

State of Nevada
Department of Business & Industry
Real Estate Division
Common-Interest Communities and
Condominium Hotels Program





FAST Reference

Regarding

NRS116 Article 1 DEFINITIONS AND OTHER GENERAL PROVISIONS

Powers of the Unit Owners Association
and the Executive Board



Disclaimer

- ▶ This presentation provides a shorten version of the statutes within NRS116.
- ▶ For the full statute refer to the listed statute number provided in the slide

DEFINITIONS AND OTHER GENERAL PROVISIONS

DEFINITIONS

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NRS 116.017 “Common elements” defined.

“Common elements” means:

1. In the case of:

(a) A condominium or cooperative, all portions of the common-interest community other than the units, including easements in favor of units or the common elements over other units.

(b) A planned community, any real estate within a planned community which is owned or leased by the association, other than a unit.

2. In all common-interest communities, any other interests in real estate for the benefit of units’ owners which are subject to the declaration

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.

2. The term does not include an agreement described in [NRS 116.1209](#).

3. For purposes of this section, “ownership of a unit” does not include holding a leasehold interest of less than 20 years in a unit, including options to renew.

NRS 116.023 “Community manager” defined.

“Community manager” means a person who provides for or otherwise engages in the management of a common-interest community or the management of an association of a condominium hotel

NRS 116.035 “Declarant” defined.

“Declarant” means any person or group of persons acting in concert who:

1. As part of a common promotional plan, offers to dispose of the interest of the person or group of persons in a unit not previously disposed of; or
2. Reserves or succeeds to any special declarant’s right.

NRS 116.045 “Executive board” defined.

“Executive board” means the body, regardless of name, designated in the declaration or bylaws to act on behalf of the association.

NRS 116.049 “Governing documents” defined.

“Governing documents” means:

1. The declaration for the common-interest community;
2. The articles of incorporation, articles of association, articles of organization, certificate of registration, certificate of limited partnership, certificate of trust or other documents that are used to organize the association for the common-interest community;
3. The bylaws and rules of the association; and
4. Any other documents that govern the operation of the common-interest community or the association.

NRS 116.067 “Ombudsman” defined.

“Ombudsman” means the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels.

NRS 116.079 “Purchaser” defined.

“Purchaser” means a person, other than a declarant or a dealer, who by means of a voluntary transfer acquires a legal or equitable interest in a unit other than:

1. A leasehold interest, including options to renew, of less than 20 years; or
2. As security for an obligation.

NRS 116.081 “Real estate” defined.

“Real estate” means any leasehold or other estate or interest in, over or under land, including structures, fixtures and other improvements and interests that by custom, usage or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. The term includes parcels with or without upper or lower boundaries and spaces that may be filled with air or water

NRS 116.085 “Respondent” defined.

“Respondent” means a person against whom:

1. An affidavit has been filed pursuant to [NRS 116.760](#).

2. A complaint has been filed pursuant to [NRS 116.765](#).

NRS 116.089 “Special declarant’s rights” defined.

“Special declarant’s rights” means rights reserved for the benefit of a declarant to:

1. Complete improvements indicated on plats or in the declaration or, in a cooperative, to complete improvements described in the public offering statement pursuant to paragraph (b) of subsection 1 of [NRS 116.4103](#);
2. Exercise any developmental right;
3. Maintain sales offices, management offices, signs advertising the common-interest community and models;
4. Use easements through the common elements for the purpose of making improvements within the common-interest community or within real estate which may be added to the common-interest community;
5. Make the common-interest community subject to a master association;
6. Merge or consolidate a common-interest community with another common-interest community of the same form of ownership; or
7. Appoint or remove any officer of the association or any master association or any member of an executive board during any period of declarant’s control.

NRS 116.093 “Unit” defined.

“Unit” means a physical portion of the common-interest community designated for separate ownership or occupancy, the boundaries of which are described pursuant to paragraph (e) of subsection 1 of [NRS 116.2105](#). If a unit in a cooperative is owned by the unit’s owner or is sold, conveyed, voluntarily or involuntarily encumbered, or otherwise transferred by the unit’s owner, the interest in that unit which is owned, sold, conveyed, encumbered or otherwise transferred is the right to possession of that unit under a proprietary lease, coupled with the allocated interests of that unit, and the association’s interest in that unit is not thereby affected.

NRS 116.095 “Unit’s owner” defined.

“Unit’s owner” means a declarant or other person who owns a unit, or a lessee of a unit in a leasehold common-interest community whose lease expires simultaneously with any lease the expiration or termination of which will remove the unit from the common-interest community, but does not include a person having an interest in a unit solely as security for an obligation. In a condominium or planned community, the declarant is the owner of any unit created by the declaration until that unit is conveyed to another person. In a cooperative, the declarant is treated as the owner of any unit to which allocated interests have been allocated until that unit has been conveyed to another person.

NRS 116.1113 Obligation of good faith.

