

ASSEMBLY BILL NO. 251—ASSEMBLYMEN MANENDO; ANDERSON,
CARPENTER, DONDERO LOOP, HORNE, KIHUEN,
MORTENSON, MUNFORD, OHRENSCHALL, SEGERBLOM AND
SPIEGEL

MARCH 5, 2009

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to common-interest
communities. (BDR 10-555)

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; revising the
procedures for voting for a member of the executive
board of an association under certain circumstances;
requiring that the regulations governing the issuance of
certificates for community managers must contain certain
provisions relating to persons who formerly engaged in
community management; and providing other matters
properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that the executive board of a unit-owners' association may nominate a person to serve on the executive board and that qualified members of the association may also have their names placed on the ballot along with the nominees for election to the executive board. Existing law also provides that the election of any member of the executive board of a unit-owners' association must be conducted by secret written ballot, unless the declaration of the association provides that voting rights may be exercised by delegates or representatives. (NRS 116.31034) **Section 1** of this bill provides that if the number of candidates nominated for membership on the executive board is less than or equal to the number of open positions on the executive board, then the executive board may deem such nominees duly elected members of the executive board without conducting a formal election by the members of the association.

Existing law requires the Commission on Common-Interest Communities and Condominium Hotels to adopt regulations governing the issuance of certificates for community managers. (NRS 116A.410) **Section 2** of this bill provides that those regulations must establish a procedure for a person who was previously issued a certificate and who no longer holds a certificate to reapply for and obtain a new



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18 certificate without undergoing any period of supervision by another community
19 manager, regardless of the length of time that has passed since the person last acted
20 as a community manager.

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

1 **Section 1.** NRS 116.31034 is hereby amended to read as
2 follows:

3 116.31034 1. Except as otherwise provided in subsection 5 of
4 NRS 116.212, not later than the termination of any period of
5 declarant's control, the units' owners shall elect an executive board
6 of at least three members, at least a majority of whom must be units'
7 owners. Unless the governing documents provide otherwise, the
8 remaining members of the executive board do not have to be units'
9 owners. The executive board shall elect the officers of the
10 association. The members of the executive board and the officers of
11 the association shall take office upon election.

12 2. The term of office of a member of the executive board may
13 not exceed 2 years, except for members who are appointed by the
14 declarant. Unless the governing documents provide otherwise, there
15 is no limitation on the number of terms that a person may serve as a
16 member of the executive board.

17 3. The governing documents of the association must provide
18 for terms of office that are staggered in such a manner that, to the
19 extent possible, an equal number of members of the executive board
20 are elected at each election. The provisions of this subsection do not
21 apply to:

22 (a) Members of the executive board who are appointed by the
23 declarant; and

24 (b) Members of the executive board who serve a term of 1 year
25 or less.

26 4. Not less than 30 days before the preparation of a ballot for
27 the election of members of the executive board, the secretary or
28 other officer specified in the bylaws of the association shall cause
29 notice to be given to each unit's owner of his eligibility to serve as a
30 member of the executive board. Each unit's owner who is qualified
31 to serve as a member of the executive board may have his name
32 placed on the ballot along with the names of the nominees selected
33 by the members of the executive board or a nominating committee
34 established by the association. *Before the secretary or other officer*
35 *specified in the bylaws of the association causes notice to be given*
36 *to each unit's owner of his eligibility to serve as a member of the*
37 *executive board pursuant to this subsection, the executive board*
38 *may determine that if, at the closing of the prescribed period for*



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1 *nominations for membership on the executive board, the number*
2 *of candidates nominated for membership on the executive board is*
3 *equal to or less than the number of members to be elected to the*
4 *executive board at the election, then:*

5 (a) *The association will not prepare or mail any ballots to*
6 *units' owners pursuant to this section;*

7 (b) *The candidates so nominated shall be deemed to be duly*
8 *elected to the executive board not later than 30 days after the date*
9 *of the closing of the prescribed period for nominations; and*

10 (c) *The units' owners will receive notification that the*
11 *candidates so nominated have been elected to the executive board.*

12 5. Each person ~~{whose name is placed on the ballot}~~ *who is*
13 *nominated* as a candidate for a member of the executive board
14 *pursuant to subsection 4* must:

15 (a) Make a good faith effort to disclose any financial, business,
16 professional or personal relationship or interest that would result or
17 would appear to a reasonable person to result in a potential conflict
18 of interest for the candidate if the candidate were to be elected to
19 serve as a member of the executive board; and

20 (b) Disclose whether the candidate is a member in good
21 standing. For the purposes of this paragraph, a candidate shall not be
22 deemed to be in "good standing" if the candidate has any unpaid and
23 past due assessments or construction penalties that are required to be
24 paid to the association.

