

**ADOPTED REGULATION OF
THE COMMISSION FOR COMMON-INTEREST
COMMUNITIES AND CONDOMINIUM HOTELS**

LCB File No. R135-09

Effective August 13, 2010

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §1, NRS 116.31151 and 116.615.

A REGULATION relating to common-interest communities; revising the contents of the budget to maintain the reserve of an association; and providing other matters properly relating thereto.

Section 1. NAC 116.415 is hereby amended to read as follows:

116.415 An executive board shall, in addition to the requirements set forth in paragraph (b) of subsection 1 of NRS 116.31151, include in the budget to maintain the reserve:

1. An estimate of the amount of reserve funds necessary in the projected fiscal year, based on comparative bids or industry standards, to complete the repairs, replacement or restoration of the major components *of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore* as recommended in the ~~[reserve]~~ study ~~[:]~~ *of reserves conducted pursuant to NRS 116.31152*; and
2. ~~[Whether there is a difference between]~~ *If the projected balance of the reserve account at the end of the budgeted fiscal year is less than the* amount ~~[of the annual contribution suggested in the reserve study and the amount of the annual contribution for the current budget year and, if so:]~~ *required to adequately fund the reserves on a reasonable basis at the end of*

the budgeted fiscal year, as determined by the study of reserves conducted pursuant to NRS

116.31152:

- (a) The reason for the difference; and
- (b) How this difference is proposed to be resolved *by the executive board.*

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NOTICE OF ADOPTION OF REGULATION

The DEPARTMENT OF BUSINESS & INDUSTRY, REAL ESTATE DIVISION, Adopted regulations assigned LCB File No. R135-09, which pertain to Chapter 116 of the Nevada Administrative Code on May 5, 2010. A copy of the regulations as adopted is attached hereto.

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066 LCB FILE NO. R135-09

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 116.

- 1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

Notice of the proposed regulation was posted on the Real Estate Division website, at each State library and in various other public locations where both the public and other interested persons would have access to that information.

The Division conducted one public workshop and an adoption hearing, all of which were video conferenced to Las Vegas and Carson City. Public comment was solicited at each workshop and at the adoption hearing.

Number of persons who attended:

	<u>CC</u>	<u>LV</u>
Attended Adoption: 05/05/10		
Submitted written comments	6	29
Attended Workshop: 12/08/09	4	23
Submitted written comments:	0	0

- 2. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

The public was invited to comment at each public workshop and hearing or in writing. Additionally, since March 2005 through May 5, 2010, the Commission has had a standing agenda item each meeting to discuss and review Chapter 116 of NAC in order to make recommendations for proposed changes, additions, and deletions. At each public meeting, the Commission has considered possible changes to the Nevada Administrative Code for Chapter 116, solicited public comment, and formulated their proposals for changes.

Interested persons were instructed that they could obtain copies of comment summaries by contacting Joanne Gierer, Legal Administrative Officer, at 702-486-4036.

Minutes of the Commission's meetings are available on the Division website and by contacting Joanne Gierer, Legal Administrative Officer, at 702-486-4036.

3. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

There were changes made to the regulation based upon public comment made at the December 8, 2009 workshop. No additional changes were requested at the adoption hearing.

4. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

Business which it is to regulate:

(a) Both adverse and beneficial effects:

No adverse effects.

(b) Both immediate and long-term effects.

Executive boards shall, include in the budget to maintain a reserve:

An estimate of the amount of reserve funds necessary in the projected fiscal year, based on comparative bids or industry standards, to complete the repairs, replacement or restoration of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore as recommended in the study of reserves conducted pursuant to NRS 116.31152.

5. Public:

(a) Both adverse and beneficial effects: and

There are no known adverse economic effects for the public from these proposed regulations.

Same as in 4(b).

(b) Both immediate and long-term effects:

There are no known immediate economic effects for the public from these proposed regulations.

The long-term effects should be similar to the beneficial effects mentioned in the foregoing items.

- 6. The estimated cost to the agency for enforcement of the adopted regulation.** The agency currently has the appropriate number of staff to enforce this regulation at no additional cost.
- 7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

None.

- 8. If the regulation includes provisions, which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

None.

- 9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

There are no new fees or increases in existing fees.

Regulation Workshop for LCB File No. R135-09 December 8, 2009

R135-09 workshop started at 4:35 p.m.

Introduction of Commissioners in attendance:

Michael Buckley, Donna Toussaint, Gary Lein, Randolph Watkins, Marilyn Brainard, M. Favil West, Jeannie Redinger, and Senior Deputy Attorney General Nancy Savage acting as Commission Counsel.

Introduction of Division staff in attendance in Las Vegas:

Bruce Alitt, Chief Compliance Investigator; Lindsay Waite, Ombudsman; Sonya Meriweather, Program Officer; Susan Clark, Licensing Manager; Nicholas Haley, Education Officer; Joanne Gierer, Legal Administrative Officer; Teralyn Thompson, Commission Coordinator.

In Carson City: Christopher Cooke, Compliance Investigator.

Section 1:

Jonathan Friedrich (Las Vegas) stated that subsection 2(b) leaves the concept hanging. Mr. Friedrich stated there needs to be more clarity.

Pamela Scott (Las Vegas) with the Howard Hughes Corporation stated when the legislation was enacted, the intent was, if the amount did not come up to the amount that is in the reserve study. Ms. Scott stated that then the issue would need to be addressed. Ms. Scott stated that there are associations that are fully funded. Ms. Scott stated the way that Summerlin funds their associations as a developer that leaves the associations with extra adequate reserve funds. Ms. Scott stated that Summerlin does not ask homeowners to contribute to the reserve until the association has reached a point in the reserve study to where a contribution would need to start being made. Ms. Scott stated this is in reference with the budget every year.

Ms. Scott stated that if the board has determined that they are adequately funded, does there need to be a reason for the difference and how it is proposed to be resolved? Ms. Scott stated that this regulation is confusing.

Workshop concluded at 4:47 p.m. on December 8, 2009.

**LCB FILE No. R135-09
NAC 116 – ADOPTION HEARING**

May 5, 2010

**Sawyer Building
555 E. Washington, Suite 4412
Las Vegas, NV 89101**

Video conferenced to:

**Legislative Building
401 S. Carson St.
Room 3137
Carson City, NV 89701**

Start time: 9:38 a.m.

Commissioners present in Las Vegas: Michael Buckley, Favil West, Randy Watkins, Jeannie Redinger, Donna Toussaint, Marilyn Brainard and Gary Lein.

Present in Carson City: Deonne Contine, Deputy Attorney General

Las Vegas Staff: Gail Anderson, Joanne Gierer, Teralyn Thompson, Sonya Meriweather, Nick Haley, Lindsey Waite, Ingrid Trillo and Vicky Broadbent.

Division Counsel, Senior Deputy Attorney General, Nancy Savage.

Carson City Staff: Christopher Cooke.

Chairman Buckley conducted the adoption hearing.

There were no comments made by the public.

Commissioner Brainard moved to approve the regulation as drafted. Commissioner Favil West seconded the motion. Unanimous decision.

Adoption Hearing ended at 9:40 a.m.