtenant continues to have the legal rights, obligations and liabilities he
had under the lease or rental agreement which he entered into with the previous owner or
landlord regarding the property.

The notice must:
(a) Provide the contact information of the new owner to whom rent should be remitted;
(b) Notify the tenant or subtenant that the lease or rental agreement he entered into with
the previous owner or landlord of the property continues in effect through the notice
period; and
(c) Notify the tenant or subtenant that failure to pay rent to the new owner or comply with
any other term of the agreement or applicable law constitutes a breach of the lease or
rental agreement and may result in eviction proceedings.

If the property has been sold as a residential foreclosure, no person may enter a record of
eviction for a tenant or subtenant who vacates a property during the notice period. If the
property has been sold as a residential foreclosure, nothing shall prohibit:

(a) The tenant from vacating the property at any time before the expiration of the notice period
without any obligation to the new owner; or
(b) The new owner of a property purchased pursuant to a foreclosure sale or trustee’s sale
from:
(1) Negotiating a new purchase, lease or rental agreement with the tenant or subtenant; or
(2) Offering a payment to the tenant or subtenant in exchange for vacating the premises on a date earlier than the expiration of the notice period.

“Residential foreclosure” is the foreclosure of a single family residence (1-4 units).

**So what changed?**

**Changes to NRS 107. ([NRS 107: Deeds of Trust](#))**

NRS 107 experienced additions with regards to acquired ‘vacant’ foreclosure property.

Any vacant residential property purchased or acquired by a person at a trustee’s sale pursuant to NRS 107.080 must be maintained by that person in accordance with Nevada law. In addition to complying with any other ordinance or rule as required by the applicable governmental entity, the purchaser must care for the exterior of the property, including, without limitation:

(a) Limiting the excessive growth of foliage which would otherwise diminish the value of that property or of the surrounding properties;
(b) Preventing trespassers from remaining on the property;
(c) Preventing mosquito larvae from growing in standing water; and
(d) Preventing any other condition that creates a public nuisance.

**Consequences**

If a person violates this law, the applicable governmental entity will mail to the last known address of the person, by certified mail, a notice:

(a) Describing the violation;
(b) Informing the person that a civil penalty may be imposed unless the person acts to correct the violation within 14 days after the date of receipt of the notice and completes the correction within 30 days after the date of receipt of the notice; and
(c) Informing the person that he may dispute the allegation within 5 days after a notice is mailed to him at a hearing. If disputed, the applicable governmental entity must apply for a court hearing.
Penalties

In addition to any other penalty, the applicable governmental entity may charge a civil penalty of not more than $1,000 per day for a violation starting either on the day following the notice period, or the day following the court decision in favor of the applicable governmental entity. Collected penalties must be given to local nuisance abatement programs. The applicable governmental entity may not assess a penalty in addition to the penalty prescribed by a local ordinance, preempting the local ordinance. If a penalty is assessed, a lien against the property must be recorded in the recorder’s office.

The ‘grace period’ (while notices are distributed) may be extended or waived if the owner:

1. Makes a good faith effort to correct the violation, or
2. The violation cannot be corrected in the period of time provided.

Who is the “applicable governmental entity”? If the property is located within the city limits, the city is the entity. If the property is not located within the city limits, it is the board of county commissioners of the county in which the property is located.

Notice

In addition, if the sale of property is a residential foreclosure, a copy of the notice of default and election to sell must be posted. Any notices must not be vandalized or removed until the transfer of title is recorded or the property becomes occupied after completion of the sale, whichever is earlier. The notice of sale must:

(a) Be posted in a conspicuous place on the property not later than 3 business days after the notice of default and election to sell or the notice of sale is recorded.

This notice must include the following items:
(1) The physical address of the property; and
(2) The contact information of the trustee or the person conducting the foreclosure who is authorized to provide information relating to the foreclosure status of the property.

In addition, a separate notice must be posted in a conspicuous place on the property, [and]
(I) mailed, with a certificate of mailing issued by the mail delivery service, to any tenant or subtenant, if any,
   a. No later than 3 business days after the notice of the sale is given.

The notice must be in substantially the following form.

   NOTICE TO TENANTS OF THE PROPERTY

Foreclosure proceedings against this property have started, and a notice of sale of the property to the highest bidder has been issued.

You may either:
(1) Terminate your lease or rental agreement and move out; or
(2) Remain and possibly be subject to eviction proceedings under chapter 40 of the Nevada Revised Statutes.

Any subtenants may also be subject to eviction proceedings. Between now and the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the landlord.

After the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the successful bidder, in accordance with chapter 118A of the Nevada Revised Statutes.

Under the Nevada Revised Statutes eviction proceedings may begin against you after you have been given a notice to quit.

If the property is sold and you pay rent by the week or another period of time that is shorter than 1 month, you should generally receive notice after not less than the number of days in that period of time.

If the property is sold and you pay rent by the month or any other period of time that is 1 month or longer, you should generally receive notice at least 60 days in advance.

Under Nevada Revised Statutes 40.280, notice must generally be served on you pursuant to chapter 40 of the Nevada Revised Statutes and may be served by:
(1) Delivering a copy to you personally in the presence of a witness;
(2) If you are absent from your place of residence or usual place of business, leaving a copy with a person of suitable age and discretion at either place and mailing a copy to you at your place of residence or business; or
(3) If your place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, posting a copy in a conspicuous place on the leased property, delivering a copy to a person residing there, if a person can be found, and mailing a copy to you at the place where the leased property is.
If the property is sold and a landlord, successful bidder or subsequent purchaser files an eviction action against you in court, you will be served with a summons and complaint and have the opportunity to respond. Eviction actions may result in temporary evictions, permanent evictions, the awarding of damages pursuant to Nevada Revised Statutes 40.360 or some combination of those results.

Under the Justice Court Rules of Civil Procedure:
(1) You will be given at least 10 days to answer a summons and complaint;
(2) If you do not file an answer, an order evicting you by default may be obtained against you;
(3) A hearing regarding a temporary eviction may be called as soon as 11 days after you are served with the summons and complaint; and
(4) A hearing regarding a permanent eviction may be called as soon as 20 days after you are served with the summons and complaint.

So what changed?

Changes to NRS 118A. (NRS 118A: Landlord and Tenant: Dwellings)

| New information requiring notification to tenants of a pending foreclosure action was added to NRS 118A. In addition, new language making sure that the person who holds title of record to the property is properly notified, was also added. New information is underlined. |

Nevada Supporting Statute

A landlord must disclose in writing to a prospective tenant if the property to be leased or rented is the subject of any foreclosure proceedings. A willful violation of this law constitutes a deceptive trade practice.

The trustee must not exercise a power of sale unless:
(a) Not later than 60 days before the date of the sale, the trustee causes to be served upon the grantor or the person who holds the title of record a notice; and
(b) If an action is filed in a court of competent jurisdiction claiming an unfair lending practice in connection with the trust agreement, the date of the sale is not less than 30 days after the date the most recent such action is filed.

3. The notice must be:
(a) Served upon the grantor or the person who holds the title of record;
(2), by personal service or, if personal service cannot be timely effected, in such other manner as a court determines is reasonably calculated to afford notice to the grantor (;) or the person who holds the title of record; or
(2) If the trust agreement concerns owner-occupied housing as defined in section 1 of this act:
(I) By personal service:
(II) If the grantor or the person who holds the title of record is absent from his place of residence or from his usual place of business, by leaving a copy with a person of suitable age and discretion at either place and mailing a copy to the grantor or the person who holds the title of record at his place of residence or place of business; or
(III) If the place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, by posting a copy in a conspicuous place on the trust property, delivering a copy to a person there residing if the person can be found and mailing a copy to the grantor or the person who holds the title of record at the place where the trust property is situated; and

The following is the form required.

NOTICE
YOU ARE IN DANGER OF LOSING YOUR HOME!
Your home loan is being foreclosed. In not less than 60 days your home will be sold and you will be forced to move. For help, call:
Consumer Credit Counseling ______________
The Attorney General ___________________
The Division of Financial Institutions ______________
Legal Services __________________________
Your Lender ___________________________
Nevada Fair Housing Center _______________

4. The trustee shall cause all social security numbers to be redacted from the copy of the promissory note before it is attached to the notice pursuant to paragraph (b) of subsection 3.
5. This section does not prohibit a judicial foreclosure.
6. As used in this section, “unfair lending practice” means an unfair lending practice described in NRS 598D.010 to 598D.150, inclusive.
Prior to a Nevada real property foreclosure sale, certain procedures must be followed.

- Mail a notice to the last known address of each judgment debtor.
- Make a public posting.
- Recording a copy of the notice in the office of the county recorder; and
- Post notice on the property.
- Notify tenants in writing.

Quiz 1
(Answers can be found at the end of this course.)

1. Prior to a foreclosure sale:
   a. Notice must be provided to all debtors.
   b. There must be a public notice.
   c. It must be recorded.
   d. Tenants must be notified in writing.
   e. All answers are true.

2. If a unit in default has renters occupying the property:
   a. Notice must be provided to the owner of record.
   b. Notice must be provided to those renters.
   c. Both answers are true.
   d. Neither answer is true.

3. Any subtenants may also be subject to eviction proceedings.
   a. True.
   b. False.
Chapter 2- Changes in Appraisal Procedures

Learning Goals:
1. Be familiar with changes in appraisal procedures.

Chapter
NRS 645C.635: Appraisers of Real Estate

Summary
These new laws made various changes concerning appraisals of real estate. The legislation added laws to NRS 645C and cross referenced the law to the disciplinary area section for both real estate licensees in NRS 645, and mortgage brokers in NRS 645B. In other words, by adding discipline for violating the NRS 645C law in the other two laws....the laws must also be followed by real estate licensees and mortgage brokers, or they also would face disciplinary action.

Bill Review per Legislative Counsel

Section 4 of this bill prohibits certain persons from improperly influencing or attempting to improperly influence the development, reporting, result or review of an appraisal under certain circumstances.

Sections 1, 2, 24 and 27 of this bill apply this prohibition to real estate brokers and salesmen, mortgage brokers and agents, appraisers and mortgage bankers.

Section 25 of this bill revises provisions setting forth unprofessional conduct for an appraiser to expand the scope of conduct that is considered unprofessional with regard to appraising real estate when the
appraiser’s compensation is affected by the appraised value of the real estate.

**Sections 5-22 and 26** of this bill provide for the registration and regulation of appraisal management companies.

**Section 23** of this bill revises the requirements for continuing education for appraisers.

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**So what changed?**

**Changes to NRS 645.** *(NRS 645: Real Estate Brokers and Salesman)*

A new requirement was added to NRS 645.635 in the #11 spot (one of the disciplinary action sections). Numbers 1 through 10 did not change. This addition made it a violation for a real estate licensee NOT to adhere to the new law added to NRS 645C (the law regulating real estate APPRAISERS).

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**Nevada Supporting Statute**

**NRS 645.635 Additional grounds for disciplinary action: Unprofessional and improper conduct relating to real estate transactions.** The Commission may take action pursuant to NRS 645.630 against any person subject to that section who is guilty of:

1. Offering real estate for sale or lease without the knowledge and consent of the owner or his authorized agent or on terms other than those authorized by the owner or his authorized agent.
2. Negotiating a sale, exchange or lease of real estate, or communicating after such negotiations but before closing, directly with a client if he knows that the client has a brokerage agreement in force in connection with the property granting an exclusive agency, including, without limitation, an exclusive right to sell to another broker, unless permission in writing has been obtained from the other broker.
3. Failure to deliver within a reasonable time a completed copy of any purchase agreement or offer to buy or sell real estate to the purchaser or to the seller, except as otherwise provided in subsection 4 of NRS 645.254.
4. Failure to deliver to the seller in each real estate transaction, within 10 business days after the transaction is closed, a complete, detailed closing statement showing all of the receipts and
disbursements handled by him for the seller, failure to deliver to the buyer a complete statement showing all money received in the transaction from the buyer and how and for what it was disbursed, or failure to retain true copies of those statements in his files. The furnishing of those statements by an escrow holder relieves the broker’s, broker-salesman’s or salesman’s responsibility and must be deemed to be in compliance with this provision.

5. Representing to any lender, guaranteeing agency or any other interested party, verbally or through the preparation of false documents, an amount in excess of the actual sale price of the real estate or terms differing from those actually agreed upon.

6. Failure to produce any document, book or record in his possession or under his control, concerning any real estate transaction under investigation by the Division.

7. Failure to reduce a bona fide offer to writing where a proposed purchaser requests that it be submitted in writing, except as otherwise provided in subsection 4 of NRS 645.254.

8. Failure to submit all written bona fide offers to a seller when the offers are received before the seller accepts an offer in writing and until the broker has knowledge of that acceptance, except as otherwise provided in subsection 4 of NRS 645.254.

9. Refusing because of race, color, national origin, sex or ethnic group to show, sell or rent any real estate for sale or rent to qualified purchasers or renters.

10. Knowingly submitting any false or fraudulent appraisal to any financial institution or other interested person.

11. Any violation of the new section in NRS 645C (NEXT).

So what changed?

Changes to NRS 645C. (NRS 645: Appraisers of Real Estate)

The following information was added to NRS 645C (the appraiser chapter).

What is a legal violation for an appraiser?

A person with an interest in a real estate transaction involving an appraisal shall not improperly influence or attempt to improperly influence, through coercion, extortion or bribery, the development, reporting, result or review of the appraisal. This does not prohibit a person with an interest in a real estate transaction from requesting that an appraiser:

(a) Consider additional appropriate property information;

(b) Provide further detail, substantiation or explanation for the appraiser’s conclusion as to value; or

(c) Correct errors in his appraisal.
What is an appraisal firm?
An “Appraisal firm” means a person, limited-liability company, partnership, association or corporation:
(1) Which, for compensation, prepares and communicates appraisals;
(2) Whose principal is an appraiser licensed pursuant to chapter 645C of NRS; and
(3) Whose principal supervises, trains and reviews work product produced by the persons who produce appraisals for the person, limited-liability company, partnership, association or corporation, including, without limitation, employees and independent contractors.

What is an appraisal management company?
An “Appraisal management company” means a person, limited-liability company, partnership, association or corporation which for compensation:
(a) Functions as a third-party intermediary between an appraiser and a user of real estate appraisal services;
(b) Administers a network of appraisers performing real estate appraisal services as independent contractors;
(c) Enters into an agreement to provide real estate appraisal services with a user of such services and one or more appraisers performing such services as independent contractors; or
(d) Otherwise serves as a third-party broker of appraisal services.

Exempt Parties
An ‘appraisal management company’ does not include:
(a) An appraisal firm;
(b) Any person licensed to practice law in this State who orders an appraisal in connection with a bona fide client relationship when that person directly contracts with an independent appraiser;
(c) Any person or entity that contracts with an independent appraiser acting as an independent contractor for the completion of appraisal assignments that the person or entity cannot
complete for any reason, including, without limitation, competency, workload, scheduling or geographic location; and
(d) Any person or entity that contracts with an independent appraiser acting as an independent contractor for the completion of a real estate appraisal assignment and, upon the completion of such an assignment, cosigns the appraisal report with the independent appraiser acting as an independent contractor.

