

ASSEMBLY BILL NO. 207—ASSEMBLYMAN CARPENTER

FEBRUARY 20, 2009

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning common-interest communities. (BDR 10-694)

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

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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; revising certain requirements for limited-purpose associations that are created for a rural agricultural residential common-interest communities; providing that such a limited-purpose association is a public body for purposes of the Open Meeting Law; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, a limited-purpose association that is created for a rural
2 agricultural residential common-interest community must comply with certain
3 requirements set forth in chapter 116 of NRS. **Section 1** of this bill exempts such a
4 limited-purpose association from the requirement to: (1) pay a fee to the Real Estate
5 Administrator for each unit in the association as required pursuant to NRS
6 116.31155; (2) comply with certain rules for meetings of the executive board; and
7 (3) conduct a study every 5 years of the reserves required to repair, replace and
8 restore the major components of the common elements of the community, and take
9 certain actions concerning the study. (NRS 116.1201, 116.31083, 116.31152,
10 116.31155)

11 Existing law requires each limited-purpose association that is created for a rural
12 agricultural residential common-interest community to comply with chapter 241 of
13 NRS, which is commonly referred to as the Open Meeting Law. (NRS 116.31075)
14 **Section 2** of this bill amends the definition of "public body" for purposes of the
15 Open Meeting Law to include a limited-purpose association that is created for a
16 rural agricultural residential common-interest community. (NRS 241.015) Thus,
17 such a limited-purpose association will be subject to enforcement action by the
18 Attorney General if the association violates the Open Meeting Law. (NRS 241.037)



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

Section 1. NRS 116.1201 is hereby amended to read as follows:

116.1201 1. Except as otherwise provided in this section and NRS 116.1203, this chapter applies to all common-interest communities created within this State.

2. This chapter does not apply to:

(a) A limited-purpose association, except that a limited-purpose association:

(1) Shall pay the fees required pursuant to NRS 116.31155 ~~(H)~~, *unless the limited-purpose association is created for a rural agricultural residential common-interest community;*

(2) Shall register with the Ombudsman pursuant to NRS 116.31158;

(3) Shall comply with the provisions of:

(I) NRS 116.31038 ~~(H)~~;

(II) *NRS 116.31083 and 116.31152 ~~(H)~~, unless the limited-purpose association is created for a rural agricultural residential common-interest community;* and

~~(H)(H)~~ (III) NRS 116.31075, if the limited-purpose association is created for a rural agricultural residential common-interest community;

(4) Shall comply with the provisions of NRS 116.4101 to 116.412, inclusive, as required by the regulations adopted by the Commission pursuant to paragraph (b) of subsection 5; and

(5) Shall not enforce any restrictions concerning the use of units by the units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter does apply to that planned community. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted only if the declaration so provides or if the real estate comprising the units that may be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.

(c) Common-interest communities or units located outside of this State, but the provisions of NRS 116.4102 to 116.4108, inclusive, apply to all contracts for the disposition thereof signed in this State by any party unless exempt under subsection 2 of NRS 116.4101.



(d) A common-interest community that was created before January 1, 1992, is located in a county whose population is less than 50,000, and has less than 50 percent of the units within the community put to residential use, unless a majority of the units' owners otherwise elect in writing.

(e) Except as otherwise provided in this chapter, time shares governed by the provisions of chapter 119A of NRS.

3. The provisions of this chapter do not:

(a) Prohibit a common-interest community created before January 1, 1992, from providing for separate classes of voting for the units' owners;

(b) Require a common-interest community created before January 1, 1992, to comply with the provisions of NRS 116.2101 to 116.2122, inclusive;

(c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992; or

(d) Prohibit a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government.

4. The provisions of chapters 117 and 278A of NRS do not apply to common-interest communities.

5. The Commission shall establish, by regulation:

(a) The criteria for determining whether an association, a limited-purpose association or a common-interest community satisfies the requirements for an exemption or limited exemption from any provision of this chapter; and

(b) The extent to which a limited-purpose association must comply with the provisions of NRS 116.4101 to 116.412, inclusive.

6. As used in this section, "limited-purpose association" means an association that:

(a) Is created for the limited purpose of maintaining:

(1) The landscape of the common elements of a common-interest community;

(2) Facilities for flood control; or

(3) A rural agricultural residential common-interest community; and

(b) Is not authorized by its governing documents to enforce any restrictions concerning the use of units by units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

Sec. 2. NRS 241.015 is hereby amended to read as follows:

241.015 As used in this chapter, unless the context otherwise requires:

1. "Action" means:



(a) A decision made by a majority of the members present during a meeting of a public body;

(b) A commitment or promise made by a majority of the members present during a meeting of a public body;

(c) If a public body may have a member who is not an elected official, an affirmative vote taken by a majority of the members present during a meeting of the public body; or

(d) If all the members of a public body must be elected officials, an affirmative vote taken by a majority of all the members of the public body.

2. "Meeting":

(a) Except as otherwise provided in paragraph (b), means:

(1) The gathering of members of a public body at which a quorum is present to deliberate toward a decision or to take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.

(2) Any series of gatherings of members of a public body at which:

(I) Less than a quorum is present at any individual gathering;

(II) The members of the public body attending one or more of the gatherings collectively constitute a quorum; and

(III) The series of gatherings was held with the specific intent to avoid the provisions of this chapter.

(b) Does not include a gathering or series of gatherings of members of a public body, as described in paragraph (a), at which a quorum is actually or collectively present:

(1) Which occurs at a social function if the members do not deliberate toward a decision or take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.

(2) To receive information from the attorney employed or retained by the public body regarding potential or existing litigation involving a matter over which the public body has supervision, control, jurisdiction or advisory power and to deliberate toward a decision on the matter, or both.

3. Except as otherwise provided in this subsection, "public body" means ~~any~~:

(a) Any administrative, advisory, executive or legislative body of the State or a local government which expends or disburses or is supported in whole or in part by tax revenue or which advises or makes recommendations to any entity which expends or disburses or is supported in whole or in part by tax revenue, including, but not limited to, any board, commission, committee, subcommittee or other subsidiary thereof and includes an educational foundation as



1 defined in subsection 3 of NRS 388.750 and a university foundation
2 as defined in subsection 3 of NRS 396.405 ~~H~~; and

3 *(b) A limited-purpose association that is created for a rural*
4 *agricultural residential common-interest community as defined in*
5 *subsection 6 of NRS 116.1201.*

6 ↪ “Public body” does not include the Legislature of the State of
7 Nevada.

8 4. “Quorum” means a simple majority of the constituent
9 membership of a public body or another proportion established by
10 law.

11 **Sec. 3.** This act becomes effective on July 1, 2009.

