

SENATE BILL NO. 323—SENATOR SCHNEIDER

MARCH 24, 2005

Referred to Committee on Judiciary

SUMMARY—Enacts various provisions relating to high-rise residential common-interest communities. (BDR 22-778)

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; enacting provisions relating to the issuance of temporary certificates of occupancy for a high-rise residential building that is part of a high-rise residential common-interest community; allowing the governing documents of a high-rise residential common-interest community to include provisions for casting votes pursuant to a proxy that are different from the general provisions in the Uniform Common-Interest Ownership Act; and providing other matters properly relating thereto.

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

Section 1. Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, a high-rise residential building that is part of a high-rise residential common-interest community may not be used or occupied and a change in the existing occupancy classification of the high-rise residential building may not be made until a building official has issued a certificate of occupancy for the high-rise residential building in accordance with the building code for the city or county.

2. Notwithstanding any provision of the building code for the city or county to the contrary, before completion of the entire work covered by the permit for the high-rise residential building, a



1 *building official may issue a temporary certificate of occupancy*
2 *for one or more portions of the high-rise residential building that*
3 *may be occupied safely during completion of the remaining*
4 *portions of the high-rise residential building.*

5 3. A building official may not issue a temporary certificate of
6 occupancy pursuant to subsection 2 unless:

7 (a) All structural components of the high-rise residential
8 building have been fully completed;

9 (b) All germane life safety, fire detection, fire suppression,
10 smoke management, emergency exiting and related architectural
11 systems have been fully completed on:

12 (1) The floor containing the portions of the high-rise
13 residential building to be covered by the temporary certificate of
14 occupancy;

15 (2) The floor immediately above that floor; and

16 (3) All floors below that floor; and

17 (c) All other requirements for issuance of the temporary
18 certificate of occupancy have been satisfied.

19 4. If a building official issues a temporary certificate of
20 occupancy pursuant to subsection 2, the building official shall set
21 a specific time period during which the temporary certificate of
22 occupancy is valid.

23 5. As used in this section, "high-rise residential building"
24 and "high-rise residential common-interest community" have the
25 meanings ascribed to those terms in section 4 of this act.

26 **Sec. 2.** NRS 278.010 is hereby amended to read as follows:

27 278.010 As used in NRS 278.010 to 278.630, inclusive, *and*
28 *section 1 of this act*, unless the context otherwise requires, the
29 words and terms defined in NRS 278.0105 to 278.0195, inclusive,
30 have the meanings ascribed to them in those sections.

31 **Sec. 3.** Chapter 116 of NRS is hereby amended by adding
32 thereto the provisions set forth as sections 4 and 5 of this act.

33 **Sec. 4. 1.** "High-rise residential common-interest
34 community" means a common-interest community in which a
35 majority of the units are or will be:

36 (a) Located in one or more high-rise residential buildings; and

37 (b) Designed or intended for residential use.

38 2. As used in this section:

39 (a) "High-rise residential building" means a building that:

40 (1) Is part of a common-interest community, has at least
41 five floors above ground level, including the ground floor, and has
42 a majority of its interior square footage designed or intended for
43 residential use; or

44 (2) When completed, will be part of a common-interest
45 community, will have at least five floors above ground level,



1 *including the ground floor, and will have a majority of its interior*
2 *square footage designed or intended for residential use.*

3 (b) *“High-rise residential building” does not include any*
4 *building or group of buildings that is or will be maintained as and*
5 *held out to the public to be a hotel where sleeping*
6 *accommodations are furnished to the transient public.*

7 **Sec. 5. 1. In a high-rise residential common-interest**
8 **community:**

9 (a) *Votes allocated to a unit may be cast pursuant to a proxy in*
10 *accordance with the provisions of the governing documents;*

11 (b) *The governing documents may include provisions for*
12 *casting votes pursuant to a proxy that are different from the*
13 *provisions of NRS 116.311; and*

14 (c) *If authorized by the governing documents, a unit’s owner*
15 *may give a proxy to any other person.*

16 2. *If the governing documents for a high-rise residential*
17 *common-interest community are silent on a matter that is covered*
18 *by the provisions of NRS 116.311, the provisions of NRS 116.311*
19 *control until the governing documents provide otherwise.*

20 **Sec. 6.** NRS 116.003 is hereby amended to read as follows:

21 116.003 As used in this chapter and in the declaration and
22 bylaws of an association, unless the context otherwise requires, the
23 words and terms defined in NRS 116.005 to 116.095, inclusive, *and*
24 *section 4 of this act* have the meanings ascribed to them in those
25 sections.

