

ASSEMBLY BILL NO. 438—ASSEMBLYMAN PERKINS (BY REQUEST)

MARCH 19, 2001

Referred to Committee on Judiciary

SUMMARY—Authorizes creation of landscape maintenance associations. (BDR 10-993)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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; authorizing the creation of planned communities governed by landscape maintenance associations; 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.** Chapter 116 of NRS is hereby amended by adding thereto
- 2 the provisions set forth as sections 2 to 5, inclusive, of this act.
- 3 **Sec. 2.** *“Landscape maintenance association” means a unit-owners’*
- 4 *association that has been organized for the limited purpose of*
- 5 *maintaining the common elements and landscaping within a landscape*
- 6 *maintenance community.*
- 7 **Sec. 3.** *“Landscape maintenance community” means a planned*
- 8 *community that is governed by a landscape maintenance association.*
- 9 **Sec. 4.** *“Landscaping” means grass, trees, shrubbery, drainage,*
- 10 *fencing, lighting or a portion of a unit or amenity that the declaration*
- 11 *designates that the landscape maintenance association must maintain.*
- 12 **Sec. 5. 1.** *A landscape maintenance association may:*
- 13 *(a) Maintain the common elements and the landscaping of a*
- 14 *landscape maintenance community.*
- 15 *(b) Except as otherwise provided in subsection 2, exercise the powers*
- 16 *granted to a unit-owners’ association to the extent necessary to maintain*
- 17 *the common elements and landscaping of the landscape maintenance*
- 18 *community.*
- 19 **2.** *A landscape maintenance association shall not:*
- 20 *(a) Adopt a rule regarding the appearance or use of a unit.*
- 21 *(b) Exercise the powers set forth in subparagraph (2) of paragraph (h)*
- 22 *and paragraph (r) of subsection 1 of NRS 116.3102.*



1 3. *A provision in a declaration or other governing document which*
2 *grants a landscape maintenance association any power which is not*
3 *authorized pursuant to this section is void.*

4 Sec. 6. NRS 116.1103 is hereby amended to read as follows:

5 116.1103 In the declaration and *in the* bylaws ~~[(NRS 116.3106),]~~
6 *pursuant to NRS 116.3106*, unless specifically provided otherwise or the
7 context otherwise requires, and in this chapter, the words and terms defined
8 in NRS 116.110305 to 116.110393, inclusive, *and sections 2, 3 and 4 of*
9 *this act*, have the meanings ascribed to them in those sections.

10 Sec. 7. NRS 116.110318 is hereby amended to read as follows:

11 116.110318 "Common elements" means:

12 1. In a condominium or cooperative, all portions of the common-
13 interest community other than the units, including easements in favor of
14 units or the common elements over other units. ~~[- and]~~

15 2. In a planned community, any real estate within the planned
16 community owned or leased by the association, other than a unit.

17 3. *In a landscape maintenance community:*

18 (a) *An element which is designated as a common element by the*
19 *declaration, a plat or a map of the common-interest community.*

20 (b) *Utility easements, drainage easements and easements in favor of*
21 *the landscape maintenance association within the landscape*
22 *maintenance community.*

23 (c) *Fencing, including, without limitation, a wall which is located on*
24 *the perimeter of the landscape maintenance community.*

25 (d) *Private roads within the landscape maintenance community.*

26 (e) *Devices, including, without limitation, gates, which control*
27 *vehicular and pedestrian ingress to and egress from the landscape*
28 *maintenance community.*

29 Sec. 8. NRS 116.1201 is hereby amended to read as follows:

30 116.1201 1. Except as otherwise provided in this section and NRS
31 116.1203, this chapter applies to all common-interest communities created
32 within this state.

33 2. This chapter does not apply to:

34 (a) Associations created for the limited purpose of maintaining:

35 (1) ~~[(The landscape of the common elements of a common-interest~~
36 ~~community;~~

37 ~~—(2)]~~ Facilities for flood control; or

38 ~~[(3)]~~ (2) A rural agricultural residential common-interest community.

