

SENATE BILL NO. 176—SENATOR TITUS

FEBRUARY 15, 2001

Referred to Committee on Judiciary

SUMMARY—Authorizes use of mechanical voting system for election of executive board in certain common-interest communities. (BDR 10-63)

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

~

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 use of a mechanical voting system in conducting an election of the executive board in certain common-interest communities; providing that a unit-owners' association may enter into an agreement to use the mechanical voting system of a governmental entity; 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 a
2 new section to read as follows:
3 *“Mechanical voting system” has the meaning ascribed to it in NRS*
4 *293B.033.*
5 **Sec. 2.** NRS 116.1103 is hereby amended to read as follows:
6 116.1103 In the declaration and bylaws (NRS 116.3106), unless
7 specifically provided otherwise or the context otherwise requires, and in
8 this chapter, the words and terms defined in NRS 116.110305 to
9 116.110393, inclusive, *and section 1 of this act* have the meanings
10 ascribed to them in those sections.
11 **Sec. 3.** NRS 116.31034 is hereby amended to read as follows:
12 116.31034 1. Except as otherwise provided in subsection 5 of NRS
13 116.212, not later than the termination of any period of declarant's control,
14 the units' owners shall elect an executive board of at least three members,
15 at least a majority of whom must be units' owners. The executive board
16 shall elect the officers. The members and officers of the executive board
17 shall take office upon election.
18 2. The term of office of a member of the executive board may not
19 exceed 2 years. A member of the executive board may be elected to
20 succeed himself. The governing documents of the association must set
21 forth the month during which elections for the members of the executive



1 board must be held after the termination of any period of the declarant's
2 control.

3 3. Not less than 30 days before the preparation of a ballot for the
4 election of members of the executive board, the secretary or other officer
5 specified in the bylaws of the association shall cause notice to be given to
6 each unit's owner of his eligibility to serve as a member of the executive
7 board. Each unit's owner who is qualified to serve as a member of the
8 executive board may have his name placed on the ballot along with the
9 names of the nominees selected by the members of the executive board or a
10 nominating committee established by the association.

11 4. An officer, employee, agent or director of a corporate owner of a
12 unit, a trustee or designated beneficiary of a trust that owns a unit, a partner
13 of a partnership that owns a unit, and a fiduciary of an estate that owns a
14 unit may be an officer or member of the executive board. In all events
15 where the person serving or offering to serve as an officer or member of
16 the executive board is not the record owner, he shall file proof in the
17 records of the association that:

18 (a) He is associated with the corporate owner, trust, partnership or estate
19 as required by this subsection; and

20 (b) Identifies the unit or units owned by the corporate owner, trust,
21 partnership or estate.

22 5. ~~The~~ *Except as otherwise provided in subsection 6, the* election of
23 any member of the executive board must be conducted by secret written
24 ballot ~~the~~ , and the secretary or other officer specified in the bylaws of
25 the association shall cause to be sent prepaid by United States mail to the
26 mailing address of each unit within the common-interest community or to
27 any other mailing address designated in writing by the unit's owner, a
28 secret ballot and a return envelope.

29 6. *In a common-interest community with 7,000 units or more, the*
30 *election of any member of the executive board may be conducted through*
31 *the use of a mechanical voting system that ensures secrecy in the act of*
32 *voting. For purposes of this subsection, an association may enter into an*
33 *agreement to use the mechanical voting system of a governmental entity.*

34 7. Each member of the executive board shall, within 30 days after his
35 appointment or election, certify in writing that he has read and understands
36 the governing documents of the association and the provisions of this
37 chapter to the best of his ability.

38 **Sec. 4.** NRS 116.3109 is hereby amended to read as follows:

39 116.3109 1. Except as otherwise provided in this section and unless
40 the bylaws provide otherwise, a quorum is present throughout any meeting
41 of the association if persons entitled to cast 20 percent of the votes that
42 may be cast for election of the executive board are present in person or by
43 proxy at the beginning of the meeting.

