

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, before notice is provided to each unit's owner of his eligibility to serve on the executive board, the executive board may determine 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, the appropriate officer of the association will send a notice to each unit's owner informing each unit's owner that a unit's owner who is qualified to be a member of the executive board may nominate himself for membership on the executive board by submitting a nomination to the executive board within 30 days after the notice. If the executive board decides to send such a notice and, at the closing of the period for nominations, the number of candidates nominated for



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membership on the executive board is greater than the number of members to be elected to the executive board, then the association must conduct an election for membership on the executive board. If, after any additional nominations, the number of candidates nominated for membership on the executive board continues to be less than or equal to the number of open positions on the executive board, then such nominees shall be deemed to be duly elected members of the executive board.

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

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

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

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

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

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

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

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

4. Not less than 30 days before the preparation of a ballot for the election of members of the executive board, the secretary or other officer specified in the bylaws of the association shall cause



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1 notice to be given to each unit's owner of his eligibility to serve as a  
2 member of the executive board. Each unit's owner who is qualified  
3 to serve as a member of the executive board may have his name  
4 placed on the ballot along with the names of the nominees selected  
5 by the members of the executive board or a nominating committee  
6 established by the association.

7 5. *Before the secretary or other officer specified in the bylaws*  
8 *of the association causes notice to be given to each unit's owner of*  
9 *his eligibility to serve as a member of the executive board pursuant*  
10 *to subsection 4, the executive board may determine that if, at the*  
11 *closing of the prescribed period for nominations for membership*  
12 *on the executive board, the number of candidates nominated for*  
13 *membership on the executive board is equal to or less than the*  
14 *number of members to be elected to the executive board at the*  
15 *election, then the secretary or other officer specified in the bylaws*  
16 *of the association will cause notice to be given to each unit's*  
17 *owner informing each unit's owner that:*

18 (a) *The association will not prepare or mail any ballots to*  
19 *units' owners pursuant to this section and the nominated*  
20 *candidates shall be deemed to be duly elected to the executive*  
21 *board unless:*

22 (1) *A unit's owner who is qualified to serve on the executive*  
23 *board nominates himself for membership on the executive board*  
24 *by submitting a nomination to the executive board within 30 days*  
25 *after the notice provided by this subsection; and*

26 (2) *The number of units' owners who submit such a*  
27 *nomination causes the number of candidates nominated for*  
28 *membership on the executive board to be greater than the number*  
29 *of members to be elected to the executive board.*

30 (b) *Each unit's owner who is qualified to serve as a member of*  
31 *the executive board may nominate himself for membership on the*  
32 *executive board by submitting a nomination to the executive board*  
33 *within 30 days after the notice provided by this subsection.*

34 6. *If the notice described in subsection 5 is given and if, at the*  
35 *closing of the prescribed period for nominations for membership*  
36 *on the executive board described in subsection 5, the number of*  
37 *candidates nominated for membership on the executive board is*  
38 *equal to or less than the number of members to be elected to the*  
39 *executive board, then:*

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

42 (b) *The nominated candidates shall be deemed to be duly*  
43 *elected to the executive board not later than 30 days after the date*  
44 *of the closing of the period for nominations described in*  
45 *subsection 5; and*



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1 (c) *The association shall send to each unit's owner notification*  
2 *that the candidates nominated have been elected to the executive*  
3 *board.*

4 7. *If the notice described in subsection 5 is given and if, at the*  
5 *closing of the prescribed period for nominations for membership*  
6 *on the executive board described in subsection 5, the number of*  
7 *candidates nominated for membership on the executive board is*  
8 *greater than the number of members to be elected to the executive*  
9 *board, then the association shall:*

10 (a) *Prepare and mail ballots to the units' owners pursuant to*  
11 *this section; and*

12 (b) *Conduct an election for membership on the executive*  
13 *board pursuant to this section.*

14 8. Each person ~~[whose name is placed on the ballot]~~ *who is*  
15 *nominated* as a candidate for a member of the executive board  
16 *pursuant to subsection 4 or 5* must:

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

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

27 ➔ The candidate must make all disclosures required pursuant to this  
28 subsection in writing to the association with his candidacy  
29 information. The association shall distribute the disclosures to each  
30 member of the association with the ballot *or, in the event ballots*  
31 *are not prepared and mailed pursuant to subsection 6,* in the  
32 ~~[manner established in the bylaws]~~ *next regular mailing* of the  
33 association.

34 ~~[6.]~~ 9. Unless a person is appointed by the declarant:

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

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

43 (1) That master association; or

44 (2) Any association that is subject to the governing  
45 documents of that master association.



~~[7.]~~ 10. An officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, a member or manager of a limited-liability company that owns a unit, and a fiduciary of an estate that owns a unit may be an officer of the association or a member of the executive board. In all events where the person serving or offering to serve as an officer of the association or a member of the executive board is not the record owner, he shall file proof in the records of the association that:

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

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

~~[8.]~~ 11. ~~[The]~~ *Except as otherwise provided in subsection 6,* the election of any member of the executive board must be conducted by secret written ballot unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS 116.31105. If the election of any member of the executive board is conducted by secret written ballot:

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

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

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

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

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

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



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~~12.~~ 12. Each member of the executive board shall, within 90 days after his appointment or election, certify in writing to the association, on a form prescribed by the Administrator, that he has read and understands the governing documents of the association and the provisions of this chapter to the best of his ability. The Administrator may require the association to submit a copy of the certification of each member of the executive board of that association at the time the association registers with the Ombudsman pursuant to NRS 116.31158.

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

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

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

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

(c) *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 certificate without undergoing any period of supervision under another community manager, regardless of the length of time that has passed since the person last acted as a community manager.*

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

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

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

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

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

