

State of Nevada

Office of the Ombudsman for Owners In
Common-Interest Communities and
Condominium Hotels

Department of Business & Industry
Real Estate Division



Are you covered?

CIC/HOA Introduction to Insurance

Disclaimer

This is a general education class based on NRS 116 and related laws and regulations. It is NOT intended to provide legal advice. The instructor CANNOT comment on specific cases nor interpret the law.

If you feel there has been a violation of NRS 116 or your governing documents, please file a complaint.



Topics of Discussion

Important Documents

Who is Responsible

Shopping for Insurance

Types of Insurance

Understanding the Insurance

Working to reduce costs

Working as a team

Important Documents

NRS 116.2109 Plats.

1. Plats are a part of the declaration, and are required for all common-interest communities except cooperatives. Each plat must be clear and legible and contain a certification that the plat contains all information required by this section.
2. Each plat must comply with the provisions of [chapter 278](#) of NRS and show:
 - (a) The name and a survey of the area which is the subject of the plat;
 - (b) A sufficient description of the real estate;
 - (c) The extent of any encroachments by or upon any portion of the property which is the subject of the plat;
 - (d) The location and dimensions of all easements having a specific location and dimension which serve or burden any portion of the common-interest community;
 - (e) The location and dimensions, with reference to an established datum, of any vertical unit boundaries and that unit's identifying number;
 - (f) The location with reference to an established datum of any horizontal unit boundaries not shown or projected on plats recorded pursuant to subsection 3 and that unit's identifying number; and
 - (g) The location and dimensions of limited common elements, including porches, balconies and patios, other than parking spaces and the other limited common elements described in subsections 2 and 4 of [NRS 116.2102](#).
3. The plats must show or project any units in which the declarant has reserved the right to create additional units or common elements (paragraph (h) of subsection 1 of [NRS 116.2105](#)), identified appropriately.
4. Unless the declaration provides otherwise, when the horizontal boundaries of part of a unit located outside a building have the same elevation as the horizontal boundaries of the inside part, the elevations need not be depicted on the plats.
5. Upon exercising any developmental right, the declarant shall record new or amended plats necessary to conform to the requirements of subsection 2.
6. Each plat must be certified by a professional land surveyor.

Governing Documents

The documents that specify the purpose of the association, its powers, how it conducts business, and the activities allowed or prohibited within its boundaries

Declaration (Covenants, Conditions, & Restrictions – CC&Rs)

- CC&R's are the main document creating the community and the restrictions
- Written rules, limitations and restrictions on use, mutually agreed to by all owners of homes in an association
- CC&R's are enforced by the homeowners association or by individual owners who can bring violations against violators, and are permanent "run with the land" so future owners are bound to the same rules.
- The CC&Rs tie all of the **real estate** and other assets of the community together to create a common-interest community
- (ex. CC&R's) may limit size and placement of homes, exterior colors, pets, ages of residents, use of barbecues and other conduct to protect the quiet enjoyment of the various residents

Articles of Incorporation

- Creates the corporate structure (NRS 81,82)
- Filed with the Secretary of State
- The articles create the **association** which governs the community
- The articles, by contrast, create the **organization** called an association that oversees the common-interest community



Unit Boundaries

Except as otherwise provided by the declaration:

If walls, floors or ceilings are designated as boundaries of a unit, all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished surfaces thereof are a part of the unit, and all other portions of the walls, floors or ceilings are a **part of the common elements**.

If any chute, flue, duct, wire, conduit, bearing wall, bearing column or any other fixture **lies partially within and partially outside** the designated boundaries of a unit, **any portion thereof serving only** that unit is a **limited common element** allocated **solely** to that unit, and any portion thereof serving **more than one unit** or any portion of the common elements is a part of the **common elements**.

Any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, pads and mounts for heating and air-conditioning systems, patios and all exterior doors and windows or other fixtures designed to serve a single unit, but **located outside** the unit's boundaries, are **limited common elements** allocated **exclusively** to that unit.

1st Determine who is responsible

What are the common elements or limited common elements

1. Check CC&R's
2. Check Reserve Study
3. Check past policies
4. Plat maps
5. Statement of responsibility

1st Determine who is responsible

- ❑ Who is responsible for deductibles?
- ❑ Does the governing document state that unit owners must have insurance?
- ❑ Does the governing documents state that a unit owner present a copy of their insurance?