Every contract or duty governed by this chapter imposes an obligation of good faith in its performance or enforcement.

Applicability

NRS 116.1203 Exception for small planned communities.

1. Except as otherwise provided in subsections 2 and 3, if a planned community **contains no more than 12 units** and is not subject to any developmental rights, it is subject only to [NRS 116.1106](#) and [116.1107](#) **unless the declaration provides that this entire chapter is applicable**.

2. The provisions of [NRS 116.12065](#) and the definitions set forth in [NRS 116.005](#) to [116.095](#), inclusive, to the extent that the definitions are necessary to construe any of those provisions, **apply to a residential planned community containing more than 6 units**.

3. Except for [NRS 116.3104](#), [116.31043](#), [116.31046](#) and [116.31138](#), the provisions of [NRS 116.3101](#) to [116.350](#), inclusive, and the definitions set forth in [NRS 116.005](#) to [116.095](#), inclusive, to the extent that such definitions are necessary in construing any of those provisions, apply to a residential planned community containing **more than 6 units**.

NRS 116.1206 Provisions of governing documents in violation of chapter deemed to conform with chapter by operation of law; procedure for certain amendments to governing documents.

Any provision contained in a declaration, bylaw or other governing document of a common-interest community that violates the provisions of this chapter:

(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 chapter, 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.

NRS 116.1206 Provisions of governing documents in violation of chapter deemed to conform with chapter by operation of law; procedure for certain amendments to governing documents.

Any provision contained in a declaration, bylaw or other governing document of a common-interest community that violates the provisions of this chapter:

In the case of amendments to the declaration, bylaws or plats of any common-interest community created before January 1, 1992:

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

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

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NRS 116.12065 Notice of changes to governing documents.

If any change is made to the governing documents of an association, the secretary or other officer specified in the bylaws of the association shall, within 30 days after the change is made, prepare and cause to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner, a copy of the change that was made.

NRS 116.1209 Other exempt real estate arrangements; other exempt covenants.

1. An agreement between the associations for two or more common-interest communities to share the costs of real estate taxes, insurance premiums, services, maintenance or improvements of real estate or other activities specified in the agreement or declarations does not create a separate common-interest community. If the declarants of the common-interest communities are affiliates, the agreement may not unreasonably allocate the costs among those common-interest communities.

2. An agreement between an association and the owner of real estate that is not part of a common-interest community to share the costs of real estate taxes, insurance premiums, services, maintenance or improvements of real estate, or other activities specified in the agreement, does not create a separate common-interest community. However, the assessments against the units in the common-interest community required by the agreement must be included in the periodic budget for the common-interest community, and the agreement must be disclosed in all public offering statements and resale certificates required by this chapter.

3. An agreement between the owners of separately owned parcels of real estate to share costs or other obligations associated with a party wall, road, driveway or well or other similar use does not create a common-interest community unless the owners otherwise agree.

4. As used in this section, “party wall” means any wall or fence constructed along the common boundary line between parcels. The term does not include any shared building structure systems, including, without limitation, foundations, walls and roof structures.

QUESTIONS?

- ▶ Web Site
 - www.red.state.nv.us
- ▶ Phone
 - 702.486.4480/877.829.9907/775.687.4280
- ▶ FAX
 - 702.486.4520/775.687.4868
- ▶ E-Mail
 - OMBCLASSES@red.state.nv.us

- ▶ Office Locations
 - 2501 East Sahara Ave, Suite 202, Las Vegas, NV 89104
 - 1179 Fairview Drive, Suite E, Carson City, NV 89701



REFERENCE SLIDES

NRS 116.005 “Administrator” defined.
“Administrator” means the Real Estate Administrator.

(Added to NRS by [1999, 2993](#); A [2003, 1302, 2221](#))—(Substituted in revision for NRS 116.110305)

NRS 116.3104 Transfer of special declarant's right.