Registration does not apply to:
1. A person, limited-liability company, partnership, association or corporation other than an appraisal management company which, in the normal course of its business, employs persons for the performance of real estate appraisal services; or
2. An appraisal management company that enters into not more than nine contracts annually with independent contractors in Nevada.

Who regulates the new occupation?

The Real Estate Division regulates the registration of an ‘appraisal management company’. If the Commission imposes a fine or a penalty or the Division collects an amount for the registration of an appraisal management company, the Commission or Division, as applicable, must deposit the amount collected with the State Treasurer for credit to the State General Fund. The Commission may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay an attorney’s fee or the cost of an investigation, or both.

A person who wishes to be registered as an appraisal management company in this State must file a written application with the Division upon a form prepared and furnished by the Division and pay the fee of not more than $2,500 for the principal office and not more than $100 for each branch office plus any Division’s investigation fees. An application must:
(a) State the name, residence address and business address of the applicant and the location of each principal office and branch office at which the appraisal management company will conduct business within this State;
(b) State the name under which the applicant will conduct business as an appraisal management company;
(c) List the name, residence address and business address of each person who will, if the applicant is not a natural person, have an interest in the appraisal management company as a principal, partner, officer, director or trustee, specifying the capacity and title of each such person; and
(d) Be fingerprinted.
The Division \textit{shall issue} a registration to an applicant as an appraisal management company if:

(a) The complete application is verified by the Division.

(b) The applicant and each general partner, officer or director of the applicant, if the applicant is a partnership, corporation or unincorporated association:

   (1) Submits satisfactory proof to the Division that he has a good reputation for honesty, trustworthiness and integrity and displays competence to transact the business of an appraisal management company in a manner which safeguards the interests of the general public.

   (2) Has not been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of appraisal or any crime involving fraud, misrepresentation or moral turpitude.

   (3) Has not made a false statement of material fact on his application.

   (4) Has not had a license that was issued pursuant to the provisions of this chapter suspended, revoked or voluntarily surrendered in lieu of suspension or revocation within the 10 years immediately preceding the date of his application.

   (5) Has not had a professional license that was issued in any other state, district or territory of the United States or any foreign country suspended or revoked within the 10 years immediately preceding the date of his application.

   (6) Has not violated any provision of this chapter, a regulation adopted pursuant thereto or an order of the Commission or the Administrator.

(c) The applicant certifies that he:

   (1) Has a process in place to verify that each independent contractor that provides services to the appraisal management company is the holder of a license in good standing to practice appraisal in this State.

   (2) Has a process in place to review the work of each independent contractor that provides services to the appraisal management company to ensure that those services are conducted in accordance with the Uniform Standards of Professional Appraisal Practice.

   (3) Will maintain a detailed record of each request for service it receives and the independent contractor who fulfilled that request.

(d) The applicant discloses whether or not the company uses an appraiser fee schedule. For the purposes of this paragraph, “appraiser fee schedule” means a list of the various real estate appraisal services requested by the appraisal management company from independent contractors and the amount the company will pay for the performance of each service listed.

In addition to any other requirements:

(a) An applicant for the issuance of a registration as an appraisal management company shall include the social security number of the applicant in the application submitted to the Division.

(b) An applicant for the issuance or renewal of a registration as an appraisal management company shall submit to the Division the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.
A registration as an appraisal management company may not be issued or renewed by the Division if the applicant:
(a) Does not submit a complete application.
(b) Indicates that he is not or is not in compliance with a child support order or plan.

For out-of-state applicants, a ‘Consent to Service or Process’ form must be submitted. This gives the Administrator the ability to accept legal actions on the registrants’ behalf within the state of Nevada.

Renewals
The registration must be renewed annually. To renew a registration, the registrant must submit to the Division on or before the expiration date:
1. An application for renewal;
2. The fee required to renew the registration of not more than $500 for the principal office and not more than $100 for each branch office; and
3. All information required to complete the renewal.

Other Rules
The Commission shall adopt regulations regarding a qualified employee, including, without limitation, regulations that establish:
(a) A definition for the term “qualified employee”;
(b) Any duties of a qualified employee; and
(c) Any requirements regarding a qualified employee.

It is unlawful for an employee, director, officer or agent of an appraisal management company to influence or attempt to influence the development, reporting or review of an appraisal through coercion, extortion, collusion, compensation, instruction, inducement, intimidation, bribery or other means, including, without limitation:
(a) Withholding or threatening to withhold timely payment for an appraisal in order to influence or attempt to influence an appraisal;
(b) Withholding or threatening to withhold future business for an independent appraiser;
(c) Terminating an agreement with an independent contractor without prior written notice;
(d) Directly or indirectly promising future business for or increased compensation to an independent contractor;
(e) Conditioning a request for appraisal services or the payment of any compensation on the opinion, conclusion or valuation to be reached or on a preliminary estimate or opinion requested from an independent contractor;
(f) Requesting an independent contractor to provide an estimated, predetermined or desired valuation in an appraisal report or providing estimated values or comparable sales at any time before the completion of appraisal services by the independent contractor;
(g) Providing to an independent contractor an anticipated, estimated or desired value for a subject property or proposed or target amount to be loaned to a borrower, other than a copy of the sales contract for purchase transactions;
(h) Providing an independent contractor or a person or entity associated with the independent contractor stock or other financial or nonfinancial benefits;
(i) Obtaining, using or paying for a second or subsequent appraisal or ordering an automated valuation model in connection with a loan secured by a lien on real property unless:
   (1) There is a reasonable basis to believe that the initial appraisal was incorrect and such basis is disclosed in writing to the borrower; or
   (2) The second or subsequent appraisal or automated valuation model is performed pursuant to a bona fide appraisal review or quality control process;
(j) Accepting a fee for performing appraisal management services if the fee is contingent on:
   (1) An appraisal report having a predetermined analysis, opinion or conclusion;
   (2) The analysis, opinion, conclusion or valuation reached in an appraisal report; or
   (3) The consequences resulting from an appraisal assignment; or
(k) Any other act or practice that impairs or attempts to impair an appraiser’s independence, objectivity or impartiality.

Nothing shall be construed as prohibiting an appraisal management company from requesting that an independent contractor provide additional information regarding the basis for a valuation or correct objective factual errors in an appraisal report. It is unlawful for an appraisal management company to alter, modify or revise a completed appraisal report submitted by an independent contractor, including, without limitation, removing the signature of the appraiser.

If an appraisal management company terminates its association with an independent contractor for any reason, the appraisal management company shall, not later than the third business day following the date of termination, deliver to the independent contractor or send by certified mail to the last known residence address of the independent contractor a written statement which advises him of his termination.

An independent contractor who is aggrieved by a termination may lodge a complaint with the Commission. The Commission may consider whether the appraisal management company violated any provisions and may revoke, suspend or deny renewal of a registration. If the Division receives a copy of a court order that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a holder of a registration, the Division shall deem the registration to be suspended at the end of
the 30th day after the date the court order was issued unless the Division receives a letter issued to the holder of the registration by the district attorney or other public agency stating that the holder of the registration has complied with the subpoena or warrant or has satisfied the arrearage.

The Division shall reinstate a registration that has been suspended by a district court if the Division receives a letter issued by the district attorney or other public agency to the holder of the registration stating that the holder of the registration has complied with the subpoena or warrant or has satisfied the arrearage. For each violation committed by an applicant, whether or not he is issued a registration, the Commission may impose upon the applicant an administrative fine of not more than $10,000 if the applicant:
(a) Has knowingly made or caused to be made to the Commission any false representation of material fact;
(b) Has suppressed or withheld from the Commission any information which the applicant possesses and which, if submitted by him, would have rendered the applicant ineligible to be registered; or
(c) Has violated any law or regulation in completing and filing his application for a registration or during the course of the investigation of the application for a registration.

For each violation committed by an appraisal management company, the Commission may impose upon the appraisal management company an administrative fine of not more than $10,000, may suspend, revoke or place conditions on the registration or may do both, if the appraisal management company, whether or not acting as such:
(a) Is grossly negligent or incompetent in performing any act for which the appraisal management company is required to be registered;
(b) Does not conduct its business in accordance with the law or regulations;
(c) Has made a material representation;
(d) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by Nevada law which the appraisal management company knew or, by the exercise of reasonable diligence, should have known;
(e) Has knowingly made or caused to be made to the Commission any false representation of material fact or has suppressed or withheld from the Commission any information which the appraisal management company possesses and which, if submitted by the appraisal management company, would have rendered the appraisal management company ineligible to be registered;
(f) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of appraisal or any crime involving fraud, misrepresentation or moral turpitude; or
(g) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice.
A person with an interest in a real estate transaction involving an appraisal shall not improperly influence or attempt to improperly influence, through coercion, extortion or bribery, the development, reporting, result or review of the appraisal.

An interest party may request that an appraiser:
(a) Consider additional appropriate property information;
(b) Provide further detail, substantiation or explanation for the appraiser’s conclusion as to value; or
(c) Correct errors in his appraisal.

An “Appraisal management company” means a person, limited-liability company, partnership, association or corporation which for compensation:
(a) Functions as a third-party intermediary between an appraiser and a user of real estate appraisal services;
(b) Administers a network of appraisers performing real estate appraisal services as independent contractors;
(c) Enters into an agreement to provide real estate appraisal services with a user of such services and one or more appraisers performing such services as independent contractors; or
(d) Otherwise serves as a third-party broker of appraisal services.
(e) Enters into more than 9 contracts annually with independent contractors in Nevada.

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**Quiz 2**

(Answers can be found at the end of this course.)

1. A licensee may not attempt the following to influence an appraisal:
   a. Coerce the appraiser.
   b. Bribe the appraiser.
   c. Both answers are true.
   d. Neither answer is true.

2. An appraisal management company:
   a. Functions as a 3rd party between the person ordering the appraisal and the appraiser.
   b. Is the same as an appraisal company.
Chapter 3- Changes in Common-Interest Community Law

Learning Goals:
1. Identify a lender's responsibility when a defaulted mortgage impacts a common interest community development.
2. Identify an Association's responsibility and/or options when a defaulted mortgage impacts a common interest community development.

Chapters
- NRS 116: Common-Interest Ownership (Uniform Act)
- NRS 107: Deeds of Trust

Summary

2009 legislation changed common-interest communities law, by adding some new provisions.

Bill Review per Legislative Counsel

Existing law assigns the responsibility for maintenance of a unit in a common-interest community to the owner of the unit, and maintenance of a common element in the community to the unit-owners’ association. (NRS 116.3107) Existing law provides procedures for the executive board of the association to fine a unit’s owner who fails to maintain his residence according to the governing documents. (NRS 116.31031)
Section 1 of this bill provides that the association may, without liability for trespass, enter on the grounds of a unit that is vacant or that is in the foreclosure process, whether vacant or not, to maintain the exterior of the unit or abate a public nuisance on the exterior of the unit if, after notice and a hearing, the unit’s owner refuses or fails to do so. Section 1 also provides that any amount of the costs for such maintenance or abatement which are not paid by the unit’s owner will be a lien against the unit. Further, this section provides that the lien has priority over certain other liens, claims, encumbrances and titles, except certain liens recorded before the declaration for the association was recorded and certain liens of assessments and taxes. Finally, this section provides that the period of priority of the lien shall be indefinite, unless regulations of the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association provide for a shorter period of priority for the lien, but even if such organization’s regulations provide for a shorter period of priority for the lien, the period of priority shall not be less than 6 months.

Section 2 of this bill specifically authorizes a unit-owners’ association to charge a unit’s owner for the maintenance and abatement services provided pursuant to section 1 of the bill. (NRS 116.3102)

Section 3 of this bill further provides that a lien for such maintenance and abatement services has priority over a first security interest on the unit. (NRS 116.3116)

Section 4 of this bill provides that a unit-owners’ association may record in the office of the county recorder a request for a trustee or other authorized person to provide the association with a copy of the deed after the sale of a unit upon a deed of trust for any unit within the association. (NRS 107.090)
So what changed?

Changes to NRS 116. *(NRS 116: Common Interest Ownership (Uniform Act))*

NRS 116 underwent some additions during the 2009 legislative session in Nevada, primarily with regards to responsibility of maintenance, when a property is in default.

The lender’s responsibility

A person who holds a security interest in a unit must provide the association with his contact information as soon as reasonably practicable, but not later than 30 days after the person:

(a) Files an action for recovery of a debt or enforcement of any right secured by the unit; or
(b) Records or has recorded on his behalf a notice of a breach of obligation secured by the unit and the election to sell or have the unit sold.

The association’s maintenance options

If an action or notice has been filed or recorded regarding a unit and the association has provided the unit’s owner with notice and an opportunity for a hearing in a lawful manner, the association, including its employees, agents and community manager, may, but is not required to, enter the grounds of the unit, whether or not the unit is vacant, to take any of the following actions if the unit’s owner refuses or fails to take any action or comply with any requirement imposed on the unit’s owner within the time specified by the association as a result of the hearing:

(a) Maintain the exterior of the unit in accordance with the standards set forth in the governing documents, including, without limitation, any provisions governing maintenance, standing water or snow removal.
(b) Remove or decrease a ‘public nuisance¹’ on the exterior of the unit which:

    (1) Is visible from any common area of the community or public streets;

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¹ A public nuisance is an unreasonable interference with the public’s right to property. It includes conduct that interferes with public health, safety, peace or convenience. [http://en.wikipedia.org/wiki/Nuisance](http://en.wikipedia.org/wiki/Nuisance) 1/9/10.
(2) Threatens the health or safety of the residents of the common-interest community; 
(3) Results in blighting or deterioration of the unit or surrounding area; and 
(4) Adversely affects the use and enjoyment of nearby units.

If a unit is vacant and the association has provided the unit’s owner with notice and an opportunity for a hearing in a legal manner, the association, including its employees, agents and community manager, may enter the grounds of the unit to maintain the exterior of the unit or abate a public nuisance if the unit’s owner refuses or fails to do so.

Who pays for the costs?

The association may order that the costs of any maintenance or removal of a public nuisance conducted pursuant, including, without limitation, reasonable inspection fees, notification and collection costs and interest, be charged against the unit. The association shall keep a record of all costs and interest charged against the unit and file a lien (and eventually a foreclosure) on the unit for any unpaid charges.

Lien Rules

A lien can accumulate interest from the date that the charges become due at a rate determined pursuant to state law until the charges, including all interest due, are paid. This lien is prior and superior to all liens, claims, encumbrances and titles other than assessment. If the federal regulations of the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien, the period during which the lien is prior and superior to other security interests shall be determined in accordance with those federal regulations. Notwithstanding the federal regulations, the period of priority of the lien must not be less than the 6 months immediately preceding the institution of an action to enforce the lien.

The foreclosure purchaser’s responsibility

A person who purchases or acquires a unit at a foreclosure sale pursuant to NRS 40.430 or a trustee’s sale is bound by the governing documents of the association and shall maintain the exterior of the unit in accordance with the governing documents of the association. Such a unit
may only be removed from a common-interest community in accordance with the governing documents.

