

ASSEMBLY BILL NO. 63—ASSEMBLYMAN PERKINS

PREFILED FEBRUARY 2, 2001

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing maintenance of landscaping, public lighting and security walls in subdivisions and planned unit developments. (BDR 22-994)

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 real property; revising the provisions governing the maintenance of landscaping, public lighting and security walls in subdivisions and planned unit developments; 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 278.4787 is hereby amended to read as follows:  
2     278.4787 1. A person who proposes to divide land for transfer or  
3     development into four or more lots pursuant to NRS 278.360 to 278.460,  
4     inclusive, or chapter 278A of NRS, may, in lieu of providing for the  
5     creation of an association for a common-interest community, request the  
6     governing body of the jurisdiction in which the land is located to assume  
7     the maintenance of one or more of the following improvements located on  
8     the land:  
9         (a) Landscaping;  
10        (b) Public lighting; and  
11        (c) Security walls.  
12     2. A request made pursuant to subsection 1 must be made in the form  
13     of a petition signed by a majority of the owners whose property will be  
14     assessed pursuant to subsection 3 and must set forth descriptions of all  
15     tracts of land that would be subject to such an assessment.  
16     3. Upon receipt of the petition, the governing body shall ~~[determine~~  
17     ~~the desirability of assuming the maintenance of the proposed~~  
18     ~~improvements. If the governing body determines that it would be desirable~~  
19     ~~to assume the maintenance of the improvements, the governing body shall]~~  
20     by ordinance:

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(a) Create a maintenance district or unit of assessment consisting of the tracts of land set forth in the petition.

(b) Establish the method for determining the amount of an assessment for the cost of the maintenance assumed by the governing body and the time and manner of payment of the assessment.

(c) Provide that the assessment constitutes a lien upon the tracts of land or residential units thereon. The lien must be executed, and has the same priority, as a lien for property taxes.

(d) Prescribe the levels of maintenance to be provided.

(e) Determine the amount by which the public interest will benefit from the provision of the maintenance and allocate to the cost of providing the maintenance the appropriate amount of public money to pay for that part of the maintenance which creates the public benefit.

(f) Address any other matters that the governing body determines to be relevant to the maintenance of the improvements.

4. *The governing body shall record in the office of the county recorder for the county in which the affected tracts of land are located a notice of the creation of the maintenance district or unit of assessment that is sufficient to advise the owners of the tracts of land that the tracts of land are subject to the assessment.*

5. The provisions of this section apply retroactively to a development with respect to which:

(a) An agreement or agreements between the owners of tracts of land within the development and the developer allow for the provision of services in the manner set forth in this section; or

(b) All of the owners of affected tracts of land agree in writing to be bound by the provisions of this section.

**Sec. 2.** NRS 278.4789 is hereby amended to read as follows:

278.4789 1. If a person who proposes to divide land for transfer or development into four or more lots pursuant to NRS 278.360 to 278.460, inclusive, or chapter 278A of NRS, decides to provide for the maintenance of landscaping, public lighting or security walls, or any combination thereof, through an association for a common-interest community, the governing body of the jurisdiction in which the land is located may, as a condition of the approval of ~~any final~~ *a tentative* map related to the proposal for the transfer or development of the land, require the association to ~~adopt~~ *enter into a binding agreement with the governing body. The agreement must set forth* a plan for the maintenance of the improvements located on the land. The plan must include the proposed level of maintenance to be provided. *The association shall provide a copy of the agreement to all owners and purchasers of land within the jurisdiction of the association. The agreement may not be terminated or amended without the approval of the governing body.*

2. If the association fails to maintain the improvements in the manner set forth in the plan, the governing body may serve written notice upon the association, setting forth the manner in which the association has failed to maintain the improvements. The notice must:

(a) Include a demand that the deficiencies of maintenance be cured within 30 days after receipt of the notice; and

(b) State the date, time and place of a hearing to be held regarding the deficiencies of maintenance. The hearing must be held within 14 days after the receipt of the notice.

The governing body shall provide to each owner of an affected tract of land a copy of the notice served upon the association pursuant to this subsection.

3. At a hearing conducted pursuant to this section, the governing body may:

(a) Modify the terms of the original notice served pursuant to subsection 2; and

(b) Provide an extension of time within which the deficiencies of maintenance may be cured.

4. If the deficiencies in maintenance are not cured within 30 days after the receipt of the notice or any extension of time provided pursuant to subsection 3, the governing body or its authorized agent may:

(a) Enter the land on which the improvements are located and maintain the improvements for a period of not more than 1 year; and

(b) Assess the affected tracts of land to recover the cost of the maintenance.

5. Entry and maintenance authorized pursuant to subsection 4 does not authorize a member of the public to use the improvements unless the land on which the improvements are located has been dedicated to and accepted by the governing body.

6. Before the expiration of the period of maintenance required pursuant to subsection 4, the local government, on its own motion or upon request of the association, shall hold a public hearing at which the owners of the affected tracts of land and the association may show cause why the governing body or its authorized agent need not continue to maintain the improvements that are located on the affected tracts of land.

7. After a hearing conducted pursuant to subsection 6, the governing body shall determine whether the association is ready and able to maintain the improvements that are located on the affected tracts of land in the manner required by the plan. If the governing body determines that the association is ready and able to maintain the improvements, the governing body shall cease its maintenance of the affected tracts of land at the end of the period. If the governing body determines that the association is not ready and able to maintain the improvements, the governing body may continue the maintenance of the improvements located on the affected tracts of land during the next succeeding year, subject to a similar hearing and determination in each year thereafter.

8. Any decision made by the governing body pursuant to this section constitutes a final decision for the purpose of judicial review.