
ASSEMBLY BILL NO. 246—ASSEMBLYMEN STEWART; ELLISON,
GOICOECHEA, GRADY, HAMMOND, HANSEN, HARDY,
HICKEY, LIVERMORE AND SHERWOOD

MARCH 9, 2011

JOINT SPONSORS: SENATORS HARDY; LEE AND SETTELMAYER

Referred to Committee on Judiciary

SUMMARY—Requires the association of a common-interest community to make available to candidates for membership on the executive board its list of units' owners under certain circumstances. (BDR 10-1067)

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; requiring the association of a common-interest community to make available to candidates for membership on the executive board the association's list of units' owners under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law provides that, under certain circumstances, the association of a
2 common-interest community must make available to a unit's owner the books,
3 records and papers of the association. However, the association is not required to
4 make available to a unit's owner the records of the association which relate to
5 another unit's owner. (NRS 116.31175) This bill requires the association or its
6 agent to make available to a candidate for membership on the executive board, at
7 no charge to the candidate, the list of units' owners maintained by the association or
8 its agent if the candidate submits: (1) a written request for that list; and (2) a written
9 statement that the candidate is requesting the list to obtain information to allow the
10 candidate to distribute his or her campaign material directly to the units' owners
11 and that the candidate will not make any other use of the information.



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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, all of whom must be units' owners. The executive board shall elect the officers of the association. Unless the governing documents provide otherwise, the officers of the association are not required to be units' owners. 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 3 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 the unit's owner's 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 or her 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.

5. 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 or her eligibility to serve as a member of the executive board pursuant to subsection 4, 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



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1 the election, then the secretary or other officer specified in the
2 bylaws of the association will cause notice to be given to each unit's
3 owner informing each unit's owner that:

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

7 (1) A unit's owner who is qualified to serve on the executive
8 board nominates himself or herself for membership on the executive
9 board by submitting a nomination to the executive board within 30
10 days after the notice provided by this subsection; and

11 (2) The number of units' owners who submit such a
12 nomination causes the number of candidates nominated for
13 membership on the executive board to be greater than the number of
14 members to be elected to the executive board.

15 (b) Each unit's owner who is qualified to serve as a member of
16 the executive board may nominate himself or herself for
17 membership on the executive board by submitting a nomination to
18 the executive board within 30 days after the notice provided by this
19 subsection.

20 6. If the notice described in subsection 5 is given and if, at the
21 closing of the prescribed period for nominations for membership on
22 the executive board described in subsection 5, the number of
23 candidates nominated for membership on the executive board is
24 equal to or less than the number of members to be elected to the
25 executive board, then:

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

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

31 (c) The association shall send to each unit's owner notification
32 that the candidates nominated have been elected to the executive
33 board.

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

40 (a) Prepare and mail ballots to the units' owners pursuant to this
41 section; and

42 (b) Conduct an election for membership on the executive board
43 pursuant to this section.



8. Each person who is nominated as a candidate for ~~fa-member~~
of membership on the executive board pursuant to subsection 4 or
5 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 or her candidacy information. Except as otherwise provided in this subsection, the association shall distribute the disclosures, on behalf of the candidate, to each member of the association with the ballot or, in the event ballots are not prepared and mailed pursuant to subsection 6, in the next regular mailing of the association. The association is not obligated to distribute any disclosure pursuant to this subsection if the disclosure contains information that is believed to be defamatory, libelous or profane.

9. *Notwithstanding the provisions of NRS 116.31175 and except as otherwise provided in this subsection, upon the written request of a person who is a candidate for membership on the executive board and at no charge to the candidate, the association or its agent must make available to the candidate, for the purpose of obtaining information to allow the candidate to communicate campaign material directly to units' owners, the list of units' owners maintained by the association or its agent for review at the business office of the association or a designated business location not to exceed 60 miles from the physical location of the common-interest community and during the regular working hours of the association. A written request pursuant to this subsection must be accompanied by a written statement signed by the candidate which states that the candidate is making the request to obtain information to allow the candidate to communicate campaign material directly to units' owners and that the candidate will not make any other use of the information. The association or its agent may refuse a written request submitted pursuant to this subsection only if the candidate does not provide the statement required by this subsection.*



1 **10.** Unless a person is appointed by the declarant:

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

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

11 (1) That master association; or

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

14 ~~10.~~ **11.** An officer, employee, agent or director of a corporate
15 owner of a unit, a trustee or designated beneficiary of a trust that
16 owns a unit, a partner of a partnership that owns a unit, a member or
17 manager of a limited-liability company that owns a unit, and a
18 fiduciary of an estate that owns a unit may be an officer of the
19 association or a member of the executive board. In all events where
20 the person serving or offering to serve as an officer of the
21 association or a member of the executive board is not the record
22 owner, the person shall file proof in the records of the association
23 that:

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

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

29 ~~11.~~ **12.** Except as otherwise provided in subsection 6 or NRS
30 116.31105, the election of any member of the executive board must
31 be conducted by secret written ballot in the following manner:

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

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

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

42 (d) Only the secret written ballots that are returned to the
43 association may be counted to determine the outcome of the
44 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 ~~member of~~ *membership on* 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.

~~12.2~~ *13.* An association shall not adopt any rule or regulation that has the effect of prohibiting or unreasonably interfering with a candidate in the candidate's campaign for election as a member of the executive board, except that the candidate's campaign may be limited to 90 days before the date that ballots are required to be returned to the association. A candidate may request that the secretary or other officer specified in the bylaws of the association send, 30 days before the date of the election and at the association's expense, 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 a candidate informational statement. The candidate informational statement:

(a) Must be no longer than a single, typed page;

(b) Must not contain any defamatory, libelous or profane information; and

(c) May be sent with the secret ballot mailed pursuant to subsection ~~12.2~~ *12* or in a separate mailing.

➤ The association and its directors, officers, employees and agents are immune from criminal or civil liability for any act or omission which arises out of the publication or disclosure of any information related to any person and which occurs in the course of carrying out any duties required pursuant to this subsection.

~~13.2~~ *14.* Each member of the executive board shall, within 90 days after his or her appointment or election, certify in writing to the association, on a form prescribed by the Administrator, that the member has read and understands the governing documents of the association and the provisions of this chapter to the best of his or her 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. This act becomes effective on July 1, 2011.