25 ➤ The candidate must make all disclosures required pursuant to this
26 subsection in writing to the association with his candidacy
27 information. The association shall distribute the disclosures to each
28 member of the association with the ballot *or, in the event ballots*
29 *are not prepared and mailed pursuant to subsection 4,* in the
30 manner established *for distribution of ballots* in the bylaws of the
31 association.

32 6. Unless a person is appointed by the declarant:

33 (a) A person may not be a member of the executive board or an
34 officer of the association if the person, his spouse or his parent or
35 child, by blood, marriage or adoption, performs the duties of a
36 community manager for that association.

37 (b) A person may not be a member of the executive board of a
38 master association or an officer of that master association if the
39 person, his spouse or his parent or child, by blood, marriage or
40 adoption, performs the duties of a community manager for:

41 (1) That master association; or

42 (2) Any association that is subject to the governing
43 documents of that master association.

44 7. An officer, employee, agent or director of a corporate owner
45 of a unit, a trustee or designated beneficiary of a trust that owns a



1 unit, a partner of a partnership that owns a unit, a member or
2 manager of a limited-liability company that owns a unit, and a
3 fiduciary of an estate that owns a unit may be an officer of the
4 association or a member of the executive board. In all events where
5 the person serving or offering to serve as an officer of the
6 association or a member of the executive board is not the record
7 owner, he shall file proof in the records of the association that:

8 (a) He is associated with the corporate owner, trust, partnership,
9 limited-liability company or estate as required by this subsection;
10 and

11 (b) Identifies the unit or units owned by the corporate owner,
12 trust, partnership, limited-liability company or estate.

13 8. ~~[The]~~ *Except as otherwise provided in subsection 4, the*
14 election of any member of the executive board must be conducted
15 by secret written ballot unless the declaration of the association
16 provides that voting rights may be exercised by delegates or
17 representatives as set forth in NRS 116.31105. If the election of any
18 member of the executive board is conducted by secret written ballot:

19 (a) The secretary or other officer specified in the bylaws of the
20 association shall cause a secret ballot and a return envelope to be
21 sent, prepaid by United States mail, to the mailing address of each
22 unit within the common-interest community or to any other mailing
23 address designated in writing by the unit's owner.

24 (b) Each unit's owner must be provided with at least 15 days
25 after the date the secret written ballot is mailed to the unit's owner
26 to return the secret written ballot to the association.

27 (c) A quorum is not required for the election of any member of
28 the executive board.

29 (d) Only the secret written ballots that are returned to the
30 association may be counted to determine the outcome of the
31 election.

32 (e) The secret written ballots must be opened and counted at a
33 meeting of the association. A quorum is not required to be present
34 when the secret written ballots are opened and counted at the
35 meeting.

36 (f) The incumbent members of the executive board and each
37 person whose name is placed on the ballot as a candidate for a
38 member of the executive board may not possess, be given access to
39 or participate in the opening or counting of the secret written ballots
40 that are returned to the association before those secret written ballots
41 have been opened and counted at a meeting of the association.

42 9. Each member of the executive board shall, within 90 days
43 after his appointment or election, certify in writing to the
44 association, on a form prescribed by the Administrator, that he has
45 read and understands the governing documents of the association



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1 and the provisions of this chapter to the best of his ability. The
2 Administrator may require the association to submit a copy of the
3 certification of each member of the executive board of that
4 association at the time the association registers with the
5 Ombudsman pursuant to NRS 116.31158.

6 **Sec. 2.** NRS 116A.410 is hereby amended to read as follows:

7 116A.410 1. The Commission shall by regulation provide for
8 the issuance by the Division of certificates. The regulations:

9 (a) Must establish the qualifications for the issuance of such a
10 certificate, including, without limitation, the education and
11 experience required to obtain such a certificate.

12 (b) May require applicants to pass an examination in order to
13 obtain a certificate. If the regulations require such an examination,
14 the Commission shall by regulation establish fees to pay the costs of
15 the examination, including any costs which are necessary for the
16 administration of the examination.

17 (c) *Must establish a procedure for a person who was*
18 *previously issued a certificate and who no longer holds a*
19 *certificate to reapply for and obtain a new certificate without*
20 *undergoing any period of supervision under another community*
21 *manager, regardless of the length of time that has passed since the*
22 *person last acted as a community manager.*

23 (d) May require an investigation of an applicant's background.
24 If the regulations require such an investigation, the Commission
25 shall by regulation establish fees to pay the costs of the
26 investigation.

27 ~~[(d)]~~ (e) Must establish the grounds for initiating disciplinary
28 action against a person to whom a certificate has been issued,
29 including, without limitation, the grounds for placing conditions,
30 limitations or restrictions on a certificate and for the suspension or
31 revocation of a certificate.

32 ~~[(e)]~~ (f) Must establish rules of practice and procedure for
33 conducting disciplinary hearings.

34 2. The Division may collect a fee for the issuance of a
35 certificate in an amount not to exceed the administrative costs of
36 issuing the certificate.

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