Insurance requirements

- Check NRS statutes NRS116.3113–NRS116.31138
- Check Association Declaration
- Check any additional governing documents to verify there are no additional insurance required.



Everyone pays a portion

NRS 116.021 “Common-interest community” defined.

1. “Common-interest community” means real estate described in a declaration with respect to which a person, by virtue of the person’s ownership of a unit, is obligated to pay for a share of real estate taxes, insurance premiums, maintenance or improvement of, or services or other expenses related to, common elements, other units or other real estate described in that declaration.



Shopping for Insurance

Starting to shop for insurance

Start early! Know associations insurance renewal time frame

Allowing broker time to create and find best pricing and comparable rates

Allow time for broker to physically visit the association

Be sure comparing apples to apples between insurance bids (umbrella policies)

Don't let price cut you off from proper coverage

Unit Owners maybe paying for duplicate insurance

The broker should be working for you!





Be sure your using the correct
reference source



The community manager should not be acting as your insurance agent! (unless a licensed insurance broker)

The community manager should not be recommending what the association needs in way of insurance.

NRS 116A.630 Standards of practice for community managers.

4. Advise a client to obtain advice from an independent expert relating to matters that are beyond the expertise of the community manager



Pass to the Insurance Broker



The community manager should not be acting as your insurance agent!

NRS 116A.640 Community manager prohibited from engaging in certain acts; exceptions

7. Provide or attempt to provide to a client a service concerning a type of property or service:

(a) That is outside the community manager's field of experience or competence without the assistance of a qualified authority unless the fact of his or her inexperience or incompetence is disclosed fully to the client and is not otherwise prohibited by law; or

(b) For which the community manager is not properly licensed.

Know the insurance carried by the Community Manager

NRS 116A.620 Management agreement: Contents; requirements; community manager to provide executive board with evidence of insurance; community manager to provide executive board with copy; changes; termination or assignment.

1. Any management agreement must:

(k) Identify the types and amounts of insurance coverage to be carried by each contracting party, including, without limitation:

(1) A requirement that the community manager or his or her employer shall maintain insurance covering liability for errors or omissions, professional liability or a surety bond to compensate for losses actionable pursuant to this chapter in an amount of \$1,000,000 or more;

(2) An indication of which contracting party will maintain fidelity bond coverage; and

(3) A statement as to whether the client will maintain directors and officers liability coverage for the executive board;

(l) Include provisions for dispute resolution

3. Not later than **10 days after the effective date of a management agreement**, the community manager shall provide each member of the executive board evidence of the existence of the required insurance, including, without limitation:

(a) The names and addresses of all insurance companies;

(b) The total amount of coverage; and

(c) The amount of any deductible.

Insurance Licensees

The Nevada Division of Insurance provides a “look up” on the status of insurance licensees at <http://www.doi.state.nv.us>.



What does the association need to carry per NRS 116?

HOAs are required to maintain various types of insurance:

- Property insurance
- Liability insurance
- Crime Insurance
- Professional insurance
 - Directors and officers
- Worker's compensation



Not Insurance situation

- ▶ Insurance policies are not maintenance contracts
 - Potential exclusions if association does not maintain property
- ▶ Construction defect –may not need to use Association insurance
 - recover the loss with person or business responsible, rather than seeking compensation through insurance policy



Who is covered in Association policy?

1. Insurance policies carried pursuant to NRS 116.3113 must provide that:

(a) Each unit's owner is an insured person under the policy with respect to liability arising out of the unit's owner's interest in the common elements or membership in the association;

(b) The insurer waives its right to subrogation under the policy against any unit's owner or member of his or her household;

(c) No act or omission by any unit's owner, unless acting within the scope of his or her authority on behalf of the association, voids the policy or is a condition to recovery under the policy; and

(d) If, at the time of a loss under the policy, there is other insurance in the name of a unit's owner covering the same risk covered by the policy, the association's policy provides primary insurance.

NRS 116.31133 Insurance: Policies; use of proceeds; certificates or memoranda of insurance.

Do you have too much coverage?

(d) If, at the time of a loss under the policy, there is other insurance in the name of a unit's owner covering the same risk covered by the policy, **the association's policy provides primary** insurance.

