

ASSEMBLY BILL NO. 11—ASSEMBLYMAN PARKS

PREFILED JANUARY 18, 2007

Referred to Committee on Judiciary

SUMMARY—Makes various changes to provisions relating to common-interest communities. (BDR 10-195)

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; requiring a member of an executive board of a unit owners' association who stands to profit personally from a matter before the board to disclose and abstain from voting on the matter; requiring that bids for an association project be considered and opened at a meeting of the executive board; making provisions authorizing the transient commercial use of units in a planned community in certain circumstances applicable in all counties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill provides additional ethical requirements for members of an executive board of a unit owners' association by requiring a member who stands to gain any personal profit or compensation from a matter before the executive board to disclose the matter to the executive board and to abstain from voting on the matter. (NRS 116.31185, 116.31187)

With some exceptions, existing law requires an executive board to hold open meetings, including meetings to consider a contract. (NRS 116.31085) **Sections 3 and 5** of this bill require an association that solicits bids for association projects, including, without limitation, projects that involve maintenance, repair, replacement or restoration of any part of the common elements, to consider and open the bids during a meeting of the executive board of the association.

Existing law provides for remedial and disciplinary action for any violation of the provisions of chapter 116 of NRS governing common-interest communities which will apply to a violation of **section 2 or 3** of this bill. (NRS 116.745-116.795)



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16 **Section 6** of this bill makes the provisions allowing the transient commercial
17 use of units within a planned community that is restricted to residential use in
18 certain circumstances applicable in all counties rather than just in larger counties.
19 (NRS 116.340)

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
2 thereto the provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2.** *A member of an executive board who stands to gain*
4 *any personal profit or compensation of any kind from a matter*
5 *before the executive board shall:*

6 1. *Disclose the matter to the executive board; and*

7 2. *Abstain from voting on any such matter.*

8 **Sec. 3.** 1. *If the association solicits bids for an association*
9 *project, the bids must be opened during a meeting of the executive*
10 *board.*

11 2. *As used in this section, "association project" includes,*
12 *without limitation, a project that involves the maintenance, repair,*
13 *replacement or restoration of any part of the common elements.*

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

15 116.1203 1. Except as otherwise provided in subsection 2, if
16 a planned community contains no more than 12 units and is not
17 subject to any developmental rights, it is subject only to NRS
18 116.1106 and 116.1107 unless the declaration provides that this
19 entire chapter is applicable.

20 2. Except for NRS 116.3104, 116.31043, 116.31046 and
21 116.31138, the provisions of NRS 116.3101 to 116.350, inclusive,
22 *and sections 2 and 3 of this act*, and the definitions set forth in NRS
23 116.005 to 116.095, inclusive, to the extent that such definitions are
24 necessary in construing any of those provisions, apply to a
25 residential planned community containing more than six units.

26 **Sec. 5.** NRS 116.31085 is hereby amended to read as follows:

27 116.31085 1. Except as otherwise provided in this section, a
28 unit's owner may attend any meeting of the units' owners or of the
29 executive board and speak at any such meeting. The executive board
30 may establish reasonable limitations on the time a unit's owner may
31 speak at such a meeting.

32 2. An executive board may not meet in executive session to
33 *open or consider bids for an association project or to* enter into,
34 renew, modify, terminate or take any other action regarding a
35 contract, unless it is a contract between the association and an
36 attorney.



1 3. An executive board may meet in executive session only to:
2 (a) Consult with the attorney for the association on matters
3 relating to proposed or pending litigation if the contents of the
4 discussion would otherwise be governed by the privilege set forth in
5 NRS 49.035 to 49.115, inclusive, or to enter into, renew, modify,
6 terminate or take any other action regarding a contract between the
7 association and the attorney.

8 (b) Discuss the character, alleged misconduct, professional
9 competence, or physical or mental health of a community manager
10 or an employee of the association.

11 (c) Except as otherwise provided in subsection 4, discuss a
12 violation of the governing documents, including, without limitation,
13 the failure to pay an assessment.

14 (d) Discuss the alleged failure of a unit's owner to adhere to a
15 schedule required pursuant to NRS 116.310305 if the alleged failure
16 may subject the unit's owner to a construction penalty.

17 4. An executive board shall meet in executive session to hold a
18 hearing on an alleged violation of the governing documents unless
19 the person who may be sanctioned for the alleged violation requests
20 in writing that an open hearing be conducted by the executive board.
21 If the person who may be sanctioned for the alleged violation
22 requests in writing that an open hearing be conducted, the person:

23 (a) Is entitled to attend all portions of the hearing related to the
24 alleged violation, including, without limitation, the presentation of
25 evidence and the testimony of witnesses; and

26 (b) Is not entitled to attend the deliberations of the executive
27 board.

28 5. Except as otherwise provided in this subsection, any matter
29 discussed by the executive board when it meets in executive session
30 must be generally noted in the minutes of the meeting of the
31 executive board. The executive board shall maintain minutes of any
32 decision made pursuant to subsection 4 concerning an alleged
33 violation and, upon request, provide a copy of the decision to the
34 person who was subject to being sanctioned at the hearing or to his
35 designated representative.

36 6. Except as otherwise provided in subsection 4, a unit's owner
37 is not entitled to attend or speak at a meeting of the executive board
38 held in executive session.

39 **Sec. 6.** NRS 116.340 is hereby amended to read as follows:

40 116.340 1. Except as otherwise provided in subsection 2, ~~in~~
41 ~~a county whose population is 400,000 or more,~~ a person who owns,
42 or directly or indirectly has an interest in, one or more units within a
43 planned community that are restricted to residential use by the
44 declaration ~~H~~ may use that unit or one of those units for a transient
45 commercial use only if:



(a) The governing documents of the association and any master association do not prohibit such use;

(b) The executive board of the association and any master association approve the transient commercial use of the unit, except that such approval is not required if the planned community and one or more hotels are subject to the governing documents of a master association and those governing documents do not prohibit such use; and

(c) The unit is properly zoned for the transient commercial use and any license required by the local government for the transient commercial use is obtained.

2. ~~In a county whose population is 400,000 or more, a~~ A declarant who owns, or directly or indirectly has an interest in, one or more units within a planned community under the governing documents of the association that are restricted to residential use by the declaration ~~H~~ may use that unit or those units for a transient commercial use during the period that the declarant is offering units for sale within the planned community if such use complies with the requirements set forth in paragraphs (a) and (c) of subsection 1.

3. The association and any master association may establish requirements for the transient commercial use of a unit pursuant to the provisions of this section, including, without limitation, the payment of additional fees that are related to any increase in services or other costs associated with the transient commercial use of the unit.

4. As used in this section:

(a) "Remuneration" means any compensation, money, rent or other valuable consideration given in return for the occupancy, possession or use of a unit.

(b) "Transient commercial use" means the use of a unit, for remuneration, as a hostel, hotel, inn, motel, resort, vacation rental or other form of transient lodging if the term of the occupancy, possession or use of the unit is for less than 30 consecutive calendar days.

