

Chapter 116 of NAC

LCB File No. T024-07

**ADOPTED TEMPORARY REGULATION OF THE
COMMON INTEREST COMMUNITIES COMMISSION**

Filed with the Secretary of State on March 16, 2007

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

AUTHORITY: NRS 116.615

Section 1. Chapter 116 of NAC is hereby amended by adding thereto a new section to read as follows:

Sec. 2. *Pursuant to NRS 116.411(1) funds deposited in an escrow account for the purpose of purchasing or reserving a unit from a person required to deliver a public offering statement are deemed to be placed in escrow and in an account held in this State when the escrow holder has:*

1. *The legal right to conduct business in this State; and*
2. *A resident agent in this State pursuant to NRS 14.020(1); and*
3. *Consented to the jurisdiction of the courts of this State either by:*
 - a) *Maintaining a physical presence in this State; or*
 - b) *Executing a written instrument containing such consent, with respect to any suit or claim, whether brought by the declarant or purchaser, relating to or arising in connection with such sale or the escrow agreement related thereto.*

**NOTICE OF ADOPTION OF TEMPORARY REGULATION
LCB File No. T024-07**

The Common Interest Communities Commission adopted temporary regulations assigned LCB File No. T024-07 which pertain to chapter 116 of the Nevada Administrative Code on January 29, 2007.

INFORMATIONAL STATEMENT

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 regulations was posted on the Real Estate Division website and in various other public locations where both the public and other interested persons would have access to that information. The Division conducted a public workshop on August 22, 2006, in Carson City, which was video-conferenced to Las Vegas. Public comment was also solicited at the Workshop and Adoption Hearing in Las Vegas on January 29, 2007. The January 29, 2007 Workshop and Adoption Hearing was not video-conferenced to Carson City.

The number of persons who:

	<u>CC</u>	<u>LV</u>
Attended workshop 8/22/06:	15	10
Submitted written comments:	3	0
Attended workshop 1/29/07:		12
Submitted written comments:		1
Attended public hearing 1/29/07		12
Submitted written comments:		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 the public workshops and hearing or in writing. Additionally, since March 2005 through November 15, 2006, the Commission has had a standing agenda item 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 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 702-486-4033 ext. 222.

Minutes of the Commission's meetings are available on the Division website and by contacting Joanne Gierer, Legal Administrative Officer, at 702-486-4033, ext. 222.

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.

Amendments have been made to the temporary regulation based upon public comment made at the August 22, 2006 and January 29, 2007, workshops and adoption hearing and the November 15, 2006 Commission meeting.

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:

Adverse effects: The Commission for Common-Interest Communities was uncertain as to any adverse effects to defining what it means to "placed in escrow in an account held in this State." The Commission for Common-Interest Communities does not regulate banking or escrow entities.

Beneficial effects: NRS 116.411 deals with deposits made by a potential purchaser of property in a common-interest community. That statute requires that an escrow account be opened with a bonded escrow company, a licensed title insurer or a financial institution whose deposits are insured by the federal government. The adopted temporary regulation clarifies and broadens what "funds placed in an escrow account held in this State" means.

(b) Both immediate and long-term effects:

Immediate effects: Clarifies NRS. 116.411, which deals with escrow of deposits by defining and broadening the definition of the meaning of "held in this State."

Long-term effects: Same as above.

5. Public:

(a) Both adverse and beneficial effects:

Adverse effects: A potential purchaser of property in a common-interest community may have escrow funds held outside of the State of Nevada under the definition in this regulation.

Beneficial effects: A homeowner association may find benefit for holding in escrow funds in accounts under the broader definition of this temporary regulation.

(b) Both immediate and long-term effects:

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

Long-term effects: The long-term effects should be similar to the beneficial effects mentioned in the foregoing item.

6. The estimated cost to the agency for enforcement of the adopted regulation.

1. Cost of a review of the temporary regulation by the Legislative Counsel Bureau;
2. Cost for the Division's compliance section to process and investigate a complaint listing non-compliance of NRS 116.411 as the reason for potential disciplinary action by the Division;
3. Cost for the Attorney Generals Office to bring a disciplinary hearing before the Commission; and
4. Cost for the Division to hold a Commission hearing.

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.

This regulation may have impact on other State agency regulations which require holding funds "in this state." The Real Estate Division notified and discussed this proposed regulation with the Acting Commissioner for Financial Institutions Division and the Commissioner for Mortgage Lending Division. The Real Estate Division is not knowledgeable of federal or state banking regulations.

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

Not of which we are aware.

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.

No new fee proposed by this temporary regulation.