

SENATE BILL NO. 358—SENATORS BEERS AND NOLAN

MARCH 25, 2005

JOINT SPONSORS: ASSEMBLYMEN CHRISTENSEN,
ALLEN, MABEY AND SIBLEY

Referred to Committee on Taxation

SUMMARY—Revises provisions governing assessment of ad valorem taxes and special assessments upon property in common-interest community. (BDR 32-225)

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 the taxation of property; revising the provisions governing the assessment of ad valorem taxes and special assessments upon the property in a common-interest community; 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.** The Legislature hereby finds and declares that:
2 1. The organization of real property into any form of a
3 common-interest community creates a uniform set of circumstances
4 for the purposes of assessment and taxation which differ from those
5 regarding other forms of ownership in which there is no similar
6 commonality of interest, in that the value of the common elements
7 of each type of common-interest community is necessarily
8 represented in the separate valuation of each individual unit within
9 such a community;
10 2. By virtue of their payment of the taxes and special
11 assessments imposed upon the value of their individual units in a
12 common-interest community, the owners of those units pay taxes



1 and special assessments upon the value of the common elements of
2 the community; and

3 3. Since the common elements of a common-interest
4 community are therefore collectively taxed through the separate
5 assessment and taxation of the individual units of the community,
6 any additional assessment and taxation of the common elements of
7 the community constitutes an unconstitutional double taxation of
8 that property.

9 **Sec. 2.** Chapter 361 of NRS is hereby amended by adding
10 thereto a new section to read as follows:

11 ***1. Notwithstanding any other provision of law:***

12 ***(a) Any ad valorem taxes or special assessments assessed upon***
13 ***any real property within a common-interest community:***

14 ***(1) Must be assessed upon the community units and not***
15 ***upon the common-interest community as a whole; and***

16 ***(2) Must not be assessed upon any common elements of the***
17 ***common-interest community.***

18 ***(b) Each community unit must be assessed separately for the***
19 ***purposes of ad valorem taxes and special assessments.***

20 ***(c) Any lien created by the levy of an ad valorem tax or special***
21 ***assessment upon a community unit applies only to the community***
22 ***unit assessed and does not apply to any other portion of the***
23 ***common-interest community.***

24 ***2. For the purposes of this section:***

25 ***(a) "Ad valorem tax" means an ad valorem tax levied by any***
26 ***governmental entity or political subdivision in this State on or***
27 ***after July 1, 2006.***

28 ***(b) "Common elements" means all real property within a***
29 ***common-interest community other than the community units,***
30 ***which is owned:***

31 ***(1) By the community association;***

32 ***(2) By any person on behalf or for the benefit of the owners***
33 ***of the community units; or***

34 ***(3) Jointly by the owners of the community units.***

35 ***(c) "Common-interest community" means real property with***
36 ***respect to which a person, by virtue of his ownership of a***
37 ***community unit, is obligated to pay for any real property other***
38 ***than that unit. The term includes a common-interest community***
39 ***governed by the provisions of chapter 116 of NRS, a condominium***
40 ***project governed by the provisions of chapter 117 of NRS and any***
41 ***time-share project, planned unit development or other real***
42 ***property which is organized as a common-interest community in***
43 ***this State.***

44 ***(d) "Community association" means an association whose***
45 ***membership:***



(1) Consists exclusively of the owners of the community units or their elected or appointed representatives; and

(2) Is a required condition of the ownership of a community unit.

(e) "Community unit" means a physical portion of a common-interest community designated for separate ownership or occupancy.

(f) "Special assessment" means a special assessment levied by any governmental entity or political subdivision in this State on or after July 1, 2006.

Sec. 3. NRS 116.1105 is hereby amended to read as follows:

116.1105 ~~1.1~~ In a cooperative, unless the declaration provides that the interest of a unit's owner in a unit and its allocated interests is real estate for all purposes, that interest is personal property.

~~2. In a condominium or planned community:~~

~~—(a) If there is any unit's owner other than a declarant, each unit that has been created, together with its interest in the common elements, constitutes for all purposes a separate parcel of real estate.~~

~~—(b) If there is any unit's owner other than a declarant, each unit must be separately taxed and assessed, and no separate tax or assessment may be rendered against any common elements for which a declarant has reserved no developmental rights.~~

~~3. Any portion of the common elements for which the declarant has reserved any developmental right must be separately taxed and assessed against the declarant, and the declarant alone is liable for payment of those taxes.~~

~~4. If there is no unit's owner other than a declarant, the real estate comprising the common interest community may be taxed and assessed in any manner provided by law.]~~

Sec. 4. NRS 116.1203 is hereby amended to read as follows:

116.1203 1. Except as otherwise provided in subsection 2, if a planned community contains no more than 12 units and is not subject to any developmental rights, it is subject only to NRS ~~116.1105,~~ 116.1106 and 116.1107 unless the declaration provides that this entire chapter is applicable.

2. Except for NRS 116.3104, 116.31043, 116.31046 and 116.31138, the provisions of NRS 116.3101 to 116.3119, inclusive, and the definitions set forth in NRS 116.005 to 116.095, inclusive, to the extent that such definitions are necessary in construing any of those provisions, apply to a residential planned community containing more than six units.