39 (b) A planned community in which all units are restricted exclusively to
40 nonresidential use unless the declaration provides that the chapter does
41 apply to that planned community. This chapter applies to a planned
42 community containing both units that are restricted exclusively to
43 nonresidential use and other units that are not so restricted, only if the
44 declaration so provides or the real estate comprising the units that may be
45 used for residential purposes would be a planned community in the absence
46 of the units that may not be used for residential purposes.

47 (c) Common-interest communities or units located outside of this state,
48 but the provisions of NRS 116.4102 to 116.4108, inclusive, apply to all



1 contracts for the disposition thereof signed in this state by any party unless
2 exempt under subsection 2 of NRS 116.4101.

3 3. The provisions of this chapter do not:

4 (a) Prohibit a common-interest community created before January 1,
5 1992, from providing for separate classes of voting for the units' owners of
6 the association;

7 (b) Require a common-interest community created before January 1,
8 1992, to comply with the provisions of NRS 116.2101 to 116.2122,
9 inclusive;

10 (c) Invalidate any assessments that were imposed on or before
11 October 1, 1999, by a common-interest community created before
12 January 1, 1992; or

13 (d) Prohibit a common-interest community created before January 1,
14 1992, from providing for a representative form of government.

15 4. The provisions of chapters 117 and 278A of NRS do not apply to
16 common-interest communities.

17 5. For the purposes of this section, the administrator shall establish, by
18 regulation, the criteria for determining whether an association is created for
19 the limited purpose of ~~maintaining the landscape of the common elements~~
20 ~~of a common interest community,~~ maintaining facilities for flood control
21 or maintaining a rural agricultural residential common-interest community.

22 **Sec. 9.** NRS 116.2105 is hereby amended to read as follows:

23 116.2105 1. The declaration must contain:

24 (a) The names of the common-interest community and the association
25 and a statement that the common-interest community is either a
26 condominium, cooperative, ~~for~~ planned community ~~or~~ *or landscape*
27 *maintenance community*;

28 (b) The name of every county in which any part of the common-interest
29 community is situated;

30 (c) A sufficient description of the real estate included in the common-
31 interest community;

32 (d) A statement of the maximum number of units that the declarant
33 reserves the right to create;

34 (e) In a condominium, *landscape maintenance community* or *other*
35 planned community, a description of the boundaries of each unit created by
36 the declaration, including the unit's identifying number or, in a
37 cooperative, a description, which may be by plats or plans, of each unit
38 created by the declaration, including the unit's identifying number, its size
39 or number of rooms, and its location within a building if it is within a
40 building containing more than one unit;

41 (f) A description of any limited common elements, other than those
42 specified in subsections 2 and 4 of NRS 116.2102, as provided in
43 paragraph (g) of subsection 2 of NRS 116.2109 and, in a planned
44 community, any real estate that is or must become common elements;

45 (g) A description of any real estate, except real estate subject to
46 developmental rights, that may be allocated subsequently as limited
47 common elements, other than limited common elements specified in
48 subsections 2 and 4 of NRS 116.2102, together with a statement that they
49 may be so allocated;



1 (h) A description of any developmental rights ~~that~~ pursuant to NRS
2 116.11034 ~~that~~ and other special declarant's rights ~~that~~ pursuant to NRS
3 116.110385 ~~that~~ reserved by the declarant, together with a legally sufficient
4 description of the real estate to which each of those rights applies, and a
5 time within which each of those rights must be exercised;

6 (i) If any developmental right may be exercised with respect to different
7 parcels of real estate at different times, a statement to that effect together
8 with:

9 (1) Either a statement fixing the boundaries of those portions and
10 regulating the order in which those portions may be subjected to the
11 exercise of each developmental right or a statement that no assurances are
12 made in those regards; and

