

Senate Bill No. 192–Senator Rawson

CHAPTER.....

AN ACT relating to common-interest communities; enacting various provisions governing certain rights of an association with respect to certain property; making various other changes concerning common-interest communities; and providing other matters properly relating thereto.

WHEREAS, Planned communities are a dominant method of residential development in the State of Nevada; and

WHEREAS, Planned communities are developed for the purposes of preserving neighborhood continuity and creating desirable places to reside; and

WHEREAS, Planned communities are governed by specific rules and regulations and by unit-owners' associations; and

WHEREAS, A unit-owners' association is the form of self-government closest to the people; and

WHEREAS, All forms of government should follow the basic principles of democracy found in the United States Constitution and the Nevada Constitution; and

WHEREAS, Some unit-owners' associations in this state have a history of abuse of power; and

WHEREAS, Unit-owners' associations have power over one of the most important aspects of a person's life, his residence; and

WHEREAS, Homeowners invest financially and emotionally in their homes; and

WHEREAS, Homeowners have the right to reside in a community without fear of illegal, unfair, unnecessary, unduly burdensome or costly interference with their property rights; now, therefore,

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

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

1. An association of a planned community may not restrict, prohibit or otherwise impede the lawful residential use of any property that is within or encompassed by the boundaries of the planned community and that is not designated as part of the planned community.

2. Except as otherwise provided in this subsection, an association may not restrict the access of a person to any of his property. An association may restrict access to and from a unit within a planned community if the right to restrict such access was included in the declaration or in a separate recorded instrument at the time that the owner of the unit acquired title to the unit. The provisions of this subsection do not prohibit an association from charging the owner of the

property a reasonable and nondiscriminatory fee to operate or maintain a gate or other similar device designed to control access to the planned community that would otherwise impede ingress or egress to the property.

3. An association may not expand, construct or situate a building or structure that is not part of any plat or plan of the planned community if the expansion, construction or situation of the building or structure was not previously disclosed to the units' owners of the planned community unless the association obtains the written consent of a majority of the units' owners and residents of the planned community who own property or reside within 500 feet of the proposed location of the building or structure.

4. The provisions of this section do not abrogate any easement, restrictive covenant, decision of a court, agreement of a party or any contract, governing document or declaration of covenants, conditions and restrictions, or any other decision, rule or regulation that a local governing body or other entity that makes decisions concerning land use or planning is authorized to make or enact that exists before October 1, 1999, including, without limitation, a zoning ordinance, permit or approval process or any other requirement of a local government or other entity that makes decisions concerning land use or planning.

Sec. 2. NRS 116.11038 is hereby amended to read as follows:

116.11038 "Residential use" means use as a dwelling or for personal, family or household purposes by ordinary customers, whether rented to particular persons or not. Such uses include marina boat slips, *piers*, stable or agricultural stalls or pens, campground spaces or plots, parking spaces or garage spaces, storage spaces or lockers and garden plots for individual use, but do not include spaces or units primarily used to derive commercial income from, or provide service to, the public.

Sec. 3. NRS 116.2116 is hereby amended to read as follows:

116.2116 1. Subject to the provisions of the declaration, a declarant has an easement through the common elements as may be reasonably necessary to discharge the declarant's obligations or exercise special declarant's rights, whether arising under this chapter or reserved in the declaration.

2. In a planned community, subject to the provisions of paragraph (f) of subsection 1 of NRS 116.3102 and NRS 116.3112, the units' owners have an easement:

- (a) In the common elements for purposes of access to their units; and
- (b) To use the common elements and all real estate that must become common elements (paragraph (f) of subsection 1 of NRS 116.2105) for all other purposes.

3. Unless the terms of an easement in favor of an association prohibit a residential use of a servient estate, if the owner of the servient estate has obtained all necessary approvals required by law or any covenant, condition or restriction on the property, the owner may use such property in any manner authorized by law without obtaining any

additional approval from the association. Nothing in this subsection authorizes an owner of a servient estate to impede the lawful and contractual use of the easement.

4. The provisions of subsection 3 do not abrogate any easement, restrictive covenant, decision of a court, agreement of a party or any contract, governing document or declaration of covenants, conditions and restrictions, or any other decision, rule or regulation that a local governing body or other entity that makes decisions concerning land use or planning is authorized to make or enact that exists before October 1, 1999, including, without limitation, a zoning ordinance, permit or approval process or any other requirement of a local government or other entity that makes decisions concerning land use or planning.

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