So if the HOA is covering the same risk as the unit owner, the HOA would be required by law to use their insurance policy.

Check your policy and look for overlap.

NRS 116.31133 Insurance: Policies; use of proceeds; certificates or memoranda of insurance.

Understand the Types of Insurance

NRS 116.3113 Insurance: General requirements.

(1. Property Insurance)

1. Commencing not later than the time of the first conveyance of a unit to a person other than a declarant, the association shall maintain, to the extent reasonably available and subject to reasonable deductibles:

(a) **Property insurance** on the common elements and, in a planned community, also on property that must become common elements, insuring against risks of direct physical loss commonly insured against, which insurance, after application of any deductibles, must be not less than 80 percent of the actual cash value of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from property policies;



NRS 116.3113 Insurance: General requirements.

(2. Commercial general liability insurance)

(b) **Commercial general liability insurance**, including insurance for medical payments, in an amount determined by the executive board but not less than any amount specified in the declaration, covering all occurrences commonly insured against for **bodily injury and property damage** arising out of or in connection with the use, ownership, or maintenance of the common elements and, in cooperatives, also of all units; and



NRS 116.3113 Insurance: General requirements. (3. Crime insurance)

(c) **Crime insurance which includes coverage for dishonest acts by members of the executive board and the officers, employees, agents, directors and volunteers of the association and which extends coverage to any business entity that acts as the community manager of the association and the employees of that entity.**

Such insurance may not contain a conviction requirement, and the minimum amount of the policy must be not less than an amount equal to 3 months of aggregate assessments on all units plus reserve funds or \$5,000,000, whichever is less.



Definition: Property Insurance

Property insurance provides protection against most risks to property, such as fire, theft and some weather damage. This includes specialized forms of insurance such as fire insurance, flood insurance, earthquake insurance, home insurance, or boiler insurance.

Property Insurance Retrieved January 14 , 2015 , from <http://www.webster.com>

Definition: Property Insurance

Property is insured in two main ways—open perils and named perils.

Open perils cover all the causes of loss not specifically excluded in the policy. Common exclusions on open peril policies include damage resulting from earthquakes, floods, nuclear incidents, acts of terrorism, and war.

Named perils require the actual cause of loss to be listed in the policy for insurance to be provided. The more common named perils include such damage-causing events as fire, lightning, explosion, and theft

Property Insurance Retrieved January 14 , 2015 , from <http://www.webster.com>

Definition: Commercial general liability insurance

Commercial General Liability (CGL) insurance protects business owners against claims of liability for bodily injury, property damage, and personal and advertising injury (slander and false advertising).

Commercial General Liability Insurance January 14 , 2015 , from <http://www.tdi.texas.gov/pubs/pc/pcgenliab.html>

Definition: Crime Insurance

Protects businesses from the loss of money, securities or inventory resulting from risks such as theft, embezzlement, forgery or alteration of checks, robbery, counterfeit currency and documents, disappearance and destruction of money, securities and documents, employee dishonesty, safe burglary, computer fraud, wire transfer, audit and investigation expense

Insurance Glossary – Understanding Common Terms

Retrieved January 14 , 2015 , from <http://www.einsurance.com/insurance-glossary-c/>

Issuing or cancelation of a policy

An insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance to the association and, upon written request, to any unit's owner or holder of a security interest.

The insurer issuing the policy may not cancel or refuse to renew it until 30 days after notice of the proposed cancellation or nonrenewal has been mailed to the association, each unit's owner and each holder of a security interest to whom a certificate or memorandum of insurance has been issued at their respective last known addresses.

NRS 116.31133 Insurance: Policies; use of proceeds; certificates or memoranda of insurance

Use of Proceeds

Subject to NRS 116.31135, the proceeds must be disbursed first for the repair or restoration of the damaged property, and the association, units' owners, and lienholders **are not** entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, or the common-interest community is terminated.

NRS 116.31133 Insurance: Policies; use of proceeds; certificates or memoranda of insurance.