An association, its directors or members of the executive board, employees, agents or community manager who enter the grounds of a unit in foreclosure are not liable for trespass.

“Exterior of the unit” includes, without limitation, all landscaping outside of a unit and the exterior of all property exclusively owned by the unit owner.

“Vacant” means a unit:
(1) Which reasonably appears to be unoccupied;
(2) On which the owner has failed to maintain the exterior to the standards set forth in the governing documents the association; and
(3) On which the owner has failed to pay assessments for more than 60 days.

So what changed?

Changes to NRS 107 (NRS 107: Deeds of Trust)

There are specific laws for the association with regards to recording deeds of trust. An association may record in the office of the county recorder of the county in which a unit governed by the association is situated an acknowledged request for a copy of the deed upon sale of the unit pursuant to a deed of trust. A request recorded by an association must include, without limitation:
(a) A legal description of the unit or the assessor’s parcel number of the unit;
(b) The name and address of the association; and
(c) A statement that the request is made by an association.

A request recorded by an association regarding a unit supersedes all previous requests recorded by the association regarding the unit. If a trustee or person authorized to record a notice of default records the notice default for a unit regarding which an association has recorded a request, the trustee or authorized person shall mail to the association a copy of the deed upon the sale of the unit pursuant to a deed of trust within 15 days after the trustee records the deed upon the sale of the unit. No request recorded affects the title to real property, and failure to mail a copy of the deed upon the sale of the unit after a request is made by an association does not affect the title to real property.
Review

A person who holds a security interest in a unit must provide the association with his contact information no later than 30 days after recording the default.

If an action or notice has been filed or recorded regarding a unit and the association has provided the unit's owner with notice and an opportunity for a hearing in a lawful manner, the association, including its employees, agents and community manager may enter the grounds of the unit, whether or not the unit is vacant to:

- Maintain the exterior of the unit in accordance with the standards set forth in the governing documents, including, without limitation, any provisions governing maintenance, standing water or snow removal.
- Remove or decrease a 'public nuisance' on the exterior of the unit.

A lien can accumulate interest from the date that the charges become due at a rate determined pursuant to state law until the charges, including all interest due, are paid.

A person who purchases or acquires a unit at a foreclosure sale is bound by the governing documents of the association and shall maintain the exterior of the unit in accordance with the governing documents of the association.

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Quiz 3

(Answers can be found at the end of this course.)

1. A purchaser of a foreclosure must:
   a. Maintain the exterior of the property.
   b. Follow all CC&R's attached to the property.
   c. Follow all association governing documents.
   d. All of the answers are true.

2 A public nuisance is an unreasonable interference with the public's right to property. It includes conduct that interferes with public health, safety, peace or convenience.  [http://en.wikipedia.org/wiki/Nuisance](http://en.wikipedia.org/wiki/Nuisance) 1/9/10.
Chapter 4- Changes In Landlord and Tenant Obligations With Respect to a Lease of Real Property

Learning Goals:
1. Describe the lawful procedure for handling security deposits during and after a foreclosure action.

Summary
This new legislation revises provisions relating to security deposits for the rental of real property.

Bill Review per Legislative Counsel
Existing law requires a landlord and a tenant to perform certain obligations with respect to a lease of real property. As part of a lease, a landlord may demand a tenant provide security for the tenant’s obligations, such as: (1) payment of rent; (2) repairing damage to the premises; and (3) cleaning the dwelling. (NRS 118A.240-118A.250)

Section 2 of this bill provides that, instead of requiring a security deposit, a landlord may allow a tenant to provide the landlord with a surety bond, or a combination of a surety bond and other security, to cover the amount of security demanded by the landlord. This section also: (1) provides that a landlord is not required to accept a surety bond;
and (2) provides that a landlord may not require a tenant to provide a surety bond in place of security. **Section 2** also provides that a tenant may dispute items contained in a landlord’s claim against a surety and prohibits a surety, under certain circumstances, from reporting a landlord’s claim to a credit reporting agency unless the surety obtains a judgment against the tenant. (NRS 118A.242)

**Section 3** of this bill requires, at the termination of the landlord’s interest in the dwelling unit under certain circumstances, that the successors in interest accept the tenant’s security or surety bond, or a combination thereof, and prohibits the successor in interest from demanding additional security or surety during the term of the rental agreement. (NRS 118A.244)

**Section 1** of this bill amends the existing definition of security to provide that a payment made to a licensed surety to secure a surety bond is not security for the purposes of determining security given to a landlord. (NRS 188A.240)

**So what changed?**

*Changes to NRS 118A.* ([NRS 118A](#): Landlord and Tenant: Dwellings)

NRS 118A was changed during the 2009 legislative session.

**What isn’t a security deposit?**

“Security” does not include:
(a) Any payment, deposit or fee to secure an option to purchase the premises; or
(b) Any payment to a corporation qualified under the laws of Nevada as a surety, guarantor or obligator for a premium paid to secure a surety bond or a similar bond, guarantee or insurance coverage for purposes of securing a tenant’s obligations to a landlord.

The landlord may not demand or receive security, or a surety bond, or a combination thereof, including the last month’s rent, whose total amount or value exceeds 3 months’ periodic rent.
Instead of paying all or part of the security required by the landlord, a tenant may, if the landlord consents, purchase a surety bond to secure the tenant’s obligation to the landlord under the rental agreement to:
(a) Remedy any default of the tenant in the payment of rent.
(b) Repair damages to the premises other than normal wear and tear.
(c) Clean the dwelling unit.

The landlord:
(a) Is not required to accept a surety bond purchased by the tenant in lieu of paying all or part of the security; and
(b) May not require a tenant to purchase a security bond in lieu of paying all or part of the security.

What if a Tenant Disputes an Expense?
If a tenant disputes an item contained in an itemized written accounting received from a landlord, the tenant may send a written response disputing the item to the surety. If the tenant sends the written response within 30 days after receiving the itemized written accounting, the surety shall not report the claim of the landlord to a credit reporting agency unless the surety obtains a judgment against the tenant.

What happens to the security when the unit changes owners?
Upon the termination of a landlord’s interest in the dwelling unit, whether by sale, assignment, death, appointment of receiver or otherwise, the successor in interest:
(a) Shall accept the tenant’s security or surety bond, or a combination thereof; and
(b) Shall not require any additional security or surety bond, or a combination thereof, from the tenant during the term of the rental agreement.
Review

If a tenant disputes an item contained in an itemized written accounting received from a landlord, the tenant may send a written response disputing the item to the surety. If the tenant sends the written response within 30 days after receiving the itemized written accounting, the surety shall not report the claim of the landlord to a credit reporting agency unless the surety obtains a judgment against the tenant.

Upon the termination of a landlord’s interest in the dwelling unit, whether by sale, assignment, death, appointment of receiver or otherwise, the successor in interest:

- Shall accept the tenant’s security or surety bond, or a combination thereof; and
- Shall not require any additional security or surety bond, or a combination thereof, from the tenant during the term of the rental agreement.

Quiz 4

(Answers can be found at the end of this course.)

1. A tenant:
   a. Can never dispute a charge contained in a bill from the landlord.
   b. Can dispute a charge contained in a bill from the landlord within 30-days.
   c. Should be reported to a credit bureau when he disputes a bill.
   d. Can dispute a charge contained in a bill from the landlord within 60-days.
Chapter 5- Convenience Fees to Nevada Government Agencies

Learning Goals:
1. Recognize costs associated with credit and debit card transactions made to Nevada governmental agencies.

Summary
This new legislation revises the provisions governing the fees charged by certain governmental entities for accepting payments by credit cards, debit cards and electronic transfers of money. It regulates convenience fees for government agencies that make electronic transfers.

Bill Review per Legislative Counsel
Existing law limits the amount of any fee that may be charged by a state agency or local government for the use of a credit card, debit card or electronic transfer of money to make a payment to the state agency or local government to an amount not to exceed the cost to the state agency or local government for the transaction. (NRS 353.1465, 354.770)
Sections 1 and 2 of this bill revise that limitation to allow each state agency and local government to aggregate these fees over the period of a fiscal year to determine the maximum amount that may be charged per transaction.

Section 3 of this bill makes the same change to the limitation on the amount that a court may charge for the use of a credit card or debit card. This bill also clarifies that the fees charged by state agencies, local governments and the courts for the use of a credit card or debit card and by state agencies and local governments for the use of an electronic transfer of money are convenience fees.

So what changed?

Changes to NRS 353. ([NRS 353](#): State Financial Administration)

NRS 353 was changed during the 2009 legislative session to regulate additional fees (convenience fees) associated with credit and debit card transactions for government services. Per state law, a “convenience fee” is a fee paid by a cardholder or person requesting the electronic transfer of money to a state agency for the convenience of using the credit card or debit card or the electronic transfer of money to make the payment.

If a merchant account charges a Nevada state agency a fee for processing a credit card or debit card or for each electronic transfer of money, the state agency may require the cardholder or the person requesting the electronic transfer of money to pay a convenience fee when appropriate and authorized. The total convenience fees charged by the state agency in a fiscal year must not exceed the total amount of fees charged to the state agency by the issuer or operator in that fiscal year.

Online Renewals

The Nevada Real Estate Division is authorized to create and maintain secure Internet websites for the renewal of licenses, permits, certificates and registrations issued by the Division. It is authorized to charge a fee, in addition to any other fees. The fee for the service cannot exceed the actual costs of providing the service.
Nevada Supporting Statute:

NRS 645.780  Expiration of licenses; length of license periods; additional fee for electronic renewal.
1. Each license issued under the provisions of this chapter expires at midnight on the last day of
the last month of the applicable license period for the license.
2. The initial license period for an original license as a real estate broker, broker-salesman or
salesman is a period of 12 consecutive months beginning on the first day of the first calendar
month after the original license is issued by the Division. Thereafter, each subsequent license
period is a period of 24 consecutive months beginning on the first day of the first calendar month
after a renewal of the license is issued by the Division for the subsequent license period.
3. For all other licenses, the license period is a period of 24 consecutive months beginning on
the first day of the first calendar month after the license or any renewal of the license is issued by
the Division, unless a specific statute:
   (a) Provides for a different license period; or
   (b) Expressly authorizes a different license period to be provided for by regulation.
4. The Division may:
   (a) Create and maintain a secure website on the Internet through which each license,
permit, certificate or registration issued pursuant to the provisions of this chapter may be
renewed; and
   (b) For each license, permit, certificate or registration renewed through the use of a website
created and maintained pursuant to paragraph (a), charge a fee in addition to any other fee
provided for pursuant to this chapter which must not exceed the actual cost to the Division
for providing that service.
Review

A "convenience fee" is a fee paid by a cardholder or person requesting the electronic transfer of money to a state agency for the convenience of using the credit card or debit card or the electronic transfer of money to make the payment.

If a merchant account charges a Nevada state agency a fee for processing a credit card or debit card or for each electronic transfer of money, the state agency may require the cardholder or the person requesting the electronic transfer of money to pay a convenience fee when appropriate and authorized.

The Nevada Real Estate Division is authorized to create and maintain secure Internet websites for the renewal of licenses, permits, certificates and registrations issued by the Division.

The Division is authorized to charge a fee, in addition to any other fees.

The Division's convenience fee cannot exceed the actual costs of providing the service.

Quiz 5

(Answers can be found at the end of this course.)

1. The Nevada Real Estate Division can charge a convenience fee for accepting renewal fees if the licensee uses a credit card.
   a. True.
   b. False.

2. The Nevada Real Estate Division is authorized to create and maintain secure Internet websites for the renewal of licenses, permits, certificates and registrations issued by the Division.
   a. True.
   b. False.
Chapter 6- Changes Relating To Systems for Obtaining and Using Solar Energy and Other Renewable Energy Resources

Learning Goals:
1. Identify Nevada statutes relating to renewable energy.
2. Recognize a real property owner’s right to explore renewable energy options.

Chapters
- NRS 111: Estates in Property: Conveyancing and Recording
- NRS 278: Planning and Zoning
- NRS 701: Energy Policy

Summary
This new legislation makes various changes relating to systems for obtaining and using solar energy and other renewable energy resources.

Bill Review per Legislative Counsel
Existing law sets forth a prohibition against covenants, restrictions or conditions contained in deeds, contracts or other legal documents which prohibit or unreasonably restrict an owner of property from using a system for obtaining solar energy on his property. (NRS 111.239, 278.0208) Sections 2 and 3 of this bill include within the prohibition any such covenant, restriction or condition which has the
effect of prohibiting or unreasonably restricting the property owner from using a solar energy system.

Sections 2 and 3 also describe an unreasonable restriction on the use of a system for obtaining solar energy as including: (1) the placing of a restriction or requirement that decreases the efficiency or performance of a system for obtaining solar energy by more than 10 percent of the amount that was originally specified for the system, as determined by the Director of the Office of Energy; and (2) the prohibition of a system for obtaining solar energy that uses components painted with black solar glazing.

Section 1 of this bill requires the Director, if requested to make a determination concerning the efficiency or performance of a system for obtaining solar energy pursuant to section 2 or 3, to make the determination within 30 days after receiving the request. If the Director needs additional information to make the determination, section 1 authorizes the Director to request that information from the person requesting the determination and requires the Director to make the determination within 15 days after receiving the additional information.

Sections 1.5 and 2.5 of this bill set forth a prohibition against covenants, restrictions or conditions contained in deeds, contracts or other legal documents, and against local ordinances, regulations or plans, which prohibit or unreasonably restrict an owner of property from using a system for obtaining wind energy on his property. Sections 1.5 and 2.5 describe an unreasonable restriction on the use of a system for obtaining wind energy as the placing of a restriction or requirement on the use of a system for obtaining wind energy which significantly decreases the efficiency or performance of the system and which does not allow for the use of an alternative system at a substantially comparable cost and with substantially comparable efficiency and performance. Sections 1.5 and 2.5 do not prohibit reasonable restrictions: (1) imposed pursuant to a determination by the Federal Aviation Administration that the installation of the system for obtaining wind energy would create a hazard to air navigation; or (2) relating to the height, noise or safety of a system for obtaining wind energy.
So what changed?
Changes to NRS 701. (NRS 701: Energy Policy)

NRS 701.180 was changed to include procedures for allowing for alternative energy use in Nevada, including time frame requirements.

So what changed?
Changes to NRS 111. (NRS 111: Estates in Property; Conveyancing and Recording)

NRS 111 controls covenants, restrictions and conditions (CC&R’s) with regards to Nevada’s philosophy on alternative energy. Any covenant, restriction or condition contained in a deed, contract or other legal instrument which affects the transfer or sale of, or any other interest in, real property and which prohibits or unreasonably restricts the owner of the property from using a system for obtaining wind energy on his property is void and unenforceable.

The provisions do not prohibit a reasonable restriction or requirement:
(a) Imposed pursuant to a determination by the Federal Aviation Administration that the installation of the system for obtaining wind energy would create a hazard to air navigation; or
(b) Relating to the height, noise or safety of a system for obtaining wind energy.