13 (2) A statement whether, if any developmental right is exercised in
14 any portion of the real estate subject to that developmental right, that
15 developmental right must be exercised in all or in any other portion of the
16 remainder of that real estate;

17 (j) Any other conditions or limitations under which the rights described
18 in paragraph (h) may be exercised or will lapse;

19 (k) An allocation to each unit of the allocated interests in the manner
20 described in NRS 116.2107;

21 (l) Any restrictions:

22 (1) On use, occupancy and alienation of the units; and

23 (2) On the amount for which a unit may be sold or on the amount that
24 may be received by a unit's owner on sale, condemnation or casualty to the
25 unit or to the common-interest community, or on termination of the
26 common-interest community;

27 (m) The file number and book or other information to show where
28 easements and licenses are recorded appurtenant to or included in the
29 common-interest community or to which any portion of the common-
30 interest community is or may become subject by virtue of a reservation in
31 the declaration; and

32 (n) All matters required by NRS 116.2106 to 116.2109, inclusive,
33 116.2115, ~~and~~ 116.2116 and 116.31032.

34 2. The declaration may contain any other matters the declarant
35 considers appropriate.

36 **Sec. 10.** NRS 116.3102 is hereby amended to read as follows:

37 116.3102 1. Except as otherwise provided in subsection 2, *and*
38 *section 5 of this act*, and subject to the provisions of the declaration, the
39 association may:

40 (a) Adopt and amend bylaws, rules and regulations;

41 (b) Adopt and amend budgets for revenues, expenditures and reserves
42 and collect assessments for common expenses from units' owners;

43 (c) Hire and discharge managing agents and other employees, agents
44 and independent contractors;

45 (d) Institute, defend or intervene in litigation or administrative
46 proceedings in its own name on behalf of itself or two or more units'
47 owners on matters affecting the common-interest community;

48 (e) Make contracts and incur liabilities;



- 1 (f) Regulate the use, maintenance, repair, replacement and modification
2 of common elements;
3 (g) Cause additional improvements to be made as a part of the common
4 elements;
5 (h) Acquire, hold, encumber and convey in its own name any right, title
6 or interest to real estate or personal property, but:
7 (1) Common elements in a condominium or planned community may
8 be conveyed or subjected to a security interest only pursuant to NRS
9 116.3112; and
10 (2) Part of a cooperative may be conveyed, or all or part of a
11 cooperative may be subjected to a security interest, only pursuant to NRS
12 116.3112;
13 (i) Grant easements, leases, licenses and concessions through or over
14 the common elements;
15 (j) Impose and receive any payments, fees or charges for the use, rental
16 or operation of the common elements, other than limited common elements
17 described in subsections 2 and 4 of NRS 116.2102, and for services
18 provided to units' owners;
19 (k) Impose charges for late payment of assessments and, except as
20 otherwise provided in NRS 116.31031, after notice and an opportunity to
21 be heard, levy reasonable fines for violations of the declaration, bylaws,
22 rules and regulations of the association;
23 (l) Impose reasonable charges for the preparation and recordation of
24 amendments to the declaration, the information required by NRS 116.4109
25 or statements of unpaid assessments;
26 (m) Provide for the indemnification of its officers and executive board
27 and maintain directors' and officers' liability insurance;
28 (n) Assign its right to future income, including the right to receive
29 assessments for common expenses, but only to the extent the declaration
30 expressly so provides;
31 (o) Exercise any other powers conferred by the declaration or bylaws;
32 (p) Exercise all other powers that may be exercised in this state by legal
33 entities of the same type as the association;
34 (q) Direct the removal of vehicles improperly parked on property owned
35 or leased by the association, pursuant to NRS 487.038; and
36 (r) Exercise any other powers necessary and proper for the governance
37 and operation of the association.
38 2. The declaration may not impose limitations on the power of the
39 association to deal with the declarant which are more restrictive than the
40 limitations imposed on the power of the association to deal with other
41 persons.
42 **Sec. 11.** This act becomes effective upon passage and approval.

