

CHAPTER.....

AN ACT relating to the taxation of property; revising provisions governing the filing of an appeal by mail with a county board of equalization; revising provisions governing the assessment of the common elements of common-interest communities; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Under existing law, an appeal to the county board of equalization must be filed not later than January 15 or, if January 15 falls on a Saturday, Sunday or legal holiday, on the next business day. (NRS 361.340, 361.356, 361.357) Existing law further provides that any document required or permitted by law to be filed by mailing to the State or a local government is deemed to be filed on the date of the postmark dated by the post office on the envelope in which the document was mailed. However, if the document is not received by the addressee or if the document is received but the postmark is illegible or omitted, the document is deemed to be filed on the date it was mailed, if the sender: (1) establishes that the mailing date was on or before the required filing date by providing the postal receipt for registered or certified mail; or (2) files a duplicate of the document within 15 days after he or she becomes aware that the document was not received. (NRS 238.100) **Section 2** of this bill specifically provides that any appeal to a county board of equalization filed by mail is deemed to be filed on the postmark dated by the post office on the envelope in which the appeal was mailed or, if the postmark is omitted or illegible, on the day the appeal is received. **Section 2** further provides that any postmark not provided directly by the post office does not establish that an appeal is timely filed.

Existing law provides that the property taxes assessed upon real property in a common-interest community must be assessed upon the community units and not upon the common-interest community as a whole. Existing law further provides a methodology for allocating the taxable value of the common elements of a common-interest community on an equal basis to each of the community units of that common-interest community. (NRS 361.233) **Section 3** of this bill provides that this methodology may be used only if the community association provides to the county assessor such information as the county assessor determines to be necessary to identify the community units to which the taxable value of the common elements must be allocated. If the community association does not provide such information to the county assessor, property taxes on the common elements must be paid by the person or association who is the owner of the common elements.

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

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** The Legislature hereby finds and declares that:  
1. In *Sun City Summerlin Community Association v. Department of Taxation*, 113 Nev. 835 (1997), the Nevada Supreme



Court held that a statute which provided that no separate tax or assessment could be rendered against certain common elements of a common-interest community or planned community, was unconstitutional and void insofar as it precluded the taxation of common elements in a planned community because the statute violated the requirement of a uniform and equal rate of assessment and taxation of all property as set forth in Section 1 of Article 10 of the Nevada Constitution;

2. The provisions of NRS 361.233 prohibit any ad valorem taxes and special assessments from being levied upon the common elements of a common-interest community but instead provide for the allocation of the taxable value of the common elements of a common-interest community on an equal basis to each of the community units of that common-interest community; and

3. Because any taxes assessed on the common elements of a common-interest community would be allocated to the community units and paid by the owners of the community units through assessments for common expenses, the imposition of ad valorem taxes and special assessments upon the common elements of a common-interest community is equivalent to the allocation of the taxable value of the common elements to the community units under current law and does not result in the unequal assessment and taxation of the common elements.

**Sec. 2.** Chapter 361 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. Except as provided in subsection 2, any appeal to the county board of equalization filed by mail shall be deemed to be filed on the date of the postmark dated by the post office on the envelope in which the appeal was mailed.*

*2. If the postmarked date on an envelope in which an appeal was mailed is illegible or omitted, the appeal shall be deemed filed on the date it was received by the county board of equalization.*

*3. A postmark provided by a postage meter, a postage vending machine, any postage purchased through the Internet or any other form of dated postage which is not directly postmarked by the post office does not establish that an appeal is timely filed.*

**Sec. 3.** NRS 361.233 is hereby amended to read as follows:

361.233 1. Notwithstanding any other provision of law **H**, *if a community association provides such information as the county assessor determines to be necessary to identify each community unit in the common-interest community:*

(a) Any ad valorem taxes or special assessments assessed upon any real property within a common-interest community:



(1) Must be assessed upon the community units and not upon the common-interest community as a whole; and

(2) Must not be assessed upon any common elements of the common-interest community.

(b) Except as otherwise provided in subsection 2, the taxable value of each parcel:

(1) Composed solely of a community unit must consist of:

(I) The taxable value of that community unit; and

(II) A percentage of the taxable value of all the common elements of that common-interest community which is equal to 1 divided by the total number of community units in that common-interest community; or

(2) Composed of a community unit and any portion of the common elements of the common-interest community must consist of:

(I) The taxable value of that community unit only; and

(II) A percentage of the taxable value of all the common elements of that common-interest community which is equal to 1 divided by the total number of community units in that common-interest community.