“Unreasonably restricts the owner of the property from using a system for obtaining wind energy” includes the placing of a restriction or requirement on the use of a system for obtaining wind energy which significantly decreases the efficiency or performance of the system and which does not allow for the use of an alternative system at a substantially comparable cost and with substantially comparable efficiency and performance. The following is an unreasonable restriction:
(a) The placing of a restriction or requirement on the use of a system for obtaining solar energy which significantly decreases the efficiency or performance of the system by more than 10 percent of the amount that was originally specified for the system, as determined by the Director of the Office of Energy, and which does not allow for the use of an alternative system at a substantially comparable cost and with substantially comparable efficiency and performance.
(b) The prohibition of a system for obtaining solar energy that uses components painted with black solar glazing.
So what changed?

Changes to NRS 278. ([NRS 278](#): Planning and Zoning)

Alternative energy options are also protected under NRS 278. A governing body cannot adopt an ordinance, regulation or plan or take any other action that prohibits or unreasonably restricts the owner of real property from using a system for obtaining wind energy on his property.

Any covenant, restriction or condition contained in a deed, contract or other legal instrument which affects the transfer or sale of, or any other interest in, real property and which prohibits or unreasonably restricts the owner of the property from using a system for obtaining wind energy on his property is void and unenforceable. These laws do not prohibit a reasonable restriction or requirement:
(a) Imposed pursuant to a determination by the Federal Aviation Administration that the installation of the system for obtaining wind energy would create a hazard to air navigation; or
(b) Relating to the height, noise or safety of a system for obtaining wind energy.
Chapter 7 - Changes in Common-Interest Community Law

Learning Goals:
1. Recognize a fair voting process.
2. Demonstrate consistency with state law when creating provisions of governing documents for a homeowner's association.

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Summary
This new legislation makes various changes to common-interest community procedures including defining a fair voting system and regulating the creation of governing documents.

Bill Review per Legislative Counsel
Section 3 of this bill provides that a person who knowingly, willfully and with the intent to fraudulently alter the outcome of the election of a member to the executive board of an association or other votes of the units’ owners engages in certain acts pertaining to the ballot or the casting of votes in such election is guilty of a category D felony. (NRS 116.31034) Existing law prohibits a community manager, an officer or a member of the executive board from accepting or soliciting compensation that would influence him or appear to be a conflict of interest. (NRS 116.31185)
Section 4 of this bill provides that a community manager or member of the executive board who asks for or receives compensation to influence his vote, opinion or action upon any official matter is guilty of a category D felony. Section 4 also provides that a person who offers or gives any gratuity, compensation or reward, or makes a promise thereof, to a community manager or member of the executive board in exchange for a vote, opinion or action on any official matter is guilty of a category D felony. Existing law requires each agency to provide by regulation for the filing and prompt disposition of petitions for declaratory orders and advisory opinions as to the applicability of any statutory provision, agency regulation or decision of the agency, and the Department of Business and Industry, which includes the Real Estate Division, has accordingly adopted regulations for such petitions. (NRS 233B.120; NAC 232.020) However, the Real Estate Division has not adopted any regulations pertaining to such petitions.

Section 5 of this bill enacts a specific statutory provision requiring the Real Estate Division to adopt regulations pertaining to such petitions. Existing law contains provisions concerning units or common elements of an association that are acquired by eminent domain. (NRS 16.1107)

Section 7 of this bill clarifies that existing law does not authorize an association to exercise the power of eminent domain.

Section 8 of this bill clarifies that any provision contained in a declaration, bylaw or other governing document of a common interest community that violates the provisions of chapter 116 of NRS is superseded by the provisions of chapter 116 of NRS, regardless of whether the provision became effective before the enactment of the statutory provision being violated. (NRS 116.1206) Section 8.5 of this bill provides that an association may not charge a fee for entry into the common-interest community against a person providing services to a unit, a unit’s owner or a tenant of a unit’s owner or against a visitor, guest or invitee of a unit’s owner or a tenant of a unit’s owner. (NRS 116.2111)

Section 9 of this bill revises existing law to limit an association’s power to include certain provisions in certain contracts involving the association. (NRS 116.3102) Existing law authorizes an executive board to impose fines under certain circumstances. (NRS 116.31031)

Section 12 of this bill limits the imposition of fines against a unit’s owner for violations of the governing documents by a tenant or an invitee of the unit’s owner or the tenant.
Sections 13, 14 and 16 of this bill revise provisions relating to certain elections and meetings of an association by: (1) requiring members of the executive board to be units’ owners; (2) providing that officers of an association are not required to be units’ owners, unless the governing documents provide otherwise; (3) providing certain rights for candidates for election to an executive board; (4) reducing the votes necessary for removal of a member of an executive board; (5) prohibiting an association from interfering with the collection of signatures for a special meeting or removal election; and (6) providing immunity from criminal or civil liability for an association, its officers, employees and agents for the disclosure or publication of certain information pursuant to certain duties required of the association or its officers, employees and agents. Section 14 also provides that punitive damages may not be recovered against the members of the executive board or the officers of an association for acts or omissions that occur in their capacity as members or officers. (NRS 116.31034, 116.31036, 116.3108)

Section 15 of this bill clarifies existing law concerning the respective duties of an association and the units’ owners regarding the maintenance, repair and replacement of the common elements and the units. (NRS 116.3107)

Sections 17-19 of this bill revise provisions relating to board meetings and hearings by: (1) requiring that meetings of the executive board be audio recorded and available in a certain manner; (2) requiring that certain written complaints be placed on the agenda; and (3) providing due process protections to units’ owners at certain hearings. (NRS 116.31083, 116.31085, 116.31087) Section 17 also revises existing law to allow public comments to be made at both the beginning and the end of a meeting. (NRS 116.31083) Existing law provides that an association has the statutory obligation to: (1) fund adequately its reserves; (2) include in its annual budget a statement concerning its reserves and whether it will be necessary to impose any special assessments; and (3) review its study of the reserves on an annual basis and make any appropriate adjustments necessary to ensure that the reserves are always funded adequately. (NRS 116.3115, 116.31151, 116.31152)

Section 21 of this bill clarifies existing law by explicitly stating that notwithstanding any provision of the governing documents to the contrary, the executive board may, without seeking or obtaining the approval of units’ owners, impose any necessary and reasonable assessments to establish adequate reserves. This section also provides
that any such assessments imposed must be based on the study of the reserves of the association conducted pursuant to NRS 116.31152.

Section 22 of this bill authorizes the filing of a civil action to recover certain fees, administrative penalties and interest that were imposed erroneously. (NRS 116.31155) Existing law provides that an executive board of an association must, upon written request of a unit’s owner, make available certain records and papers of the association, except for certain personnel records, records of other units’ owners or contracts between the association and an attorney. (NRS 116.31175)

Section 23.5 of this bill removes from the exemptions for the production of records those records which pertain to a contract between the association and an attorney.

Sections 24, 26 and 28 of this bill provide certain additional rights to units’ owners by: (1) increasing the scope and definition of prohibited retaliatory action; (2) authorizing the exhibition of certain political signs in certain areas; and (3) mandating notice before interruption of utility service to a unit’s owner. (NRS 116.31183, 116.325, 116.345)

Section 25 of this bill expands the prohibition against certain contracts between an association and a member of the executive board or officer to include contracts involving financing. (NRS 116.31187) Section 27 of this bill: (1) provides that existing law concerning drought tolerant landscaping must be construed broadly; and (2) clarifies the definition of “drought tolerant landscaping.” (NRS 116.330)

Section 29 of this bill provides that if a community manager fails or refuses to comply with the governing documents of the association or the provisions of chapter 116 of NRS, any person or class of persons may bring a civil action for damages or other relief. (NRS 116.4117)

Section 30 of this bill increases the membership of the Commission by adding two members who are units’ owners but who are not required to have served as members of an executive board. (NRS 116.600)

Section 31 of this bill revises provisions relating to the Commission’s duties by providing for the use of training officers to perform certain duties. (NRS 116.605)

Section 36 of this bill clarifies that if the Commission or hearing officer orders an audit of an association, the audit is conducted at the expense of the association. (NRS 116.790) Existing law provides that a written affidavit, supporting documentation and information compiled
as the result of an investigation of an alleged violation are confidential unless and until a formal complaint is filed. (NRS 116.757, 116A.270)

Sections 33 and 37 of this bill clarify existing law to provide that such confidential information must not be disclosed to any person, including a person who is the subject of an investigation or complaint, unless and until a formal complaint is filed.

Section 39 of this bill provides that the Commission must adopt regulations requiring an applicant for a certificate as a community manager or the applicant’s employer to post a bond. Section 39 also provides for the issuance of temporary certificates for community managers for a period of 1 year under certain circumstances. (NRS 116A.410)

Section 40 of this bill revises existing law to provide that upon selection or appointment of an arbitrator, the arbitrator must provide certain information concerning the procedures of the arbitration and applicable law to each party to the arbitration, and each party must return to the arbitrator an acknowledgment of the information provided by the arbitrator. (NRS 38.330)

So what changed?
Changes to NRS 116. (NRS 116: Common-Interest Community (Uniform Act))

In 2009, there were additional sections added to NRS 116. New laws state that voting for board members must be completed during a ‘fair’ process.

Play Fair

A person must not knowingly, willfully and with the intent to fraudulently alter the true outcome of an election of a member of the executive board or any other vote of the units’ owners engage in, attempt to engage in, or conspire with another person to engage in, any of the following acts:
(a) Changing or falsifying a voter’s ballot so that the ballot does not reflect the voter’s true ballot.
(b) Forging or falsely signing a voter’s ballot.
(c) Fraudulently casting a vote for himself or for another person that the person is not authorized to cast.
(d) Rejecting, failing to count, destroying, defacing or otherwise invalidating the valid ballot of another voter.
(e) Submitting a counterfeit ballot.

AND Changes to NRS 116.31034

An association must not adopt any rule or regulation that has the effect of prohibiting or unreasonably interfering with a candidate in his campaign for election as a member of the executive board, except that his campaign may be limited to 90 days before the date that ballots are required to be returned to the association. A candidate may request that the secretary or other officer specified in the bylaws of the association send, 30 days before the date of the election and at the association’s expense, 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 a candidate informational statement. The candidate informational statement:
(a) Must be no longer than a single, typed page;
(b) Must not contain any defamatory, libelous or profane information; and
(c) May be sent with the secret ballot mailed pursuant to state law or in a separate mailing.

The association and its directors, 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 by state law.

AND Changes to NRS 116.3108

The association must not adopt any rule or regulation which prevents or unreasonably interferes with the collection of the required percentage of signatures for a petition.

AND Changes to NRS 116.31034

Each person whose name is placed on the ballot as a candidate for a member of the executive board must:
(b) Disclose whether the candidate is a member in good standing. The candidate must make all disclosures in writing to the association. The association shall distribute the disclosures, on behalf of the candidate, to each member of the association with the ballot in the manner established in the bylaws of the association. The association is not obligated to distribute any disclosure, if the disclosure contains information that is believed to be defamatory, libelous or profane.
**Consequences**

A person who violates these laws is guilty of a category D felony and shall be punished as provided in state law. NRS 116.31036 now states that punitive damages may not be recovered from:

(a) The association,

(b) The members of the executive board for acts or omissions that occur in their official capacity as members of the executive board; or

(c) The officers of the association for acts or omissions that occur in their capacity as officers of the association.

A community manager or member of the executive board who asks for or receives, directly or indirectly, any compensation, gratuity or reward, or any promise thereof, upon an agreement or understanding that his vote, opinion or action upon any matter then pending or which may be brought before him in his capacity as a community manager or member of the executive board, will be influenced thereby, is guilty of a category D felony and shall be punished as provided in state law.

A person who offers or gives, directly or indirectly, any compensation, gratuity or reward, or any promise thereof, upon an agreement or understanding that the vote, opinion or action of a community manager or member of the executive board upon any matter then pending or which may be brought before the community manager or member of the executive board in his capacity as a community manager or member of the executive board will be influenced, is guilty of a category D felony and shall be punished as provided in state law.
What is OK?

These laws do not prohibit payment for work completed such as:
(a) An employee of a declarant or an affiliate of a declarant who is a member of an executive board from asking for or receiving, directly or indirectly, any compensation, gratuity or reward, or any promise thereof, from the declarant or affiliate.
(b) A declarant or an affiliate of a declarant whose employee is a member of an executive board from offering or giving, directly or indirectly, any compensation, gratuity or reward, or any promise thereof, to the employee who is a member of the executive board.
(c) A community manager from asking for or receiving, directly or indirectly, or an employer of a community manager from offering or giving, directly or indirectly, any compensation for work performed by the community manager pursuant to the laws of this State.

So what changed?

Changes to NRS 116.1206 and NRS 116.31085

(NRS 116: Common-Interest Community (Uniform Act))

A homeowner’s association is not allowed to exercise the power of eminent domain (seize property for public use) NRS 116.1107. The association also must abide by state law when creating provisions of governing documents, even if the documents were created before this law was put into effect. ((a) below seems to contradict that, but (b) is clear 😊)

NRS 116.31085 State law sets a minimum standard for creation of provisions of governing documents. These provisions do not prevent an association from creating provisions of the governing documents that provide greater protections.

Nevada Supporting Statute:

NRS 116.1206 Any provision contained in a declaration, bylaw or other governing document of a common-interest community that violates state law:
(a) 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.
(b) Is superseded by the provisions of this law, regardless of whether the provision contained in the declaration, bylaw or other governing document became effective before the enactment of the provision of this chapter that is being violated.
So what changed?
Changes to NRS 116.2111

(NRS 116: Common-Interest Community (Uniform Act))

A unit owner’s lawful access rights are protected.

NRS 116.2111  An association may not:
(a) Unreasonably restrict, prohibit or otherwise impede the lawful rights of a unit’s owner to have reasonable access to his unit.
(b) Charge any fee for a person to enter the common-interest community to provide services to a unit, a unit’s owner or a tenant of a unit’s owner or for any visitor to the common-interest community or invitee of a unit’s owner or a tenant of a unit’s owner to enter the common-interest community.

So what changed?
Changes to NRS 116.3102.

(NRS 116: Common-Interest Community (Uniform Act))

Contracts must be unbiased.

NRS 116.3102  Any contract between the association and a private entity for the furnishing of goods or services must not include a provision granting the private entity the right of first refusal with respect to extension or renewal of the contract.
**So what changed?**

Changes to NRS 116.31031  
([NRS 116](#): Common-Interest Community (Uniform Act))

Additions to NRS 116.31031 limit the charging of original and past-due fines against a unit’s owner for violations of the governing documents by a tenant or an invitee of the unit’s owner, that the owner had no knowledge of. Notice has not been given unless written notice is mailed to the address of the unit and, if different, to a mailing address specified by the unit’s owner.