26 **Sec. 7.** NRS 116.3106 is hereby amended to read as follows:

27 116.3106 1. The bylaws of the association must provide:

28 (a) The number of members of the executive board and the titles
29 of the officers of the association;

30 (b) For election by the executive board of a president, treasurer,
31 secretary and any other officers of the association the bylaws
32 specify;

33 (c) The qualifications, powers and duties, terms of office and
34 manner of electing and removing officers of the association and
35 members of the executive board and filling vacancies;

36 (d) Which powers, if any, that the executive board or the officers
37 of the association may delegate to other persons or to a community
38 manager;

39 (e) Which of its officers may prepare, execute, certify and
40 record amendments to the declaration on behalf of the association;

41 (f) Procedural rules for conducting meetings of the association;

42 (g) A method for amending the bylaws; and

43 (h) Procedural rules for conducting elections.

44 2. Except as otherwise provided in the declaration, the bylaws

45 ~~may~~ :



1 (a) May provide for any other matters the association deems
2 necessary and appropriate ~~H~~ ; and

3 (b) *In a high-rise residential common-interest community, may*
4 *include provisions authorized pursuant to section 5 of this act.*

5 3. The bylaws must be written in plain English.

6 **Sec. 8.** NRS 116.311 is hereby amended to read as follows:

7 116.311 1. If only one of several owners of a unit is present
8 at a meeting of the association, that owner is entitled to cast all the
9 votes allocated to that unit. If more than one of the owners are
10 present, the votes allocated to that unit may be cast only in
11 accordance with the agreement of a majority in interest of the
12 owners, unless the declaration expressly provides otherwise. There
13 is majority agreement if any one of the owners cast the votes
14 allocated to that unit without protest made promptly to the person
15 presiding over the meeting by any of the other owners of the unit.

16 2. Except as otherwise provided in this section, votes allocated
17 to a unit may be cast pursuant to a proxy executed by a unit's owner.
18 A unit's owner may give a proxy only to a member of his immediate
19 family, a tenant of the unit's owner who resides in the common-
20 interest community, another unit's owner who resides in the
21 common-interest community, or a delegate or representative when
22 authorized pursuant to NRS 116.31105. If a unit is owned by more
23 than one person, each owner of the unit may vote or register protest
24 to the casting of votes by the other owners of the unit through an
25 executed proxy. A unit's owner may revoke a proxy given pursuant
26 to this section only by actual notice of revocation to the person
27 presiding over a meeting of the association.

28 3. Before a vote may be cast pursuant to a proxy:

29 (a) The proxy must be dated.

30 (b) The proxy must not purport to be revocable without notice.

31 (c) The proxy must designate the meeting for which it is
32 executed.

33 (d) The proxy must designate each specific item on the agenda
34 of the meeting for which the unit's owner has executed the proxy,
35 except that the unit's owner may execute the proxy without
36 designating any specific items on the agenda of the meeting if the
37 proxy is to be used solely for determining whether a quorum is
38 present for the meeting. If the proxy designates one or more specific
39 items on the agenda of the meeting for which the unit's owner has
40 executed the proxy, the proxy must indicate, for each specific item
41 designated in the proxy, whether the holder of the proxy must cast a
42 vote in the affirmative or the negative on behalf of the unit's owner.
43 If the proxy does not indicate whether the holder of the proxy must
44 cast a vote in the affirmative or the negative for a particular item on
45 the agenda of the meeting, the proxy must be treated, with regard to



1 that particular item, as if the unit's owner were present but not
2 voting on that particular item.

3 (e) The holder of the proxy must disclose at the beginning of the
4 meeting for which the proxy is executed the number of proxies
5 pursuant to which the holder will be casting votes.

6 4. A proxy terminates immediately after the conclusion of the
7 meeting for which it is executed.

8 5. A vote may not be cast pursuant to a proxy for the election
9 or removal of a member of the executive board of an association
10 unless the proxy is exercised through a delegate or representative
11 authorized pursuant to NRS 116.31105.

12 6. The holder of a proxy may not cast a vote on behalf of the
13 unit's owner who executed the proxy in a manner that is contrary to
14 the proxy.

15 7. A proxy is void if the proxy or the holder of the proxy
16 violates any provision of subsections 1 to 6, inclusive.

17 8. If the declaration requires that votes on specified matters
18 affecting the common-interest community must be cast by the
19 lessees of leased units rather than the units' owners who have leased
20 the units:

21 (a) The provisions of subsections 1 to 7, inclusive, apply to the
22 lessees as if they were the units' owners;

23 (b) The units' owners who have leased their units to the lessees
24 may not cast votes on those specified matters;

25 (c) The lessees are entitled to notice of meetings, access to
26 records and other rights respecting those matters as if they were the
27 units' owners; and

28 (d) The units' owners must be given notice, in the manner
29 provided in NRS 116.3108, of all meetings at which the lessees are
30 entitled to vote.

31 9. If any votes are allocated to a unit that is owned by the
32 association, those votes may not be cast, by proxy or otherwise, for
33 any purpose.

34 *10. The provisions of this section do not apply to a high-rise*
35 *residential common-interest community to the extent that its*
36 *governing documents include provisions authorized pursuant to*
37 *section 5 of this act for casting votes pursuant to a proxy that are*
38 *different from the provisions of this section.*



