

09 SESSION REVIEW FOR REALTORS® COMMON-INTEREST COMMUNITIES

Common-interest communities were at the forefront this Session, mainly because the one comprehensive bill passed by the 2007 Legislature was vetoed by the Governor after the conclusion of that Session. Therefore, a lot of the issues identified and debated in 2007 had not been resolved when legislators walked in for the start of Session.

The 2009 Legislature considered whether to override or sustain the veto the second day of Session, and the veto was sustained. Subsequently, a number of common-interest communities bills were introduced to address wide-ranging issues, from parking to lien super priority, and from shutters and solar energy systems to fines assessed on owners for delivery vehicles traffic violations when delivering to their address.

At the end of the day, critical concerns regarding common-interest communities were addressed, and our clients and customers will be better informed and better protected when electing to live in such a community.

Resale Package

It is required that a public offering or a resale package include a statement listing all current and expected fees for each unit.

Super Priority of CIC Liens

In a bill supported by NVAR, the 6-month threshold for super priority liens was increased to 9 months (unless federal regulations require a

shorter period for super priority liens).

Disclosures in a Unit's Sale

The CIC Commission is authorized to adopt regulations to require any additional disclosures in the sale of a unit as the Commission deems necessary.

Community Managers

NAC Incorporated in Statutes, Provisions Added

Many existing requirements contained in the Nevada Administrative Code (NAC) were incorporated into statutes. Some responsibilities and duties were also added.

New requirements were established pertaining to standards of practice and conduct warranting disciplinary action, as well as mandatory disclosures.

Fiduciary

A community manager acts as a fiduciary at all times, and must exercise ordinary and reasonable care in performing his duties.

Compliance with Governing Documents

If a community manager fails or refuses to comply with the governing documents of the association or the provisions of NRS 116, any person or class of persons may bring a civil action for damages or other relief.

Bond for Community Managers

The CIC Commission must adopt regulations requiring an applicant for a certificate as a community

manager or the applicant's employer to post a bond.

Temporary Certificates

The Real Estate Division will issue regulations regarding issuance of temporary certificates for community managers for a period of 1 year under certain circumstances.

Reinstatement

The regulations governing the issuance of certificates for community managers must now establish a procedure for a person who was previously issued a certificate and who no longer holds a certificate to reapply for and obtain a new certificate without undergoing any period of supervision by another community manager, regardless of the length of time that has passed since the person last acted as a community manager.

Maintenance of Units Vacant or in Foreclosure

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 under certain circumstances. The association is authorized to charge an owner for the maintenance and abatement services provided, and may impose a lien against the unit. A lien for such maintenance and abatement services has priority over a first security interest on the unit.

09 SESSION REVIEW FOR REALTORS® COMMON-INTEREST COMMUNITIES (CONT'D)

Fines

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 is limited under certain circumstances.

As of October 1, 2011, an association will be required to establish an account for an owner's payments for fines, which must be kept separate from any account established for assessments.

Access to CIC Documents

The budget, books, records and other papers of an association must be available for review at a location not to exceed 60 miles from the CIC.

Parking Restrictions

An association is prohibited from restricting the parking of certain utility vehicles (weight of 20,000 lbs or less), law enforcement vehicles, and emergency vehicles in designated parking areas or driveway, while the person is engaged in his official duties, or if the person is the owner or tenant of a unit.

Entrance Fee

An association may not charge a fee for entry into the common-interest community against a person providing services to a unit, an owner or a tenant, or against a

visitor, guest or invitee of an owner or tenant.

Drought Tolerant Landscaping

It was spelled out that existing law concerning drought tolerant landscaping must be construed broadly and the definition of "drought tolerant landscaping" was clarified to include the use of mulches such as decorative rock and artificial turf.

Shutters

An association may not unreasonably restrict, prohibit or withhold approval for an owner to add shutters to improve the security of the unit or to reduce the costs of energy for the unit.

An association may not unreasonably restrict, prohibit or withhold approval for an owner to add shutters that are attached to certain common elements or limited common elements under certain circumstances.

Public Swimming Pool Exemption

Privately owned swimming pools used only by members of a private club are exempted from the definition of "public swimming pool" for purposes of supervision by the Health Authority.

Rural Agricultural Residential CICs

A limited-purpose association created for a rural agricultural residential CIC is now exempted from certain requirements to pay some fees and conduct some reserve studies.

Contracts with CICs

Existing law was revised to prohibit an association's ability to grant a private entity the right of first refusal with respect to extension or renewal of the contract for the furnishing of goods or services.

The prohibition against certain contracts between an association and a member of the executive board or officer was expanded to include contracts involving financing.

For a topic by topic summary or the comprehensive legislative report, please visit www.nvar.org.



760 Margrave Ave, Ste 200
Reno, NV 89502
1 800 748-5526 ♦ www.nvar.org