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**Nevada Supporting Statute:**

NRS 116.31031 The executive board may not impose a fine against a unit’s owner for a violation of any provision of the governing documents of an association committed by an invitee of the unit’s owner or the tenant unless the unit’s owner:
(a) Participated in or authorized the violation;
(b) Had prior notice of the violation; or
(c) Had an opportunity to stop the violation and failed to do so.

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**So what changed?**

Changes to NRS 116.31083 and NRS 116.31087  
([NRS 116](#): Common-Interest Community (Uniform Act))

Board meetings must allow for comments and should be audio taped.  
NRS 116.31087 Upon the written request of a unit’s owner that the subject of a complaint be placed on the agenda of the next regularly scheduled meeting of the executive board, the subject of the complaint must be placed on the agenda of the next regularly scheduled meeting of the executive board.
NRS 116.31083 The agenda of the meeting of the executive board must comply with the law. A period required to be devoted to comments by the units’ owners and discussion of those comments must be scheduled for both the beginning and the end of each meeting. During the period devoted to comments by the units’ owners and discussion of those comments at the beginning of each meeting, comments by the units’ owners and discussion of those comments must be limited to items listed on the agenda. 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.

So what changed?

Changes to NRS 116.31085

(NRS 116: Common-Interest Community (Uniform Act))

There are specific rules for rights of a person who must appear in front of an association’s executive board due to an alleged violation of the governing documents. He is entitled to due process. The new addition is underlined in the statute below.

Nevada Supporting Statute:

NRS 116.31085
An executive board shall meet in executive session to hold a hearing on an alleged violation of the governing documents unless the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted by the executive board. If the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted, the person:
(a) Is entitled to attend all portions of the hearing related to the alleged violation, including, without limitation, the presentation of evidence and the testimony of witnesses;
(b) Is entitled to due process, as set forth in the standards adopted by regulation by the Commission, which must include, without limitation, the right to counsel, the right to present witnesses and the right to present information relating to any conflict of interest of any member of the hearing panel; and
(c) Is not entitled to attend the deliberations of the executive board.
So what changed? (NRS 116: Common-Interest Community (Uniform Act))


An Association’s May Assess WITHOUT Approval

Despite any provision of the governing documents to the contrary, to establish adequate reserves, including, without limitation, to establish or carry out a funding plan, the executive board may, without seeking or obtaining the approval of the units’ owners, impose any necessary and reasonable assessments against the units in the common interest community. Any such assessments imposed by the executive board must be based on the study of the reserves of the association conducted per state law.

An Association May Litigate To Correct a Financial Error

NRS 116.31155 Any person, association or master association which has been requested or required to pay any fees, administrative penalties or interest and which believes that such fees, administrative penalties or interest has been imposed in error may, without exhausting any available administrative remedies, bring an action in a court of competent jurisdiction to recover:
(a) Any amount paid in error for any fees, administrative penalties or interest during the immediately preceding 3 years;
(b) Interest on the amount paid in error at the rate set forth by state law; and
(c) Reasonable costs and attorney’s fees.

No Revenge Allowed (added language is underlined)

NRS 116.31183 is amended to read as follows:
An executive board, a member of an executive board, a community manager or an officer, employee or agent of an association shall not take, or direct or encourage another person to take, any retaliatory action against a unit’s owner because the unit’s owner has:
1. Complained in good faith about any alleged violation of any provision of this chapter or the governing documents of the association;
2. Recommended the selection or replacement of an attorney, community manager or vendor.
Political Sign Requirements

NRS 116.325 The executive board shall not and the governing documents must not prohibit a unit’s owner or an occupant of a unit from exhibiting one or more political signs within the physical portion of the common-interest community as that owner or occupant has a right to occupy and use exclusively, subject to the following conditions:
(a) All political signs exhibited must not be larger than 24 inches by 36 inches.
(b) If the unit is occupied by a tenant, the unit’s owner may not exhibit any political sign unless the tenant consents, in writing, to the exhibition of the political sign.
(c) All political signs exhibited are subject to any applicable provisions of law governing the posting of political signs.
(d) A unit’s owner or an occupant of a unit may exhibit as many political signs as desired, but may not exhibit more than one political sign for each candidate, political party or ballot question.

“Political Sign” defined: a sign that expresses support for or opposition to a candidate, political party or ballot question in any federal, state or local election or any election of an association.

Drought Tolerant Landscaping Allowed and Encouraged - Notice Required

NRS 116.330 The executive board shall not and the governing documents must not prohibit a unit’s owner from installing or maintaining drought tolerant landscaping within such physical portion of the common-interest community as that owner has a right to occupy and use exclusively, including, without limitation, the front yard or back yard of the unit’s owner, except that:
(a) Before installing drought tolerant landscaping, the unit’s owner must submit a detailed description or plans for the drought tolerant landscaping for architectural review and approval in accordance with the procedures, if any, set forth in the governing documents of the association; and
(b) The drought tolerant landscaping must be selected or designed to the maximum extent practicable to be compatible with the style of the common-interest community.
This provision must be construed liberally in favor of effectuating the purpose of encouraging the use of drought tolerant landscaping, and the executive board shall not and the governing documents must not unreasonably deny or withhold approval for the installation of drought tolerant landscaping or unreasonably determine that the drought tolerant landscaping is not compatible with the style of the common-interest community.

“Drought tolerant landscaping” means landscaping which conserves water, protects the environment and is adaptable to local conditions. The term includes, without limitation, the use of mulches such as decorative rock and artificial turf.

Utility Service should not be Interrupted by the Association

NRS 116.345 An association may not interrupt any utility service furnished to a unit’s owner or a tenant of a unit’s owner except for the nonpayment of utility charges when due. The interruption of any utility service pursuant to this subsection must be performed in a manner which is consistent with all laws, regulations and governing documents relating to the interruption of any utility service. An association shall in every case send a written notice of its intent to interrupt any utility service to the unit’s owner or the tenant of the unit’s owner at least 10 days before the association interrupts any utility service.

10% of Voting Members Have Power

NRS 116.4117 A civil action for damages or other appropriate relief for a failure or refusal to comply with any provision of NRS116 or the governing documents of an association may be brought:
(a) By the association against:
   (1) A declarant; [or]
   (2) A community manager; or
(3) A unit’s owner.
(b) By a unit’s owner against:
   (1) The association;
   (2) A declarant; or
   (3) Another unit’s owner of the association.
(c) By a class of units’ owners constituting at least 10 percent of the total number of voting members of the association against a community manager.
NEW Common-Interest Community Commissioners NRS 116.600

1) 7 Members
2) Appointed by the Governor
3) 1 member is a unit owner who has served as a member of an executive board in Nevada
4) 2 members are units owners in Nevada who may not have served as members of an executive board
5) 1 member who is in the business of developing common-interest communities in Nevada
6) 1 member who holds a certificate;
7) 1 member who is a certified public accountant licensed to practice in Nevada; and
8) 1 member who is an attorney licensed to practice in Nevada.
9) All must be a resident of Nevada
10) At least 4 members must be residents of a county whose population is 400,000 or more.
11) All must have resided in a common-interest community or have been actively engaged in a business or profession related to common-interest communities for not less than 3 years immediately preceding the date of his appointment.
12) All serve a term of 3 years
13) Each member may serve not more than two consecutive full terms.
14) All earn $80 per day plus some expenses.
15) Be trained by training officers employed by the Division.
16) May appoint one or more independent hearing officers or may choose to wear the hat NRS 116A.300.
Division Investigation Information is Confidential Until Formal Complaint is Filed.

NRS 116.757 A written affidavit filed with the Division, all documents and other information filed with the written affidavit and all documents and other information compiled as a result of an investigation conducted to determine whether to file a formal complaint with the Commission are confidential. The Division shall not disclose any information that is confidential pursuant to this subsection, in whole or in part, to any person, including, without limitation, a person who is the subject of an investigation or complaint, unless and until a formal complaint is filed by the Administrator.

So what changed?

Changes to NRS 116A. (NRS 116A: Common-Interest Communities: Regulation of Community Managers and Other Personnel)

New ‘Temporary’ Certificate Holders

NRS 116A.410 The Commission shall provide for the issuance by the Division of certificates. The regulations:

(a) Must establish the qualifications for the issuance of a certificate, including, without limitation, the education and experience required to obtain such a certificate. The regulations must include, without limitation, provisions that:

(1) Provide for the issuance of a temporary certificate for a 1-year period to a person who:

(I) Holds a professional designation in the field of management of a common-interest community from a nationally recognized organization;
(II) Provides evidence that the person has been engaged in the management of a common-interest community for at least 5 years; and
(III) Has not been the subject of any disciplinary action in another state in connection with the management of a common-interest community.

(2) Provide for the issuance of a temporary certificate for a 1-year period to a person who:

(I) Receives an offer of employment as a community manager from an association or its agent; and
(II) Has management experience determined to be sufficient by the executive board of the association or its agent making the offer. The executive board or its agent must have sole discretion to make the determination required in this sub-subparagraph.

(3) Require a temporary certificate to expire before the end of the 1-year period if the certificate holder ceases to be employed by the association, or its agent, which offered him employment.

(4) Require a person who is issued a temporary certificate to successfully complete not less than 18 hours of instruction relating to the Uniform Common-Interest Ownership Act within the 1-year period.

(5) Provide for the issuance of a certificate at the conclusion of the 1-year period if the person:
   (I) Has successfully completed not less than 18 hours of instruction relating to the Uniform Common-Interest Ownership Act; and
   (II) Has not been the subject of any disciplinary action.

(6) Provide that a temporary certificate:
   (I) Must authorize the person who is issued a temporary certificate to act in all respects as a community manager and exercise all powers available to any other community manager without regard to experience; and
   (II) Must not be treated as a limited, restricted or provisional form of a certificate.

(b) Must require an applicant or the employer of the applicant to post a bond in a form and in an amount established by regulation. The Commission shall, by regulation, adopt a sliding scale for the amount of the bond that is based upon the amount of money that applicants are expected to control. In adopting the regulations establishing the form and sliding scale for the amount of a bond required to be posted pursuant to this paragraph, the Commission shall consider the availability and cost of such bonds.

(c) May require applicants to pass an examination in order to obtain a certificate, other than a temporary certificate described.

“Management experience” means experience in a position in business or government, including, without limitation, in the military:
(a) In which the person holding the position was required, as part of holding the position, to engage in one or more management activities, including, without limitation, supervision of personnel, development of budgets or financial plans, protection of assets, logistics, management of human resources, development or training of personnel, public relations, or protection or maintenance of facilities; and
(b) Without regard to whether the person holding the position has any experience managing or otherwise working for an association.
So what changed?
Changes to NRS 38.330 (NRS 38: Mediation and Arbitration)

Arbitrator Informational Statement Rules Have Been Added
NRS 38.330 An arbitrator shall, not later than 5 days after his selection or appointment, provide to the parties an informational statement relating to the arbitration of a claim. The written informational statement:
(a) Must be written in plain English;
(b) Must explain the procedures and applicable law relating to the arbitration of a claim conducted, including, without limitation, the procedures, timelines and applicable law relating to confirmation of an award, vacation of an award, judgment on an award, and any applicable statute or court rule governing the award of attorney’s fees or costs to any party; and
(c) Must be accompanied by a separate form acknowledging that the party has received and read the informational statement, which must be returned to the arbitrator by the party not later than 10 days after receipt of the informational statement.
Review

- An association may not interrupt any utility service furnished to a unit’s owner or a tenant of a unit’s owner except for the nonpayment of utility charges when due.

- The Division shall not disclose any information that is confidential, including a person who is the subject of an investigation or complaint, unless and until a formal complaint is filed by the Administrator.

- The executive board shall not and the governing documents must not prohibit a unit’s owner from installing or maintaining drought tolerant landscaping within such physical portion of the common-interest community as that owner has a right to occupy and use exclusively, including, without limitation, the front yard or back yard of the unit’s owner.
Quiz 6

(Answers can be found at the end of this course.)

1. Drought tolerant landscaping should be encouraged.
   a. True.
   b. False.

2. Notice may be required before installing drought tolerant landscaping.
   a. True.
   b. False.

3. An association:
   a. May interrupt any utility service furnished to a unit’s owner or a tenant of a unit’s owner except for the nonpayment of utility charges when due.
   b. May not interrupt any utility service furnished to a unit’s owner or a tenant of a unit’s owner except for the nonpayment of utility charges when due.

4. Before the Real Estate Division files a formal complaint against a licensee:
   a. Information regarding the complaint must not be disclosed to anyone.
   b. Information regarding the complaint can still be disclosed to anyone.

5. A common interest community unit owner may:
   a. Install and maintain drought tolerant landscaping in his or her back yard.
   b. Install and maintain drought tolerant landscaping in his or her front yard.
   c. Install and maintain drought tolerant landscaping in his or her front or back yard.

6. Common-Interest Community Commissioners are:
   a. Appointed by the Governor.
   b. Appointed by the Nevada Real Estate Division.
   c. Appointed by the Nevada Real Estate Commission.
   d. Self-appointed.
Chapter 8 - More Common-Interest Community Changes

Learning Goals:
1. Identify tax-exempt unit owners when billing.
2. Practice lawful withdrawals from the Association’s operating account.

Chapter
NRS 116: Common Interest Ownership (Uniform Act)

Summary
This new legislation makes various changes in common-interest communities needed disclosures, treatment of voting rights, identification of tax exempt owners, etc.

Bill Review per Legislative Counsel

Section 3 of this bill provides additional ethical requirements for members of an executive board by requiring a member who stands to gain any personal profit or compensation from a matter before the executive board to disclose the matter to the executive board and to abstain from voting on the matter. (NRS 116.31185, 116.31187)
Section 5.5 of this bill authorizes the Commission for Common-Interest Communities and Condominium Hotels, or the Administrator of the Real Estate Division of the Department of Business and Industry with the Commission’s approval, to adopt regulations to require any additional disclosures in the sale of a unit as the Commission deems necessary. Under existing law, a common-interest community created before January 1, 1992, and a common-interest community, with a declaration so providing, that consists of at least 1,000 units, may have the voting rights of the units’ owners in the association for that common-interest community be exercised by delegates or representatives. (NRS 116.1201, 116.31105)

Sections 8, 14, 15, 18, 20 and 21 of this bill prohibit the use of delegates or representatives to exercise the voting rights of units’ owners in the election or removal of a member of the executive board.

Also, sections 9 and 22 of this bill provide that this form of voting may occur only during the period that the declarant is in control of the association and during the 2-year period after the declarant’s control of the association is terminated. A master association which governs a time-share plan created pursuant to chapter 119A of NRS is excluded from these new provisions and is allowed to continue using delegates or representatives to exercise the voting rights of owners of time shares. A master association which governs a planned community that is exempt from the provisions of chapter 116 of NRS is also excluded from these new provisions.

Section 11 of this bill prohibits an association from imposing an assessment against the owner of any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125. Section 46 of this bill provides that this prohibition applies to such owners who are not obligated to pay assessments as of January 1, 2009.