Understanding the Insurance

Common Terms

Definition: Endorsement

A provision added to an insurance contract altering its scope or application

They may broaden, restrict, add or take away coverage

"Endorsement." *Merriam-Webster.com*. Merriam-Webster, n.d. Web. 16 Jan. 2015. <<http://www.merriam-webster.com/dictionary/endorsement>

Definition: Exclusion

Adds specific exclusion's to policies

1: the act or an instance of excluding

2: the state of being excluded

Exclusion." Merriam-Webster.com. Merriam-Webster, n.d. Web. 16 Jan. 2015. <<http://www.merriam-webster.com/dictionary/exclusion>

Definition: Walls out or Shell Coverage

Association would only provide coverage for the “shell”.

The unit owner would be responsible for everything in the unit including cabinets and fixtures.

Work to reduce Insurance Costs

Preventive Maintenance

1. Cost
2. Expected life
3. Does the item affect other areas
4. Question insurance broker –
past experience of claims



Preventive Maintenance/Reduce the chances of using Insurance Policy

- ▶ Maintenance –can prevent potential hazards
- ▶ Vendors and service providers can inform whether repairs are needed
- ▶ Deferring maintenance
 - Items degrade and deteriorate
 - Can cost more to repair or replace
 - Or worse, result in an injury
 - Better to replace than to continue making maintenance repairs



Thinking ahead!

▶ Mitigation

(to make less severe or painful)

- Reasonable action taken to prevent further damages i.e. road barriers, broken windows, etc.

▶ Disaster Plans

- Not a must, but good idea (ex. flooding)
- Preventative committee
- potential scenarios and plan to address them

- "Mitigate." *Merriam-Webster.com*. Merriam-Webster, n.d. Web. 16 Jan. 2015. <<http://www.merriam-webster.com/dictionary/mitigate>> .



Working as a Team

Identifying Risk

GET YOUR INSURANCE REPRESENTATIVE INVOLVED!

Invite broker to attend meeting for consultation
Request broker to review and analyze current policy
The broker should be working for the association,
thus finding the best policies



Identifying Risks

Have a annual review, a broker should never assume all aspects of previous insurance has no need for review

- ▶ Determine current value, replacement cost and available reserve funds

*Ask broker how the replacement cost is determined

- ▶ Conduct risk reviews
 - onsite inspections – broker should walk property
 - review of maintenance logs
 - Question past claims–effect on future costs



Identifying Risks

- ▶ Professional liability
 - compliance with appropriate laws
 - breaches or claims under employment laws
- ▶ Review financial reports
- ▶ Be aware of losses due to technology, such as identify theft
- ▶ Review any claims made against the association



Board Members Need to Know

Need to have a clear understanding of all wording in insurance plan, if something is not clear, ASK!

If switching from one agency to another agency be sure the association has overlap of coverage.

Clearly understand the exclusions and endorsements(what can be taken away as coverage)

Are the policies covering all local ordinances and laws (example sprinklers)

Situations of liability–proof of negligence vs medical no proof of negligence

Keep at least 5 years of loss history

Be sure nothing in the CC&R's are vague (ex. responsible for walls)

Board Members Need to Know

- ❑ Who is really responsible?
- ❑ Who is responsible for the deductible?
- ❑ Get the details of the situation, may not have to cover situation.
- ❑ Where there any actions of the unit which can be understood as **willful misconduct** or **gross negligence**?

Questions to ask

Does the insurance company have other HOA experience or just a general policies company?

Will the broker allow free calls for advice?

Are there any areas that the Association is over or under covered?

Are there any change that could be done to the common elements that would reduce insurance liability?

Will the policy cover the management company , board of directors, volunteers?

Get clarification/ definition of wording in policies. (ex wrongful)

Do they handle any non-monetary claims?

Who is paying deductible? Unit owner or association– possibility of raising deductible , thus lower rates for association (may need to create a deductible rule for association)

Information a broker maybe requesting when do a review of an Association

Current Certificates

Declaration pages

Current balance sheet /budget

Map of the community

#buildings /#units

#residents

Information a broker should be requesting when do a review of an Association(cont.)

- Insurance section of the CC&R's
- Specific listing of common elements
- Reserve study
- Listing of employees
- # vehicles (owned)
- Vendors and do they have insurance
- Listing of any rental properties

Proof of Insurance from Contractors

- Ask for Certificate of Insurance from contractors
- Does the contractor have workmen's comp insurance?
- Create a preferred contractors listing who carry proper insurance



Insurance for Directors

Directors and officers (indemnification insurance or professional insurance) NRS 116.3102(1)(o)

- Covers acts or omissions of directors and officers that cause losses.
- Will include present and past directors and officers and contain the duty to defend in various kinds of lawsuits, such as breach of contract, discrimination and other acts.
- **NRS 116.3102 Powers of unit-owners' association; limitations.**
- (o) May provide for the indemnification of its officers and executive board and maintain directors and officers liability insurance.