2. *If a community association does not provide such information as the county assessor determines to be necessary to identify each community unit in the common-interest community, any ad valorem taxes and special assessments upon real property must be assessed upon the common elements of the common-interest community, and the taxable value of the common elements is the sum of the taxable value of all the common elements of that common-interest community.*

3. If the declaration for a common-interest community or, in the absence of such a declaration, the recorded deeds for the community units of a common-interest community:

(a) Provide for the allocation to the community units of, except for any minor variations because of rounding, all the interests in the common elements of the common-interest community; or

(b) Do not provide for the allocation described in paragraph (a) but provide for the allocation to the community units of, except for any minor variations because of rounding, all the liabilities for the common expenses of the common-interest community,

↳ and the formula for allocation provided in the declaration or deeds differs from the formula for allocation set forth in sub-subparagraph (II) of subparagraph (1) of paragraph (b) of subsection 1 and sub-subparagraph (II) of subparagraph (2) of paragraph (b) of subsection 1, those sub-subparagraphs do not apply to the common-



interest community, and the taxable value of the common elements of the common-interest community must be allocated to the community units in accordance with the formula for allocation provided in the declaration or deeds.

~~3.1~~ 4. The Nevada Tax Commission shall adopt such regulations as it determines to be appropriate to ensure that this section is carried out in a uniform and equal manner that does not result in the double taxation of any common elements of a common-interest community.

~~4.1~~ 5. For the purposes of this section:

(a) "Ad valorem tax" means an ad valorem tax levied by any governmental entity or political subdivision in this State on or after July 1, 2006.

(b) "Common elements" means the physical portion of a common-interest community, including, without limitation, any landscaping, swimming pools, fitness centers, community centers, maintenance and service areas, parking areas, hallways, elevators and mechanical rooms, which is:

(1) Intended for the general benefit of and potential use by all the owners of the community units and their invitees; and

(2) Owned:

(I) By the community association;

(II) By any person on behalf or for the benefit of the owners of the community units; or

(III) Jointly by the owners of the community units.

(c) "Common-interest community" means real property with respect to which a person, by virtue of his or her ownership of a community unit, is obligated to pay for any real property other than that unit. The term includes a common-interest community governed by the provisions of chapter 116 of NRS, a condominium hotel governed by the provisions of chapter 116B of NRS, a condominium project governed by the provisions of chapter 117 of NRS and any time-share project, planned unit development or other real property which is organized as a common-interest community in this State.

(d) "Community association" means an association whose membership:

(1) Consists exclusively of the owners of the community units or their elected or appointed representatives; and

(2) Is a required condition of the ownership of a community unit.

(e) "Community unit" means a physical portion of a common-interest community, other than the common elements, which is:



(1) Designated for separate ownership or occupancy; ~~and~~

(2) Intended for:

(I) Residential use by the owner of that unit and his or her invitees; or

(II) Commercial use by the owner of that unit for the generation of revenue from any persons other than the owners of community units in that common-interest community and their invitees ~~;~~ **and**

*(3) Identified by the community association as a community unit for the purpose of distributing the taxable value of the common elements to the community units pursuant to subsection 1.*

(f) "Declaration" means any instrument, however denominated, that creates a common-interest community, including any amendment to an instrument.

(g) "Special assessment" means a special assessment levied by any governmental entity or political subdivision in this State on or after July 1, 2006.

**Sec. 4.** NRS 361.334 is hereby amended to read as follows:

361.334 As used in NRS 361.334 to 361.435, inclusive ~~;~~ **and section 1 of this act:**

1. The term "property" includes a leasehold interest, possessory interest, beneficial interest or beneficial use of a lessee or user of property which is taxable pursuant to NRS 361.157 or 361.159.

2. Where the term "property" is read to mean a taxable leasehold interest, possessory interest, beneficial interest or beneficial use of a lessee or user of property, the term "owner" used in conjunction therewith must be interpreted to mean the lessee or user of the property.

**Sec. 5.** This act becomes effective on July 1, 2015.