Section 12 of this bill provides that: (1) a unit’s owner must receive notice of a violation and possible fine; (2) an association may not impose a fine against a unit’s owner or tenant of a unit’s owner for a vehicular violation of the governing documents committed by a person delivering goods to, or performing services for, a unit’s owner or tenant of a unit’s owner; (3) a member of the executive board cannot participate in hearings on fines if he has not paid his assessments; and (4) the association must provide written confirmation when a fine is paid. (NRS 116.31031)
Section 13 of this bill requires an association to establish an account for a unit owner’s payments for fines, which must be kept separate from any account established for assessments. (NRS 116.310315)

Section 14 of this bill increases the maximum term of office for a member of an executive board from 2 years to 3 years. (NRS 116.31034) Section 14 also provides that an association is not obligated to distribute any disclosure made by a candidate for the executive board if the disclosure contains information that is believed to be defamatory, libelous or profane.

Section 16 of this bill requires that a declarant deliver to an association an ancillary audit of the association’s money and audited financial statements from the date of the last audit until the date the declarant’s control ends. (NRS 116.31038) Section 16 also requires the declarant to pay for the costs of the ancillary audit.

Section 19 of this bill lengthens the period between which meetings of the executive board must be held from every 90 days to every quarter, but not less than every 100 days. (NRS 116.31083) Existing law requires certain signatures before money in the reserve account of an association may be withdrawn. (NRS 116.31153)

Section 26 of this bill also requires certain signatures before money in the operating account of an association may be withdrawn, unless the withdrawal is to transfer money to the reserve account or to make automatic payments for utilities.

Section 28 of this bill excludes the books, records and other papers of the association which are in the process of being developed and have not yet been placed on an agenda for final approval by the executive board from the material which the board must make available upon the written request of a unit’s owner. (NRS 116.31175)

Section 28 also provides that if an official publication contains any mention of a candidate or ballot question or contains the views or opinions of the association concerning an issue of official interest, the official publication must, upon request, provide equal space and equivalent exposure to opposing views and opinions. In addition, section 28 provides immunity from criminal or civil liability for an association and its officers, employees and agents who publish or disclose information pursuant to the duties imposed by this section.
Section 29 of this bill expands the prohibition against certain contracts between an association and a member of the executive board or officer to include contracts involving financing. (NRS 116.31187)

Section 31 of this bill provides additional rights to units’ owners by mandating notice before an association may interrupt utility service to a unit’s owner. (NRS 116.345)

Section 34 of this bill deems deposits made in connection with the purchase or reservation of units from a person required to deliver a public offering statement placed in out-of-state escrow companies as being deposited in this State if the escrow holder has a legal right to conduct business in the State, has a registered agent in this State and has consented to the jurisdiction of the courts of this State. (NRS 116.411)

Sections 35-37 and 39-44 of this bill eliminate the issuance of permits to reserve study specialists and instead provide for their registration. (NRS 116.750, 116A.120, 116A.260, 116A.420-116A.900)

So what changed?

Changes to NRS 116. (NRS 116: Common-Interest Community (Uniform Act))

Executive Board Member Must Disclose Compensation

A member of an executive board who stands to gain any personal profit or compensation of any kind from a matter before the executive board shall:
(a) Disclose the matter to the executive board; and
(b) Abstain from voting on any such matter.

An employee of a declarant or an affiliate of a declarant who is a member of the executive board shall not, solely by reason of such employment or affiliation, be deemed to gain any personal profit or compensation.

A member of an executive board shall not be deemed to gain any personal profit or compensation solely because the member of the executive board is the owner of a unit in the common-interest community.
Disclosures May Be Necessary

The Commission, or the Administrator with the approval of the Commission, may adopt regulations to require any additional disclosures in the case of a sale of a unit as it deems necessary.

So what changed?
Changes to NRS 116.1201

(NRS 116: Common-Interest Community (Uniform Act))

New Voting Rules

The provisions of NRS 116 do not:
(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, except that, in the election or removal of a member of the executive board, the voting rights of the units’ owners may not be exercised by delegates or representatives;
(e) Prohibit a master association which governs a time-share plan created pursuant to chapter 119A of NRS from providing for a representative form of government for the time-share plan; or
(f) Prohibit a master association which governs a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted and which is exempt from the provisions of this chapter pursuant to paragraph (b) of subsection 2 from providing for a representative form of government.
So what changed?

Changes to NRS 116.3102, NRS 116.31175, NRS 116.411 and NRS 116.31031

(NRS 116: Common-Interest Community (Uniform Act))

If an owner is exempt from Taxation, the Association must Comply

An association may not impose any assessment in NRS 116 or the governing documents on the owner of any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125. For the purposes of this subsection, “assessment” does not include any charge for any utility services, including, without limitation, telecommunications, broadband communications, cable television, electricity, natural gas, sewer services, garbage collection, water or for any other service which is delivered to and used or consumed directly by the property in the common-interest community that is exempt from taxation pursuant to NRS 361.125.

Fines not allowed for Delivery Vehicles

A fine may not be imposed against a unit’s owner or a tenant or invitee of a unit’s owner for a violation of the governing documents which involves a vehicle and which is committed by a person who is delivering goods to, or performing services for, the unit’s owner or tenant or invitee of the unit’s owner.

Executive Board Voting Not Allowed If Assessments Aren’t Paid

A member of the executive board shall not participate in any hearing or cast any vote relating to a fine imposed if the member has not paid all assessments which are due to the association by the member. If a member of the executive board:

(a) Participates in a hearing in violation of NRS 116, any action taken at the hearing is void.
(b) Casts a vote in violation, the vote is void.
Signatures required to withdraw operating account funds

NRS 116.31153  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:
   (a) Transfer money to the reserve account of the association at regular intervals; or
   (b) Make automatic payments for utilities.

Not All Documents are Available to Unit Owners

NRS 116.31175  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;
   (c) A contract between the association and an attorney; and
   (d) Any document, including, without limitation, minutes of an executive board meeting, a reserve study and a budget, if the document:
       (1) Is in the process of being developed for final consideration by the executive board; and
       (2) Has not been placed on an agenda for final approval by the executive board.
Both Opinions Must be Supplied

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.

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.

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 by law.

Definitions

“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.

“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.
Reservation Deposit Treatments

A deposit made in connection with the purchase or reservation of a unit from a person required to deliver a public offering statement is deemed to be placed in escrow and held in Nevada when the escrow holder has:

(a) The legal right to conduct business in Nevada;
(b) A registered agent in Nevada; and
(c) Consented to the jurisdiction of the courts in Nevada by:
   (1) Maintaining a physical presence in Nevada; or
   (2) Executing a written instrument containing such consent, with respect to any suit or claim, whether brought by the declarant or purchaser, relating to or arising in connection with a sale or the escrow agreement affiliated with the transaction.
Review

A member of an executive board who could financially gain from any matter brought before the common-interest community must disclose the conflict and refrain from voting on the matter.

If a unit owner is tax exempt, the Association must accept that tax status and not pass on any taxes to the owner.

A unit owner or tenant must not be charged fines incurred by a delivery vehicle.

Again....voting must be fair.

Quiz 7
(Answers can be found at the end of this course.)

1. A member of an executive board who could financially gain from any matter brought before the common-interest community:
   a. Must disclose the conflict and refrain from voting on the matter.
   b. Should not disclose the conflict and refrain from voting on the matter.
   c. May disclose the conflict and refrain from voting on the matter.

2. If a unit owner is tax exempt:
   a. The Association still should not accept that tax status and should always pass on any taxes to the owner.
   b. The Association must accept that tax status and not pass on any taxes to the owner.

3. A unit owner or tenant:
   a. Must not be charged fines incurred by a delivery vehicle.
   b. Must be charged fines incurred by any delivery vehicle.
   c. May be charged fines incurred by a delivery vehicle
Chapter 9- Laws Relating to Broker Price Opinions (BPO’s)

Learning Goals:
1. Identify parties able to lawfully perform broker price opinions.
2. Demonstrate lawful completions of broker price opinions.

Summary
This new legislation makes requirements and format rules for broker price opinion (BPO) completion.

Bill Review per Legislative Counsel
This bill defines and specifies the minimum required contents of a broker’s price opinion. This bill also sets forth the limitations on the use of a broker’s price opinion and the circumstances under which a licensee may provide a broker’s price opinion and collect a fee for preparing and providing that broker’s price opinion. This bill further establishes requirements governing a broker’s price opinion which is submitted electronically or on a form supplied by the requesting party.
So what changed?

Changes to NRS 645. (NRS 645: Real Estate Brokers and Salesman)

So far, the Nevada Real Estate Commission has not adopted any regulations complimenting the following broker price opinion (BPO) legislation. The following is the BPO legislation that took effect on July 1, 2009.

“Broker’s price opinion” is a written analysis, opinion or conclusion that a person licensed under NRS 645 prepares for a person described in NRS 645 relating to the estimated price for a specified parcel of real property.

Who can legally prepare and provide a Broker Price Opinion (BPO)?

A real estate licensee may prepare and provide a broker’s price opinion and charge and collect a fee if:

(a) The license of that licensee is active and in good standing; and
(b) The broker’s price opinion meets certain requirements.

Who can employ a Licensee to Prepare a BPO?

Who can employ a licensee who prepares a BPO?

- An existing or potential seller with the intent to list or sell a property.
- An existing or potential buyer of a parcel of real property;
- A third party making decisions or performing due diligence related to the potential listing, offering, sale, exchange, option, lease or acquisition price of a parcel of real property; or
- An existing or potential lienholder, as long as the BPO isn’t in place of an appraisal.
Nevada Supporting Statute:

This BPO can be prepared and provided for:
   (a) An existing or potential seller for the purposes of listing and selling a parcel of real property;
   (b) An existing or potential buyer of a parcel of real property;
   (c) A third party making decisions or performing due diligence related to the potential listing, offering, sale, exchange, option, lease or acquisition price of a parcel of real property; or
   (d) An existing or potential lienholder, except that a broker’s price opinion prepared for an existing or potential lienholder may not be used in lieu of an appraisal for the purpose of determining whether to approve a mortgage loan.

What is the Required Format for a BPO?

A broker’s price opinion must include, without limitation:
   (a) A statement of the intended purpose of the broker’s price opinion;
   (b) A brief description of the real property and the interest in the real property for which the broker’s price opinion is being prepared;
   (c) The basis used to determine the broker’s price opinion, including, without limitation, any applicable market data and the computation of capitalization;
   (d) Any assumptions or limiting conditions used to determine the broker’s price opinion;
   (e) The date of issuance of the broker’s price opinion;
   (f) A disclosure of any existing or contemplated interest of every licensee who prepares or provides the broker’s price opinion, including, without limitation, the possibility of a licensee representing the seller or purchaser;
   (g) The license number, name and signature of every licensee who prepares or provides the broker’s price opinion;
   (h) If a licensee who prepares or provides the broker’s price opinion is a real estate salesman or a real estate broker-salesman, the name of the real estate broker with whom the licensee is associated; and
   (i) In at least 14-point bold type, the following disclaimer:
      Notwithstanding any preprinted language to the contrary, this opinion is not an appraisal of the market value of the property. If an appraisal is desired, the services of a licensed or certified appraiser must be obtained.
What is the Required Format for an Electronically Submitted BPO?

A broker’s price opinion that is submitted electronically is subject to any statute recordkeeping regulations. If a broker’s price opinion is submitted electronically or on a form supplied by the requesting party:

(a) The signature may be an electronic signature.
(b) The signature may be transmitted in a separate attachment if the electronic format or form supplied by the requesting party does not allow additional comments to be written by the licensee. The electronic format or the form supplied by the requesting party must:
   (1) Reference the existence of a separate attachment; and
   (2) Include a statement that the broker’s price opinion is not complete without the attachment.

Additional Rules for BPO’s

As with all activities of a salesperson and broker-salesperson, his/her broker is responsible for all activities of a licensee who is associated with the broker and with the preparation of a broker’s price opinion. The Real Estate Commission may adopt regulations prescribing the manner in which a broker’s price opinion must be prepared in accordance with the provisions of this section, but so far it has chosen not to prepare any statutes.

Nevada Supporting Statute:

Chapter 645 of NRS is hereby amended by adding thereto a new section to read as follows:
1. A person licensed pursuant to this chapter may prepare and provide a broker’s price opinion and charge and collect a fee if:
   (a) The license of that licensee is active and in good standing; and
   (b) The broker’s price opinion meets requirements of subsection 3.
2. A person licensed pursuant to this chapter may prepare a broker’s price opinion for:
(a) An existing or potential seller for the purposes of listing and selling a parcel of real property;
(b) An existing or potential buyer of a parcel of real property;
(c) A third party making decisions or performing due diligence related to the potential listing, offering, sale, exchange, option, lease or acquisition price of a parcel of real property; or
(d) An existing or potential lienholder, except that a broker’s price opinion prepared for an existing or potential lienholder may not be used in lieu of an appraisal for the purpose of determining whether to approve a mortgage loan.

3. A broker’s price opinion must include, without limitation:
   (a) A statement of the intended purpose of the broker’s price opinion;
   (b) A brief description of the real property and the interest in the real property for which the broker’s price opinion is being prepared;
   (c) The basis used to determine the broker’s price opinion, including, without limitation, any applicable market data and the computation of capitalization;
   (d) Any assumptions or limiting conditions used to determine the broker’s price opinion;
   (e) The date of issuance of the broker’s price opinion;
   (f) A disclosure of any existing or contemplated interest of every licensee who prepares or provides the broker’s price opinion, including, without limitation, the possibility of a licensee representing the seller or purchaser;
   (g) The license number, name and signature of every licensee who prepares or provides the broker’s price opinion;
   (h) If a licensee who prepares or provides the broker’s price opinion is a real estate salesman or a real estate broker-salesman, the name of the real estate broker with whom the licensee is associated; and
   (i) In at least 14-point bold type, the following disclaimer:
      Notwithstanding any preprinted language to the contrary, this opinion is not an appraisal of the market value of the property. If an appraisal is desired, the services of a licensed or certified appraiser must be obtained.

4. If a broker’s price opinion is submitted electronically or on a form supplied by the requesting party:
   (a) A signature required by paragraph (g) of subsection 3 may be an electronic signature, as defined by NRS 719.100.
   (b) A signature required by paragraph (g) of subsection 3 and the disclaimer required by paragraph (i) of subsection 3 may be transmitted in a separate attachment if the electronic format or form supplied by the requesting party does not allow additional comments to be written by the licensee. The electronic format or the form supplied by the requesting party must:
      (1) Reference the existence of a separate attachment; and
      (2) Include a statement that the broker’s price opinion is not complete without the attachment.

5. A broker’s price opinion that is submitted electronically is subject to any regulations relating to recordkeeping as adopted pursuant to this chapter.
6. A broker is responsible for all activities of a licensee who is associated with the broker and with the preparation of a broker’s price opinion.

7. The Commission may adopt regulations prescribing the manner in which a broker’s price opinion must be prepared in accordance with the provisions of this section.

8. As used in this section, “broker’s price opinion” means a written analysis, opinion or conclusion that a person licensed pursuant to this chapter prepares for a person described in subsection 2 relating to the estimated price for a specified parcel of real property.

