

SENATE BILL NO. 433—COMMITTEE ON NATURAL RESOURCES

MARCH 20, 2007

Referred to Committee on Natural Resources

SUMMARY—Requires a developer of private land to ensure that the land is enclosed by a legal fence under certain circumstances. (BDR 50-264)

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 land; requiring a developer of private land to ensure that the land is enclosed by a legal fence under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law states that if any livestock break into any grounds that are enclosed by a legal fence, the owner or manager of the livestock is liable to the owner of the enclosed grounds for all damages caused by the trespassing livestock. (NRS 569.440) Existing law sets forth specific requirements relating to construction and durability before a fence may be considered to be a “legal fence.” (NRS 569.431) Existing law further states that a person is not entitled to collect damages for any trespass of livestock on cultivated land if, at the time of the trespass, the cultivated land was not enclosed by a legal fence. (NRS 569.450) Thus, if an owner of land wishes to keep livestock off the owner’s land, the owner must fence the livestock out. (*Chase v. Chase*, 15 Nev. 259 (1880)) Existing law does not require an owner of land to enclose the owner’s land within a legal fence.

Section 1 of this bill requires a developer of private land that is located within a grazing district established under the federal Taylor Grazing Act to ensure that the land is enclosed by a legal fence before the developer attaches, constructs or maintains any building or structure on the land. **Section 2** of this bill ensures that the existing definition of “legal fence” applies to the new requirement.

Existing law authorizes the governing bodies of cities and counties within the State of Nevada to regulate the improvement of land and to control the location and soundness of structures within the city or county. (NRS 278.020)

Section 3 of this bill provides an exception for developers who are required to ensure that private land is enclosed by a legal fence pursuant to **section 1** of this bill.



* S B 4 3 3 *

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

Section 1. Chapter 569 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A developer of private land that is located within a grazing district established pursuant to the Taylor Grazing Act shall, before attaching, constructing or maintaining any building or other structure on the land, ensure that the land is enclosed by a legal fence.

2. As used in this section, "Taylor Grazing Act" has the meaning ascribed to it in NRS 568.010.

Sec. 2. NRS 569.431 is hereby amended to read as follows:

569.431 As used in NRS 569.431 to 569.471, inclusive, **and section 1 of this act**, "legal fence" means a fence with not less than four horizontal barriers, consisting of wires, boards, poles or other fence material in common use in the neighborhood, with posts set not more than 20 feet apart. The lower barrier must be not more than 12 inches from the ground and the space between any two barriers must be not more than 12 inches and the height of **the** top barrier must be at least 48 inches above the ground. Every post must be so set as to withstand a horizontal strain of 250 pounds at a point 4 feet from the ground, and each barrier must be capable of withstanding a horizontal strain of 250 pounds at any point midway between the posts.

Sec. 3. NRS 278.020 is hereby amended to read as follows:

278.020 1. ~~For~~ **Except as otherwise provided in section 1 of this act, for** the purpose of promoting health, safety, morals ~~or~~ the general welfare of the community, the governing bodies of cities and counties are authorized and empowered to regulate and restrict the improvement of land and to control the location and soundness of structures.

2. Any such regulation, restriction and control must take into account:

(a) The potential impairment of natural resources and the total population which the available natural resources will support without unreasonable impairment; and

(b) The availability of and need for affordable housing in the community, including affordable housing that is accessible to persons with disabilities.