Insurance for Directors

NRS 116.31037 Indemnification and defense of member of executive board.

If a member of an executive board is named as a respondent or sued for liability for actions undertaken in his or her role as a member of the board, the association shall indemnify the member for his or her losses or claims, and undertake all costs of defense, unless it is proven that the member acted with willful or wanton misfeasance or with gross negligence.

After such proof, the association is no longer liable for the cost of defense, and may recover costs already expended from the member of the executive board who so acted.

(Added to NRS by [2011, 2414](#))



May assess against unit owner

Reminder: If damage to a unit or other part of the common-interest community, or if any other common expense is caused by the **willful misconduct** or **gross negligence** of any unit's owner, tenant or invitee of a unit's owner or tenant, the association **may assess** that expense **exclusively** against **his or her unit**, even if the association maintains insurance with respect to that damage or common expense,

Worker's compensation

1. Check your governing documents

2. Check NRS statute if the association has employee's

NRS 616A requires that employees be covered by insurance for on-the-job injuries.

Coverage may be required for subcontractors, board members under certain circumstances, and others

NRS 616A.495 Employer to make available evidence of coverage; penalty for noncompliance.

1. Each employer shall ensure that a copy of the employer's:

(a) Policy of industrial insurance, including the declaration page, if the employer is insured by a private carrier;

(b) Certificate issued by the Commissioner pursuant to [NRS 616B.312](#), if the employer is self-insured; or

(c) Certificate issued by the Commissioner pursuant to [NRS 616B.359](#) and of a certificate or letter issued by the association of self-insured public or private employers verifying that the employer is a member in good standing of the association, if the employer is a member of an association of self-insured public or private employers,

È is available at all times for inspection by the Administrator or the auditor or agent of the Administrator or an investigator of the Attorney General at each of the employer's places of business, except that if such a place of business is situated in a temporary location and is intended to remain in the temporary location for not more than 1 year, the copy must be made available at that place of business within 24 hours after being requested by the Administrator, auditor, agent or investigator.

2. An employer insured by a private carrier, self-insured employer or employer who is a member of an association of self-insured public or private employers who violates the provisions of subsection 1 is guilty of a misdemeanor.

(Added to NRS by [1997, 3216](#); A [1997, 3224](#); [2001, 800](#))

3. Verification of contractors workmen's comp insurance



Reserve Study Specialist

NAC 116.430 A person conducting a reserve study and any consultant assisting in the preparation of a reserve study shall include in the reserve study the following disclosures:

- ▶ Whether the person conducting or assisting in the preparation of the reserve study is bonded or has professional liability insurance *with a minimum coverage of \$1,000,000*

Other insurance

- **Cyber and data breaches
(laptop stolen)**
- **Auto coverage–volunteer policy (driving to meetings)**



Be Ready–Don't forget the Association's records

- ▶ Check your records, be sure they are stored in a secure, safe place
- ▶ Create backup
- ▶ Create duplicate if necessary
- ▶ Some things cannot be replaced

Cross Over of Policies

Be careful if the Association is changing insurance companies that there are no gaps in insurance during the time one insurance policy starts and another insurance policy ends

Have cross over coverage

Insurance Wrap Up

NRS 116: requirements:

1. **Property insurance** on the common elements
2. **Commercial general liability insurance**
3. **Crime insurance**

****Workmen's comp if you have employee's**

Insurance Wrap Up

Review the association's policy

The community manager is not your insurance representative!

Invite insurance representative to meeting to comment on the policy

Be sure a complete analysis is being done for your community.

When comparing insurance companies, be sure comparing apples to apples.

Ask the questions!

Insurance Wrap Up

Preventive Maintenance– is it better to repair or replace?

Any portion of the common-interest community for which insurance is required under [NRS 116.3113](#) which is damaged or destroyed must be repaired or replaced promptly by the association unless the common-interest community is terminated

Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety

Eighty percent of the units' owners, including every owner of a unit or assigned limited common element that will not be rebuilt, vote not to rebuild

QUESTIONS?