This act becomes effective on July 1, 2009.
Chapter 10- More Changes Relating to Common-Interest Community Laws

Learning Goals:
1. Recognize reasonable changes in appearance of the common elements or the exterior appearance of a unit within a common-interest community.

Chapters
NRS 116: Common-Interest Ownership (Uniform Act)

Summary
This new legislation identifies an Association’s role in approving changes in appearance of the common elements or the exterior appearance of a unit within a common-interest community.

Bill Review per Legislative Counsel

Existing law provides that a unit’s owner may not change the appearance of the common elements or the exterior appearance of a unit without permission of the association. (NRS 116.2111) However, an association may not unreasonably restrict, prohibit or withhold approval for a unit’s owner to add to a unit shutters to improve the security of the unit or to reduce the costs of energy for the unit. This bill provides that an association may not unreasonably restrict, prohibit or withhold such approval for a unit’s owner to add shutters that are attached to certain common elements or limited common elements under certain circumstances.
So what changed?

Changes to NRS 116.2111. (NRS 116: Common-Interest Ownership (Uniform Act))

Security Shutters, etc. are OK

An association may not unreasonably restrict, prohibit or withhold approval for a unit’s owner to add shutters to improve the security of the unit or to reduce the costs of energy for the unit. including, without limitation, rolling shutters, that are attached to a portion of an interior or exterior window, interior or exterior door or interior or exterior wall which is not part of his unit and which is a common element or limited common element if:

(a) The portion of the window, door or wall to which the shutters are attached is adjoining his unit; and

(b) The shutters must necessarily be attached to that portion of the window, door or wall during installation to achieve the maximum benefit in improving the security of the unit or reducing the costs of energy for the unit.

If a unit’s owner adds shutters, the unit’s owner is responsible for the maintenance of the shutters. A covenant, restriction or condition (C,C & R’s) which does not unreasonably restrict the addition of shutters and which is contained in the governing documents of a common-interest community or a policy established by a common-interest community is enforceable so long as the covenant, restriction or condition was:

(a) In existence on July 1, 2009; or

(b) Contained in the governing documents in effect on the close of escrow of the first sale of a unit in the common-interest community.

A unit’s owner may not add to the unit a system that uses wind energy unless he first obtains the written consent of each owner of property within 300 feet of any boundary of the unit.
Chapter 11- Changes in Licensee License Term

Learning Goals:
1. Recognize the new 4 year real estate license renewal term, after the first 2 year term; effective July 1, 2011.

Chapter
NRS 645: Real Estate Brokers and Salesman

Summary
This new legislation doubles the licensing term for a real estate license, effective July 1, 2011.

Bill Review per Legislative Counsel

Existing law provides that: (1) the initial period of licensure for an original license as a real estate broker, broker-salesman or salesman is 12 consecutive months beginning on the first day of the first calendar month after the original license is issued by the Real Estate Division of the Department of Business and Industry; and (2) each subsequent period of licensure is 24 consecutive months. Existing law additionally provides that other licenses issued pursuant to chapter 645 of NRS are issued for a period of 24 consecutive months. (NRS 645.780) Sections 1 and 2 of this bill increase the period of initial licensure for a license as a real estate broker, broker-salesman or salesman from 12 to 24 consecutive months and each subsequent period of licensure from 24 to 48 consecutive months. Sections 1 and 2 also increase the period of licensure for other licenses issued by the Division from 24 to 48.
Section 3 of this bill increases the fee for each original license of a real estate broker, broker-salesman, corporate broker, real estate salesman and branch office, and each renewal of such a license, to correspond with the increase in the period of licensure of each license pursuant to sections 1 and 2 of this bill. Section 3 also increases the penalty for the late filing of a renewal for such licenses. (NRS 645.830)

**So what changed?**

Changes to NRS 645.490 and NRS 645.780 and the fees in NRS 645.830. *(NRS 645: Real Estate Brokers and Salesman)*

This new legislation doubles the licensing term for a real estate license, effective July 1, 2011. The Nevada Real Estate Commission will soon probably be adopting regulations to compliment this legislation. Continuing education has not yet been decided. Changes are underlined.

**Original License Term: 2 Years**

**Renewals after First Term: 4 Years**

F.Y.I.: At the 2011 legislative session, a bill was written, submitted and approved to repeal these 4-year licenses, due to the financial hardship it would cause licensees. Before the bill was signed into law, the finance committee reviewed it. Since the state could collect 4 years of license fees in 2 years without the repeal, (access to an additional $3 million) the repeal was withdrawn upon the committee's request. So licenses will be renewed for 4 years and license fees doubled.

**Nevada Supporting Statute:**

NRS 645.490 is hereby amended to read as follows:

1. Upon satisfactorily passing the written examination and upon complying with all other provisions of law and conditions of this chapter, a license shall thereupon be granted by the Division to the successful applicant therefore as a real estate broker, broker-salesman or salesman, and the applicant, upon receiving the license, may conduct the business of a real estate broker, broker-salesman or salesman in this State.

2. The Division shall issue licenses as a real estate broker, broker-salesman or salesman to all applicants who qualify and comply with all provisions of law and all requirements of this chapter.
3. Except as otherwise provided in NRS 645.785:
(a) An original license as a real estate broker, broker-salesman or salesman must be renewed with the Division before the expiration of the initial license period of 24 consecutive months as prescribed in NRS 645.780; and
(b) Thereafter, the license must be renewed with the Division before the expiration of each subsequent license period of 48 consecutive months as prescribed in NRS 645.780.
NRS 645.780 is hereby amended to read as follows:
1. Each license issued under the provisions of this chapter expires at midnight on the last day of the last month of the applicable license period for the license.
2. The initial license period for an original license as a real estate broker, broker-salesman or salesman is a period of 24 consecutive months beginning on the first day of the first calendar month after the original license is issued by the Division. Thereafter, each subsequent license period is a period of 48 consecutive months beginning on the first day of the first calendar month after a renewal of the license is issued by the Division for the subsequent license period.
3. For all other licenses, the license period is a period of 48 consecutive months beginning on the first day of the first calendar month after the license or any renewal of the license is issued by the Division, unless a specific statute:
(a) Provides for a different license period; or
(b) Expressly authorizes a different license period to be provided for by regulation.
4. The Division may:
(a) Create and maintain a secure website on the Internet through which each license, permit, certificate or registration issued pursuant to the provisions of this chapter may be renewed; and
(b) For each license, permit, certificate or registration renewed through the use of a website created and maintained pursuant to paragraph (a), charge a fee in addition to any other fee provided for pursuant to this chapter which must not exceed the actual cost to the Division for providing that service.

<table>
<thead>
<tr>
<th>License or Permit Type</th>
<th>Old Renewal Fee*</th>
<th>Renewal Fees Effective July 1, 2011</th>
<th>Renewal Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>Real Estate - Branch Office</td>
<td>$110</td>
<td>$220</td>
<td>581</td>
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<tr>
<td>Real Estate - Broker</td>
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<td>$440</td>
<td>580</td>
</tr>
<tr>
<td>Real Estate - Broker-Salesperson</td>
<td>$220</td>
<td>$440</td>
<td>580</td>
</tr>
<tr>
<td>Real Estate - Business Broker Permit</td>
<td>$40</td>
<td>$40</td>
<td>580</td>
</tr>
<tr>
<td>Real Estate - Property Manager Permit</td>
<td>$40</td>
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<td>580</td>
</tr>
<tr>
<td>Real Estate - Salesperson</td>
<td>$180</td>
<td>$360</td>
<td>580</td>
</tr>
</tbody>
</table>

*Does not include late fees.
Review

As decided at the 2009 legislative session:

- The real estate license period will change on July 1, 2011 to:
  - Original license term will be 2 year increments. (1 year will change to 2 years).
  - Renewals after the first term will be 4 year increments. (2 years will change to 4 years).

Continuing education requirements have not been determined at this point.

License fees will increase.

Quiz 8

(Answers can be found at the end of this course.)

1. Frank is a Nevada licensee who received his original license on June 1, 2011. When will his license come up for renewal? (July 1, 2011 change to 4 year)
   b. June 1, 2013.

2. Lorilee is a Nevada licensee who received her original license on August 1, 2011. When will her license come up for renewal?

3. Terri is a veteran Nevada licensee who will be renewing his license for the 12th time after July 1, 2011. He will receive a:
   a. 2-year license.
   b. 4-year license.
Chapter 12- More Changes in Common-Interest Community Law

Chapter

NRS 116: Common-Interest Community (Uniform Act)

Learning Goals:
1. Recognize limitations of compensation for members of an executive board.
2. Predict a unit owner’s ability to rent a unit based on the original, agreed-upon C, C, & R’s.

Summary
This new legislation makes changes in Common-Interest Community Law.

Bill Review per Legislative Counsel

Section 2 of this bill provides additional ethical requirements for members of an executive board of a unit-owners’ association by requiring: (1) a member who stands to gain any personal profit or compensation from a matter before the executive board to disclose the matter to the executive board and to abstain from voting on the matter; and (2) a member who has a member of his household or relative who stands to profit from a matter before the executive board to disclose before voting on the matter. (NRS 116.31185, 116.31187) With some exceptions, existing law requires an executive board to hold open meetings, including meetings to consider a contract. (NRS 116.31085)

Sections 3 and 5 of this bill require an association that solicits bids for association projects, including, without limitation, projects that involve maintenance, repair, replacement or restoration of any part of the common elements or which involve services provided to the association, to consider and open the bids during a meeting of the
executive board of the association. Existing law provides for remedial and disciplinary action for any violation of the provisions of chapter 116 of NRS governing common-interest communities which will apply to a violation of section 2 or 3 of this bill. (NRS 116.745-116.795)

Existing law provides that except as otherwise provided in the declaration, an association may not require a unit’s owner to secure or obtain any approval from the association in order to rent or lease his unit. (NRS 116.335)

Section 6 of this bill provides that unless, at the time a unit’s owner purchased his unit, the declaration prohibited the unit’s owner from renting or leasing his unit or required the unit’s owner to secure or obtain any approval from the association in order to rent or lease his unit, the association may not: (1) prohibit the unit’s owner from renting or leasing his unit; or (2) require the unit’s owner to secure or obtain any approval from the association in order to rent or lease his unit. Section 6 also provides that if a declaration contains a provision establishing a maximum number or percentage of units in the common-interest community which may be rented or leased: (1) that provision of the declaration may not be amended on or after October 1, 2009, to decrease that maximum number or percentage of units which may be rented or leased; (2) a unit’s owner may request a waiver of such provision upon a showing of economic hardship under certain circumstances; and (3) any units owned by the declarant must not be counted or considered in determining the maximum number of units in the common-interest community that may be rented or leased.

Section 7 of this bill makes the provisions allowing the transient commercial use of units within a planned community that is restricted to residential use in certain circumstances applicable in all counties rather than just in larger counties. (NRS 116.340) Existing law requires a unit’s owner or his authorized agent to furnish to a purchaser a resale package which includes certain documents relating to the association. (NRS 116.4109)

Section 8 of this bill: (1) requires the unit’s owner to furnish the resale package at his own expense; and (2) requires the disclosure of any transfer fees, transaction fees or other fees associated with the resale of the unit.

Section 9 of this bill increases the amount of the administrative fine that may be imposed against a person who engages in certain activity without holding the required certificate or permit from $5,000 to $10,000. (NRS 116A.900)
So what changed?
Changes to NRS 116. (NRS 116: Common-Interest Ownership (Uniform Act))

Executive Board Member Financial Limitations
The following was added to NRS 116. A member of an executive board who stands to gain any personal profit or compensation of any kind from a matter before the executive board must:
(a) Disclose the matter to the executive board; and
(b) Abstain from voting on any such matter.

A member of an executive board who has a member of his household or any person related to him by blood, adoption or marriage within the third degree of consanguinity or affinity who stands to gain any personal profit or compensation of any kind from a matter before the executive board shall disclose the matter to the executive board before voting on any such matter. An employee of a declarant or an affiliate of a declarant who is a member of the executive board shall not, solely by reason of such employment or affiliation, be deemed to gain any personal profit or compensation.

Bids
If an association solicits bids for an association project, the bids must be opened during a meeting of the executive board.

“Association project” includes, without limitation, a project that involves the maintenance, repair, replacement or restoration of any part of the common elements or which involves the provision of services to the association.

So what changed?
Changes to NRS 116.335. (NRS 116: Common-Interest Ownership (Uniform Act))

A unit owner cannot be prevented from renting his unit unless he agreed in writing, at the time he purchased the unit, that he would not rent the unit. Provisions within declarations establishing a maximum number or percentage of units which may be rented cannot be amended. A unit-owner ineligible to rent his unit may request a waiver based on an economic hardship.
Nevada Supporting Statute:

NRS 116.335 Unless, at the time a unit’s owner purchased his unit, the declaration prohibited the unit’s owner from renting or leasing his unit, the association may not prohibit the unit’s owner from renting or leasing his unit.

Unless, at the time a unit’s owner purchased his unit, the declaration required the unit’s owner to secure or obtain any approval from the association in order to rent or lease his unit, an association may not require the unit’s owner to secure or obtain any approval from the association in order to rent or lease his unit.

If a declaration contains a provision establishing a maximum number or percentage of units in the common-interest community which may be rented or leased, that provision of the declaration may not be amended to decrease that maximum number or percentage of units in the common-interest community which may be rented or leased.

5. Notwithstanding any other provision of law or the declaration to the contrary:
(a) If a unit’s owner is prohibited from renting or leasing a unit because the maximum number or percentage of units which may be rented or leased in the common-interest community have already been rented or leased, the unit’s owner may seek a waiver of the prohibition from the executive board based upon a showing of economic hardship, and the executive board may grant such a waiver and approve the renting or leasing of the unit.
(b) If the declaration contains a provision establishing a maximum number or percentage of units in the common-interest community which may be rented or leased, in determining the maximum number or percentage of units in the common-interest community which may be rented or leased, the number of units owned by the declarant must not be counted or considered.

So what changed?

Changes to NRS 116.4109. (NRS 116: Common-Interest Ownership (Uniform Act))

A public offering statement must include certain, additional items; a statement of any transfer fees, transaction fees or any other fees association with the resale of the unit. This public offering statement will be furnished to a purchaser, at the expense of the unit’s owner.
Chapter 13- The Addition of a Domestic Partnership Law in Nevada

Learning Goals:
1. Identify Nevada’s Domestic Partnership Law.
2. Recognize the legal community property rights of domestic partners when the partners are buyers or sellers of real property.

Chapter
NRS 11: Limitations of Actions

Summary
This new legislation sets provisions governing the rights of domestic partners.

Bill Review per Legislative Counsel
This bill establishes a domestic partnership as a new type of civil contract recognized in the State of Nevada. Under the provisions of this bill, with certain exceptions, domestic partners have the same rights, protections, benefits, responsibilities, obligations and duties as do parties to any other civil contract created pursuant to title 11 of NRS. This bill also clarifies that a domestic partnership is not a marriage for the purposes of Section 21 of Article 1 of the Nevada Constitution.
**Section 8** of this bill sets forth that no public or private employer in this State is required to provide health care benefits to or for the domestic partner of an officer or employee. Section 8 also clarifies that any public or private employer in this State may voluntarily provide health care benefits to or for the domestic partner of an officer or employee upon such terms and conditions as the affected parties may deem appropriate.