44 2. Unless the bylaws specify a larger percentage, a quorum is deemed
45 present throughout any meeting of the executive board if persons entitled
46 to cast 50 percent of the votes on that board are present at the beginning of
47 the meeting.

48 3. ~~For~~ *Except as otherwise provided in subsection 4, for* the
49 purposes of determining whether a quorum is present for the election of



* S B 1 7 6 *

1 any member of the executive board, only the secret written ballots that are
2 returned to the association may be counted.

3 *4. In a common-interest community with 7,000 units or more, for the*
4 *purposes of determining whether a quorum is present for the election of*
5 *any member of the executive board:*

6 *(a) If only secret written ballots are used to conduct the election, only*
7 *the secret written ballots that are returned to the association may be*
8 *counted.*

9 *(b) If only a mechanical voting system is used to conduct the election,*
10 *only the number of votes cast on a mechanical voting system may be*
11 *counted.*

12 *(c) If a combination of secret written ballots and a mechanical voting*
13 *system is used to conduct the election, only the sum of the votes cast on*
14 *the mechanical voting system and the secret written ballots that are*
15 *returned to the association may be counted.*

16 **Sec. 5.** NRS 116.311 is hereby amended to read as follows:

17 116.311 1. If only one of several owners of a unit is present at a
18 meeting of the association, that owner is entitled to cast all the votes
19 allocated to that unit. If more than one of the owners are present, the votes
20 allocated to that unit may be cast only in accordance with the agreement of
21 a majority in interest of the owners, unless the declaration expressly
22 provides otherwise. There is majority agreement if any one of the owners
23 cast the votes allocated to that unit without protest made promptly to the
24 person presiding over the meeting by any of the other owners of the unit.

25 2. Except as otherwise provided in this section, votes allocated to a
26 unit may be cast pursuant to a proxy executed by a unit's owner. A unit's
27 owner may give a proxy only to a member of his immediate family, a
28 tenant of the unit's owner who resides in the common-interest community
29 or another unit's owner who resides in the common-interest community. If
30 a unit is owned by more than one person, each owner of the unit may vote
31 or register protest to the casting of votes by the other owners of the unit
32 through an executed proxy. A unit's owner may revoke a proxy given
33 pursuant to this section only by actual notice of revocation to the person
34 presiding over a meeting of the association. A proxy is void if:

35 (a) It is not dated or purports to be revocable without notice;

36 (b) It does not designate the votes that must be cast on behalf of the
37 unit's owner who executed the proxy; or

38 (c) The holder of the proxy does not disclose at the beginning of the
39 meeting for which the proxy is executed the number of proxies pursuant to
40 which he will be casting votes and the voting instructions received for each
41 proxy.

42 A proxy terminates immediately after the conclusion of the meeting for
43 which it was executed. A vote may not be cast pursuant to a proxy for the
44 election of a member of the executive board of an association.

45 3. Only a vote cast in person, by secret ballot or by proxy, may be
46 counted.

47 4. If the declaration requires that votes on specified matters affecting
48 the common-interest community be cast by lessees rather than units'
49 owners of leased units:



- 1 (a) The provisions of subsections 1 and 2 apply to lessees as if they
2 were units' owners;
3 (b) Units' owners who have leased their units to other persons may not
4 cast votes on those specified matters; and
5 (c) Lessees are entitled to notice of meetings, access to records ~~to~~ and
6 other rights respecting those matters as if they were units' owners.
7 Units' owners must also be given notice, in the manner provided in NRS
8 116.3108, of all meetings at which lessees are entitled to vote.
9 5. No votes allocated to a unit owned by the association may be cast.
10 6. Votes cast for the election of a member of the executive board of an
11 association, *whether cast by secret ballot or by use of a mechanical voting*
12 *system*, must be counted in public.
13 **Sec. 6.** This act becomes effective upon passage and approval.

