

Amendment No. 351

Assembly Amendment to Assembly Bill No. 251

(BDR 10-555)

Proposed by: Assembly Committee on Judiciary**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold dashed underlining* is newly added transitory language.

NMB/BAW



Date: 4/11/2009

A.B. No. 251—Revises provisions relating to common-interest communities.
(BDR 10-555)



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.

~

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. ~~(an election is for an incumbent member of the executive board who is running without opposition, no secret written ballot is required.)~~

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.

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 notice to be given to each unit's owner of his eligibility to serve as a member of the executive board. Each unit's owner who is qualified to serve as a member of the executive board may have his name placed on the ballot along with the names of the nominees selected by the members of the executive board or a nominating committee established by the association. *Before the secretary or other officer specified in the bylaws of the association causes notice to be given to each unit's owner of his eligibility to serve as a member of the executive board pursuant to this subsection, the executive board may determine that if, at the closing of the prescribed period for nominations for membership on the executive board, the number of candidates nominated for membership on the executive board is equal to or less than the number of members to be elected to the executive board at the election, then:*

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

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

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

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

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

(b) Disclose whether the candidate is a member in good standing. For the purposes of this paragraph, a candidate shall not be deemed to be in "good

standing” if the candidate has any unpaid and past due assessments or construction penalties that are required to be paid to the association.

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

6. Unless a person is appointed by the declarant:

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

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

(1) That master association; or

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

7. 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. ~~[The]~~ Except as otherwise provided in subsection 4, the election of any member of the executive board must be conducted by secret written ballot unless ~~[the election is for an incumbent member of the executive board who is unopposed in seeking reelection or 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

1 may not possess, be given access to or participate in the opening or counting of the
2 secret written ballots that are returned to the association before those secret written
3 ballots have been opened and counted at a meeting of the association.

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

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

12 116A.410 1. The Commission shall by regulation provide for the issuance
13 by the Division of certificates. The regulations:

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

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

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

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

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

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

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

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