**So what changed?**

*Changes to NRS 11. ([NRS 11](#): Limitations of Actions)*

A new chapter was added to Nevada law. This chapter is called the Nevada Domestic Partnership Act. Domestic partners have the same rights, protections and benefits, and are subject to the same responsibilities, as are granted to and imposed upon spouses, including community property rights.

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**Nevada Supporting Statute:**

“Domestic partners” means persons who:
1. Have registered a valid domestic partnership; and
2. Have not terminated that domestic partnership.

“Domestic partnership” means the social contract between two persons.

A valid domestic partnership is registered in the State of Nevada when two persons who:
(a) File with the Office of the Secretary of State, on a form prescribed by the Secretary of State, a signed and notarized statement declaring that both persons:
    (1) Have chosen to share one another’s lives in an intimate and committed relationship of mutual caring; and
    (2) Desire of their own free will to enter into a domestic partnership; and
(b) Pay to the Office of the Secretary of State a reasonable filing fee established by the Secretary of State, which filing fee must not exceed the total of an amount set by the Secretary of State to estimate:
    (1) The cost incurred by the Secretary of State to issue the Certificate; and
    (2) Any other associated administrative costs incurred by the Secretary of State.
The Office of the Secretary of State shall account for the fees, and use those fees, and any interest and income earned on those fees, solely to pay for expenses related to administering the registration of domestic partnerships, including, without limitation, the cost of materials and technology necessary to process and record the filing.

To be eligible to register, two persons desiring to enter into a domestic partnership must furnish proof satisfactory to the Office of the Secretary of State that:

(a) Both persons have a common residence;
(b) Except as otherwise provided, neither person is married or a member of another domestic partnership;
(c) The two persons are not related by blood in a way that would prevent them from being married to each other in this State;
(d) Both persons are at least 18 years of age; and
(e) Both persons are competent to consent to the domestic partnership.

The Office of the Secretary of State shall issue a Certificate of Registered Domestic Partnership to persons who satisfy the requirements.

“Common residence” means a residence shared by both domestic partners on at least a part-time basis, irrespective of whether:

(1) Ownership of the residence or the right to occupy the residence is in the name of only one of the domestic partners; and
(2) One or both of the domestic partners owns or occupies an additional residence.

“Residence” means any house, room, apartment, tenement or other building, vehicle, vehicle trailer, semitrailer, house trailer or boat designed or intended for occupancy as a residence.

Domestic partners have the same rights, protections and benefits, and are subject to the same responsibilities, obligations and duties under law, whether derived from statutes, administrative regulations, court rules, government policies, common law or any other provisions or sources of law, as are granted to and imposed upon spouses.

Former domestic partners have the same rights, protections and benefits, and are subject to the same responsibilities, obligations and duties under law, whether derived from statutes, administrative regulations, court rules, government policies, common law or any other provisions or sources of law, as are granted to and imposed upon former spouses.

A surviving domestic partner, following the death of the other partner, has the same rights, protections and benefits, and is subject to the same responsibilities, obligations and duties under law, whether derived from statutes, administrative regulations, court rules, government policies, common law or any other provisions or sources of law, as are granted to and imposed upon a widow or a widower.
The rights and obligations of domestic partners with respect to a child of either of them are the same as those of spouses. The rights and obligations of former or surviving domestic partners with respect to a child of either of them are the same as those of former or surviving spouses.

To the extent that provisions of Nevada law adopt, refer to or rely upon provisions of federal law in a way that otherwise would cause domestic partners to be treated differently from spouses, domestic partners must be treated by Nevada law as if federal law recognized a domestic partnership in the same manner as Nevada law.

Domestic partners have the same right to nondiscriminatory treatment as that provided to spouses.

A public agency in this State shall not discriminate against any person or couple on the basis or ground that the person is a domestic partner rather than a spouse or that the couple are domestic partners rather than spouses.

The provisions of this chapter do not preclude a public agency from exercising its regulatory authority to carry out laws providing rights to, or imposing responsibilities upon, domestic partners.

Where necessary to protect the rights of domestic partners pursuant to this chapter, gender-specific terms referring to spouses must be construed to include domestic partners.

For the purposes of the statutes, administrative regulations, court rules, government policies, common law and any other provision or source of law governing the rights, protections and benefits, and the responsibilities, obligations and duties of domestic partners in this State, as effectuated by the provisions, with respect to:
(1) Community property;
(2) Mutual responsibility for debts to third parties;
(3) The right in particular circumstances of either partner to seek financial support from the other following the dissolution of the partnership; and
(4) Other rights and duties as between the partners concerning ownership of property, any reference to the date of a marriage shall be deemed to refer to the date of registration of the domestic partnership.

A legal union of two persons, other than a marriage as recognized by the Nevada Constitution, that was validly formed in another jurisdiction, and that is substantially equivalent to a domestic partnership as defined in this chapter, must be recognized as a valid domestic partnership in this State regardless of whether the union bears the name of a domestic partnership.
Chapter 14- Instructions for Commercial Landlords

Learning Goals:
1. Identify a commercial landlord’s responsibilities with regards to abandoned personal property belonging to a previous tenant.

Chapter

NRS 118: Discrimination in Housing; Landlord and Tenant

Summary

This new legislation authorizes a landlord who leases or subleases any commercial premises to dispose of any abandoned personal property left on the commercial premises under certain circumstances.

Bill Review per Legislative Counsel

Section 1 of this bill authorizes a landlord who leases or subleases any commercial premises under a rental agreement that has been terminated for any reason to dispose of any abandoned personal property left on the commercial premises without incurring any civil or criminal liability if the landlord takes certain steps to notify any holder of a perfected lien or security interest of the existence of the abandoned property and notifies, by certified mail, the tenant who left the property on the premises of his intention to dispose of the property. If the landlord and any holder of a perfected lien or security interest have a written agreement concerning the removal and
disposal of abandoned property, that agreement determines the rights and obligations of those parties with respect to the removal and disposal of abandoned property. Section 1 of this bill also authorizes the landlord to charge and collect the reasonable and actual costs of inventory, moving and safe storage, if necessary, of the abandoned personal property before releasing the abandoned personal property to the tenant or his authorized representative. If the tenant disputes the costs claimed by the landlord, section 1 authorizes the dispute to be resolved using the procedure specified in NRS 40.253, as amended by section 3 of this bill.

**Section 2** of this bill defines “abandoned personal property” as any personal property which is left unattended on the commercial premises after the termination of the tenancy and which is not removed within a certain period after the landlord has provided certain notices to the tenant and any holder of a perfected lien or security interest in the property. If the abandoned personal property is a vehicle, section 1 requires the vehicle to be disposed of in the manner provided in chapter 487 of NRS for abandoned vehicles.

**So what changed?**

*Changes to NRS 118.* (NRS 118: Discrimination in Housing (Landlord and Tenant))

Abandoned Person Property and a Commercial Landlord’s Rights

When personal property is left in a commercial unit, following the termination of a lease, the property manager has certain responsibilities. The property manager must mail, by certified mail, return receipt requested, notice of his intention to dispose of the personal property. If the previous tenant’s financial records or personal knowledge indicates a potential lien on the property, the lienholder should be contacted by the property manager. The tenant must be given 14 days to remove the property. At the end of the 14 day notice period, the landlord may property dispose of the property. Vehicles should be disposed of according to state law.
Nevada Supporting Statute:
A landlord who leases or subleases any commercial premises under a rental agreement that has been terminated for any reason may, in accordance with the following provisions, dispose of any abandoned personal property, regardless of its character, left on the commercial premises without incurring any civil or criminal liability:
(a) The landlord may dispose of the abandoned personal property and recover his reasonable costs out of the abandoned personal property or the value, if property notice is given:
   (1) The landlord has notified the tenant in writing of his intention to dispose of the abandoned personal property and 14 days have elapsed since the notice was mailed to the tenant. The notice must be mailed, by certified mail, return receipt requested, to the tenant at the tenant’s present address, and if that address is unknown, then at the tenant’s last known address.
   (2) The landlord has taken reasonable steps to:
      (I) Determine whether the tenant has subjected the abandoned personal property to a perfected lien or security interest; and
      (II) If the landlord determines that the tenant has subjected the abandoned personal property to a perfected lien or security interest, notify the holder of the perfected lien or the security interest that the abandoned personal property has been left on the premises.

The landlord shall be deemed to have taken the reasonable steps required, if the landlord has reviewed the results of a current search of the records in which a financing statement must be filed in order to perfect a lien or security interest pursuant to chapter 104 of NRS for a financing statement naming the tenant as the debtor of a debt secured by the abandoned personal property and, if such a financing statement is found, mailed, to any secured party named on the financing statement at the address indicated on the financing statement, by certified mail, return receipt requested, a written notice stating that the abandoned personal property has been left on the premises.
(b) The landlord may charge and collect the reasonable and actual costs of inventory, moving and safe storage, if necessary, before releasing the abandoned personal property to the tenant or his authorized representative rightfully claiming the abandoned personal property within the appropriate time period.
(c) Vehicles must be disposed of in the manner provided in chapter 487 of NRS for abandoned vehicles.

If a written agreement between a landlord and a secured party who has a perfected lien on, or a perfected security interest in, any abandoned personal property of the tenant contains provisions which relate to the removal and disposal of abandoned personal property, the provisions of the agreement determine the rights and obligations of the landlord and the secured party with respect to the removal and disposal of the abandoned personal property.
Any dispute relating to the amount of the costs claimed by the landlord may be resolved using the procedure provided in NRS 40.253.

“Abandoned personal property” means any personal property which is left unattended on any commercial premises after the termination of the tenancy and which is not removed by the tenant or a person who has a perfected lien on, or perfected security interest in, the personal property within 14 days after the later of the date on which the landlord:
(a) Mailed, by certified mail, return receipt requested, notice of his intention to dispose of the personal property, or
(b) Provided notice to a person who has a perfected lien on, or a perfected security interest in, the personal property that the personal property has been left on the premises.
Chapter 15- Changes to Treatment of Common-Interest Community Funds

Learning Goals:
1. Demonstrate proper treatment of common-interest community funds.
2. Supply the purchaser of a property located in a common-interest community with the correct disclosure form.

Summary
This new legislation requires specific treatment of common-interest community funds. In addition, the required disclosure form was updated.

Bill Review per Legislative Counsel

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 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)
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) 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 document

So what changed?

Changes to NRS 116. (NRS 116: Common-Interest Ownership (Uniform Act))

These following provisions were added to NRS 116. The provisions change the requirement treatment of association funds.

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 Nevada;
(b) Is qualified to conduct business in Nevada; or
(c) Has consented to be subject to the jurisdiction, including the power to subpoena, of the courts of Nevada and the Division.
In addition, an association must 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.

So what changed?
Changes to NRS 116.41095.

(NRS 116: Common-Interest Ownership (Uniform Act))

The Common-Interest Community Disclosure form was updated. This update is underlined.

2. 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. The CC&Rs 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 CC&Rs, 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 CC&Rs, you are agreeing to limitations that could affect your lifestyle and freedom of choice. You should review the CC&Rs, and other governing documents before purchasing to make sure that these limitations and controls are acceptable to you. Certain provisions in the CC&Rs and other governing documents may be superseded by contrary provisions of chapter 116 of the Nevada Revised Statutes. The Nevada Revised Statutes are available at the Internet address http://www.leg.state.nv.us/nrs
Hand-in Quiz Questions

Quick link to the answer sheet and questions:
http://www.abcrealestateschool.com/Online_Courses/hand-in_quiz.htm

1. Any subtenants may also be subject to eviction proceedings.
   a. True.
   b. False.

2. If a unit in default has renters occupying the property:
   a. Notice must be provided only to the owner of record.
   b. Notice must be provided to the owner of record and any renters.
   c. Notice must be provided only to the renters in the property.
   d. None of the answers are true.

3. A licensee may not attempt the following to influence an appraisal:
   a. Coerce or bribe the appraiser.
   b. Bribe the appraiser only.
   c. Coerce the appraiser only.
   d. None of the answers are true.

4. Prior to a foreclosure sale:
   a. Notice must be provided to all debtors.
   b. There must be a public notice.
   c. Tenants must be notified in writing.
   d. All of the answers are true.

5. An appraisal management company:
   a. Functions as a 3rd party between the person ordering the appraisal and the appraiser.
   b. Is the same as an appraisal company.
Hand-In Quiz
Answer Sheet

Questions for this answer sheet are on the previous page. This is the only required hand-in quiz for these courses! (Please tear out this answer page, fill it in, and fax, send, email the answers in an email, or bring it to ABC Real Estate School)

Fax #: 702-256-2679 or email answers with name to:
rick@abcrealestateschool.com

Are you ready for your final exam? Type these answers into your email. Tell us you are ready for your final exam, and please include your name, real estate license number and zip code. We will return an email to you with a NEW link and NEW user name and password.

Student’s Name: ________________________________

How do you want to be notified of your results?

Please send my results to: ________________________________
Fax or Email address

1. ____
2. ____
3. ____
4. ____
5. ____
Quiz Answers

Quiz 1 Answers
1. E
2. C
3. A

Quiz 2 Answers
1. C
2. A

Quiz 3 Answers
1. D

Quiz 4 Answers
1. B

Quiz 5 Answers
1. A
2. A

Quiz 6 Answers
1. A
2. A
3. B
4. A
5. C
6. A

Quiz 7 Answers
1. A
2. B
3. A

Quiz 8 Answers
1. A
2. B
3. B
WEB Links for Licensees

Nevada State Information:

State of Nevada Law and Information
http://www.leg.state.nv.us

Nevada Real Estate Division for Required and Recommended Forms
http://www.red.state.nv.us

Clark County Tax Assessor
http://www.co.clark.nv.us/assessor

Trade Organizations and Data Bases:

Greater Las Vegas Association of Realtors (GLVAR)
http://www.lasvegasrealtor.com

Reno Sparks Association of Realtors
http://www.rsar.net

Elko County Board of Realtors

Incline Village Board of Realtors
http://www.inclinerealtors.com

Sierra Nevada Association of Realtors
http://www.sierranvar.com

National Association of Realtors (NAR)
http://www.realtor.com

Mesquite and Overton/Logandale MLS
http://www.listingpreview.com

Foreclosure database
http://www.realtytrac.com
Sources

Nevada Real Estate Law
http://www.leg.state.nv.us

Required Forms
http://www.red.state.nv.us

Nevada Real Estate Division
http://www.red.state.nv.us
Please use this page for any comments, problems, or typos associated with the Legislative Update 2009 course. We appreciate your comments. Please fax it in to 702-256-2679, or send it in to us at: 800 N Rainbow Blvd, Ste. 208-6 Las Vegas, NV 89107. Thank you for your time.