- ▶ Web Site
 - www.red.nv.gov
- ▶ Phone
 - 702.486.4480/877.829.9907/775.687.4280
- ▶ FAX
 - 702.486.4520/775.687.5868
- ▶ E-Mail
 - OMBCLASSES@red.nv.gov
- ▶ Office Locations
 - 2501 East Sahara Ave, Suite 202, Las Vegas, NV 89104

Reference

NRS 116.2108 Limited common elements

1. Except for the limited common elements described in subsections 2 and 4 of [NRS 116.2102](#), the declaration must specify to which unit or units each limited common element is allocated. An allocation may not be altered without the consent of the units' owners whose units are affected.

2. Except as the declaration otherwise provides, a limited common element may be reallocated by an amendment to the declaration executed by the units' owners between or among whose units the reallocation is made. The persons executing the amendment shall provide a copy thereof to the association, which shall record it. The amendment must be recorded in the names of the parties and the common-interest community.

3. A common element not previously allocated as a limited common element may be so allocated only pursuant to provisions in the declaration made in accordance with paragraph (g) of subsection 1 of [NRS 116.2105](#). The allocations must be made by amendments to the declaration.

(Added to NRS by [1991, 547](#))

NRS 116.3113 Insurance: General requirements.

1. Commencing not later than the time of the first conveyance of a unit to a person other than a declarant, the association shall maintain, to the extent reasonably available and subject to reasonable deductibles:

(a) Property insurance on the common elements and, in a planned community, also on property that must become common elements, insuring against risks of direct physical loss commonly insured against, which insurance, after application of any deductibles, must be not less than 80 percent of the actual cash value of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from property policies;

(b) Commercial general liability insurance, including insurance for medical payments, in an amount determined by the executive board but not less than any amount specified in the declaration, covering all occurrences commonly insured against for bodily injury and property damage arising out of or in connection with the use, ownership, or maintenance of the common elements and, in cooperatives, also of all units; and

(c) Crime insurance which includes coverage for dishonest acts by members of the executive board and the officers, employees, agents, directors and volunteers of the association and which extends coverage to any business entity that acts as the community manager of the association and the employees of that entity. Such insurance may not contain a conviction requirement, and the minimum amount of the policy must be not less than an amount equal to 3 months of aggregate assessments on all units plus reserve funds or \$5,000,000, whichever is less.

2. In the case of a building that contains units divided by horizontal boundaries described in the declaration, or vertical boundaries that comprise common walls between units, the insurance maintained under paragraph (a) of subsection 1, to the extent reasonably available, must include the units, but need not include improvements and betterments installed by units' owners.

3. If the insurance described in subsections 1 and 2 is not reasonably available, the association promptly shall cause notice of that fact to be given to all units' owners. The declaration may require the association to carry any other insurance, and the association may carry any other insurance it considers appropriate to protect the association or the units' owners.

4. An insurance policy issued to the association does not prevent a unit's owner from obtaining insurance for the unit's owner's own benefit.

(Added to NRS by [1991, 565](#); A [2011, 2445](#))

NRS 116.31133 Insurance: Policies; use of proceeds; certificates or memoranda of insurance.

1. Insurance policies carried pursuant to [NRS 116.3113](#) must provide that:

(a) Each unit's owner is an insured person under the policy with respect to liability arising out of the unit's owner's interest in the common elements or membership in the association;

(b) The insurer waives its right to subrogation under the policy against any unit's owner or member of his or her household;

(c) No act or omission by any unit's owner, unless acting within the scope of his or her authority on behalf of the association, voids the policy or is a condition to recovery under the policy; and

(d) If, at the time of a loss under the policy, there is other insurance in the name of a unit's owner covering the same risk covered by the policy, the association's policy provides primary insurance.

2. Any loss covered by the property policy under subsections 1 and 2 of [NRS 116.3113](#) must be adjusted with the association, but the proceeds for that loss are payable to any insurance trustee designated for that purpose, or otherwise to the association, and not to any holder of a security interest. The insurance trustee or the association shall hold any insurance proceeds in trust for the association, units' owners and lienholders as their interests may appear. Subject to [NRS 116.31135](#), the proceeds must be disbursed first for the repair or restoration of the damaged property, and the association, units' owners, and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, or the common-interest community is terminated.