1. A special declarant's right created or reserved under this chapter may be transferred only by an instrument evidencing the transfer recorded in every county in which any portion of the common-interest community is located. The instrument is not effective unless executed by the transferee.
 2. Upon transfer of any special declarant's right, the liability of a transferor declarant is as follows:
 - (a) A transferor is not relieved of any obligation or liability arising before the transfer and remains liable for warranties imposed upon the transferor by this chapter. Lack of privity does not deprive any unit's owner of standing to maintain an action to enforce any obligation of the transferor.
 - (b) If a successor to any special declarant's right is an affiliate of a declarant, the transferor is jointly and severally liable with the successor for any obligations or liabilities of the successor relating to the common-interest community.
 - (c) If a transferor retains any special declarant's rights, but transfers other special declarant's rights to a successor who is not an affiliate of the declarant, the transferor is liable for any obligations or liabilities imposed on a declarant by this chapter or by the declaration relating to the retained special declarant's rights and arising after the transfer.
 - (d) A transferor has no liability for any act or omission or any breach of a contractual obligation or warranty arising from the exercise of a special declarant's right by a successor declarant who is not an affiliate of the transferor.
 3. Unless otherwise provided in a mortgage, deed of trust or other agreement creating a security interest, in case of foreclosure of a security interest, sale by a trustee under an agreement creating a security interest, tax sale, judicial sale or sale under the Bankruptcy Code or a receivership, of any units owned by a declarant or real estate in a common-interest community subject to developmental rights, a person acquiring title to all the property being foreclosed or sold, but only upon the person's request, succeeds to all special declarant's rights related to that property held by that declarant, or only to any rights reserved in the declaration pursuant to [NRS 116.2115](#) and held by that declarant to maintain models, offices for sales and signs. The judgment or instrument conveying title must provide for transfer of only the special declarant's rights requested.
 4. Upon foreclosure of a security interest, sale by a trustee under an agreement creating a security interest, tax sale, judicial sale or sale under the Bankruptcy Code or a receivership of all interests in a common-interest community owned by a declarant:
 - (a) The declarant ceases to have any special declarant's rights; and
 - (b) The period of declarant's control ([NRS 116.31032](#)) terminates unless the judgment or instrument conveying title provides for transfer of all special declarant's rights held by that declarant to a successor declarant.
- (Added to NRS by [1991, 560](#); A [1993, 2366](#))

NRS 116.31043 Liabilities and obligations of person who succeeds to special declarant's rights.

The liabilities and obligations of a person who succeeds to special declarant's rights are as follows:

1. A successor to any special declarant's right who is an affiliate of a declarant is subject to all obligations and liabilities imposed on the transferor by this chapter or by the declaration.
2. A successor to any special declarant's right, other than a successor described in subsection 3 or 4 or a successor who is an affiliate of a declarant, is subject to the obligations and liabilities imposed by this chapter or the declaration:
 - (a) On a declarant which relate to the successor's exercise or nonexercise of special declarant's rights; or
 - (b) On his or her transferor, other than:
 - (1) Misrepresentations by any previous declarant;
 - (2) Warranties on improvements made by any previous declarant, or made before the common-interest community was created;
 - (3) Breach of any fiduciary obligation by any previous declarant or previous declarant's appointees to the executive board; or
 - (4) Any liability or obligation imposed on the transferor as a result of the transferor's acts or omissions after the transfer.
3. A successor to only a right reserved in the declaration to maintain models, offices for sales and signs ([NRS 116.2115](#)), may not exercise any other special declarant's right, and is not subject to any liability or obligation as a declarant, except the obligation to provide a public offering statement and any liability arising as a result thereof.
4. A successor to all special declarant's rights held by a transferor who succeeded to those rights pursuant to a deed or other instrument of conveyance in lieu of foreclosure or a judgment or instrument conveying title under subsection 3 of [NRS 116.3104](#), may declare in a recorded instrument the intention to hold those rights solely for transfer to another person. Thereafter, until transferring all special declarant's rights to any person acquiring title to any unit or real estate subject to developmental rights owned by the successor, or until recording an instrument permitting exercise of all those rights, that successor may not exercise any of those rights other than any right held by his or her transferor to control the executive board in accordance with [NRS 116.31032](#) for the duration of any period of declarant's control, and any attempted exercise of those rights is void. So long as a successor declarant may not exercise special declarant's rights under this subsection, the successor declarant is not subject to any liability or obligation as a declarant other than liability for his or her acts and omissions under [NRS 116.31032](#).

(Added to NRS by [1991, 561](#); A [1993, 2367](#))

NRS 116.31046 Successor not subject to certain claims against or other obligations of transferor of special declarant's right.

[NRS 116.3104](#) and [116.31043](#) do not subject any successor to a special declarant's right to any claims against or other obligations of a transferor declarant, other than claims and obligations arising under this chapter or the declaration.

(Added to NRS by [1991, 561](#))

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](#))

NRS 116.1206 Provisions of governing documents in violation of chapter deemed to conform with chapter by operation of law; procedure for certain amendments to governing documents.

1. Any provision contained in a declaration, bylaw or other governing document of a common-interest community that violates the provisions of this chapter:

(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 chapter, 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.

2. In the case of amendments to the declaration, bylaws or plats of any common-interest community created before January 1, 1992:

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

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

3. An amendment to the declaration, bylaws or plats authorized by this section to be made under this chapter must be adopted in conformity with the applicable provisions of [chapter 117](#) or [278A](#) of NRS and, except as otherwise provided in subsection 8 of [NRS 116.2117](#), with the procedures and requirements specified by those instruments. If an amendment grants to a person a right, power or privilege permitted by this chapter, any correlative obligation, liability or restriction in this chapter also applies to the person.

(Added to NRS by [1991, 543](#); A [1999, 2999](#); [2003, 2224](#); [2009, 1610, 2877](#); [2011, 2420](#))