

ASSEMBLY BILL NO. 557—ASSEMBLYMAN BEERS

MARCH 15, 1999

Referred to Concurrent Committees on Taxation
and Commerce and Labor

SUMMARY—Conforms definition of common elements in planned community to other common-interest communities. (BDR 10-954)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: Yes.

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

AN ACT relating to common-interest communities; providing a single definition of common elements for all common-interest communities; and providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 116.110313 is hereby amended to read as follows:
- 2 116.110313 “Allocated interests” means the following interests
- 3 allocated to each unit:
- 4 1. In a condominium ~~[]~~ ***or planned community, except any portion of***
- 5 ***a planned community that is a cooperative,*** the undivided interest in the
- 6 common elements, the liability for common expenses, and votes in the
- 7 association; ***and***
- 8 2. In a cooperative, the liability for common expenses and the
- 9 ownership and votes in the association . ~~[] and~~
- 10 ~~—3.— In a planned community, the liability for common expenses and~~
- 11 ~~votes in the association.]~~
- 12 **Sec. 2.** NRS 116.110318 is hereby amended to read as follows:
- 13 116.110318 “Common elements” means ~~[]~~
- 14 ~~—1.— In a condominium or cooperative,]~~ all portions of ~~[the]~~ ***a*** common-
- 15 interest community other than the units, including easements in favor of
- 16 units or the common elements over other units . ~~[] and~~
- 17 ~~—2.— In a planned community, any real estate within the planned~~
- 18 ~~community owned or leased by the association, other than a unit.]~~

1 **Sec. 3.** NRS 116.110368 is hereby amended to read as follows:

2 116.110368 “Planned community” means a common-interest
3 community that ~~is~~:

4 **1. Existed on June 30, 1999, and was designated as such in the**
5 **declaration creating it; or**

6 **2. Is created on or after July 1, 1999, and is** not *exclusively* a
7 condominium or a cooperative. A condominium or cooperative may be
8 part of a planned community.

9 **Sec. 4.** NRS 116.2107 is hereby amended to read as follows:

10 116.2107 1. The declaration must allocate to each unit:

11 (a) In a condominium ~~or~~ **or planned community, except any portion of**
12 **a planned community that is a cooperative,** a fraction or percentage of
13 undivided interests in the common elements and in the common expenses
14 of the association (NRS 116.3115) and a portion of the votes in the
15 association; **and**

16 (b) In a cooperative, a proportionate ownership in the association, a
17 fraction or percentage of the common expenses of the association (NRS
18 116.3115) and a portion of the votes in the association. ~~or and~~

19 ~~—(c) In a planned community, a fraction or percentage of the common~~
20 ~~expenses of the association (NRS 116.3115) and a portion of the votes in~~
21 ~~the association.]~~

22 2. The declaration must state the formulas used to establish allocations
23 of interests. Those allocations may not discriminate in favor of units
24 owned by the declarant or an affiliate of the declarant.

25 3. If units may be added to or withdrawn from the common-interest
26 community, the declaration must state the formulas to be used to reallocate
27 the allocated interests among all units included in the common-interest
28 community after the addition or withdrawal.

29 4. The declaration may provide:

30 (a) That different allocations of votes are made to the units on particular
31 matters specified in the declaration;

32 (b) For cumulative voting only for the purpose of electing members of
33 the executive board; and

34 (c) For class voting on specified issues affecting the class if necessary to
35 protect valid interests of the class.

36 Except as otherwise provided in NRS 116.31032, a declarant may not
37 utilize cumulative or class voting for the purpose of evading any limitation
38 imposed on declarants by this chapter nor may units constitute a class
39 because they are owned by a declarant.

40 5. Except for minor variations because of rounding, the sum of the
41 liabilities for common expenses and, in a condominium ~~or~~ **or planned**
42 **community, except any portion of a planned community that is a**

43 **cooperative,** the sum of the undivided interests in the common elements

1 allocated at any time to all the units must each equal one if stated as a
2 fraction or 100 percent if stated as a percentage. In the event of
3 discrepancy between an allocated interest and the result derived from
4 application of the pertinent formula, the allocated interest prevails.

5 6. In a condominium ~~H~~ *or planned community, except any portion of*
6 *a planned community that is a cooperative*, the common elements are not
7 subject to partition, and any purported conveyance, encumbrance, judicial
8 sale or other voluntary or involuntary transfer of an undivided interest in
9 the common elements made without the unit to which that interest is
10 allocated is void.

11 7. In a cooperative, any purported conveyance, encumbrance, judicial
12 sale or other voluntary or involuntary transfer of an ownership interest in
13 the association made without the possessory interest in the unit to which
14 that interest is related is void.

15 **Sec. 5.** If a unit-owners' association holds record title to, or a lease of,
16 real property that is a portion of a planned community, other than a unit,
17 on June 30, 1999, the association shall convey the real property, or assign
18 its leasehold, in undivided interests to all of the units' owners in proportion
19 to their respective allocated interests as augmented by this act.

20 **Sec. 6.** This act becomes effective on June 30, 1999.