3. An insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance to the association and, upon written request, to any unit's owner or holder of a security interest. The insurer issuing the policy may not cancel or refuse to renew it until 30 days after notice of the proposed cancellation or nonrenewal has been mailed to the association, each unit's owner and each holder of a security interest to whom a certificate or memorandum of insurance has been issued at their respective last known addresses.

(Added to NRS by [1991, 565](#); A [2003, 1210](#); [2011, 2445](#))

NRS 116.31135 Insurance: Repair or replacement of damaged or destroyed portion of community.

1. Any portion of the common-interest community for which insurance is required under [NRS 116.3113](#) which is damaged or destroyed must be repaired or replaced promptly by the association unless:

(a) The common-interest community is terminated, in which case [NRS 116.2118](#), [116.21183](#) and [116.21185](#) apply;

(b) Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety; or

(c) Eighty percent of the units' owners, including every owner of a unit or assigned limited common element that will not be rebuilt, vote not to rebuild.

2. The cost of repair or replacement in excess of insurance proceeds, deductibles and reserves is a common expense. If the entire common-interest community is not repaired or replaced:

(a) The insurance proceeds attributable to the damaged common elements must be used to restore the damaged area to a condition compatible with the remainder of the common-interest community; and

(b) Except to the extent that other persons will be distributees:

(1) The insurance proceeds attributable to units and limited common elements that are not rebuilt must be distributed to the owners of those units and the owners of the units to which those limited common elements were allocated, or to lienholders, as their interests may appear; and

(2) The remainder of the proceeds must be distributed to all the units' owners or lienholders, as their interests may appear, as follows:

(I) In a condominium, in proportion to the interests of all the units in the common elements; and

(II) In a cooperative or planned community, in proportion to the liabilities of all the units for common expenses.

3. If the units' owners vote not to rebuild any unit, that unit's allocated interests are automatically reallocated upon the vote as if the unit had been condemned under subsection 1 of [NRS 116.1107](#), and the association promptly shall prepare, execute and record an amendment to the declaration reflecting the reallocations.

(Added to NRS by [1991, 566](#); A [1993, 2370](#); [2011, 2446](#))

NRS 116.31138 Insurance: Variance or waiver of provisions in community restricted to nonresidential use. The provisions of NRS 116.3113, 116.31133 and 116.31135 may be varied or waived in the case of a common-interest community all of whose units are restricted to nonresidential use.

(Added to NRS by 1991, 567)

Unit boundaries

NRS 116.2102 Unit boundaries. Except as otherwise provided by the declaration:

1. If walls, floors or ceilings are designated as boundaries of a unit, all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished surfaces thereof are a part of the unit, and all other portions of the walls, floors or ceilings are a part of the common elements.

2. If any chute, flue, duct, wire, conduit, bearing wall, bearing column or any other fixture lies partially within and partially outside the designated boundaries of a unit, any portion thereof serving only that unit is a limited common element allocated solely to that unit, and any portion thereof serving more than one unit or any portion of the common elements is a part of the common elements.

3. Subject to subsection 2, all spaces, interior partitions and other fixtures and improvements within the boundaries of a unit are a part of the unit.

4. Any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, pads and mounts for heating and air-conditioning systems, patios and all exterior doors and windows or other fixtures designed to serve a single unit, but located outside the unit's boundaries, are limited common elements allocated exclusively to that unit.

(Added to NRS by [1991, 543](#))

NRS 116.2108 Limited common elements

- ▶ 1. Except for the limited common elements described in subsections 2 and 4 of [NRS 116.2102](#), the declaration must specify to which unit or units each limited common element is allocated. An allocation may not be altered without the consent of the units' owners whose units are affected.
- ▶ 2. Except as the declaration otherwise provides, a limited common element may be reallocated by an amendment to the declaration executed by the units' owners between or among whose units the reallocation is made. The persons executing the amendment shall provide a copy thereof to the association, which shall record it. The amendment must be recorded in the names of the parties and the common-interest community.
- ▶ 3. A common element not previously allocated as a limited common element may be so allocated only pursuant to provisions in the declaration made in accordance with paragraph (g) of subsection 1 of [NRS 116.2105](#). The allocations must be made by amendments to the declaration.
- ▶ (Added to NRS by [1991, 547](#))