

ASSEMBLY BILL NO. 427—COMMITTEE
ON GOVERNMENT AFFAIRS

MARCH 23, 2015

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to the use of a patented mine or mining claim. (BDR 22-1097)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 mines; prohibiting the governing body of a local government from taking any action that prohibits or unreasonably restricts the owner of a patented mine or mining claim from using or performing work on the patented mine or mining claim; specifying certain circumstances under which an action by a governing body is deemed not to be an unreasonable restriction on the use of a patented mine or mining claim; providing that any covenant, restriction or other condition contained in a deed, contract or other legal instrument that prohibits or unreasonably restricts the owner of a patented mine or mining claim from using or performing work on the patented mine or mining claim is void and unenforceable; specifying certain circumstances under which such a term in a legal instrument is deemed not to be an unreasonable restriction on the use of a patented mine or mining claim; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law authorizes the governing body of a city or county to regulate and
- 2 restrict the improvement of land and to control the location and soundness of
- 3 structures. In so doing, a governing body is required to take into account, among
- 4 other issues, the potential impairment of natural resources and the total population
- 5 which the available natural resources will support without unreasonable
- 6 impairment. Existing law establishes certain limits on the authority of the
- 7 governing body of a city or county to regulate the use of land, including prohibiting
- 8 the imposition by the governing body of certain restrictions on the installation and



9 use of solar and wind energy systems on private property or the display of an
10 American flag by the owner of private property. Under existing law, a covenant,
11 condition or restriction contained in a deed or other legal document which affects
12 the transfer or sale of, or other interest in, real property and which purports to
13 prohibit or unreasonably restrict such uses of the real property is similarly
14 prohibited. (NRS 111.238-111.2395, 278.020, 278.0208, 278.02083)

15 **Section 1** of this bill prohibits the governing body of a city or county from
16 adopting or amending an ordinance, regulation or plan or taking any other action
17 that prohibits or unreasonably restricts or has the effect of prohibiting or
18 unreasonably restricting the owner of a patented mine or mining claim from using
19 or performing work on the patented mine or mining claim. **Section 1** provides that
20 such an action by a governing body is not an unreasonable restriction on the use of
21 a patented mine or mining claim if the governing body, before taking the action,
22 enters into an agreement with the owner of the patented mine or mining claim to
23 make reasonable compensation to the owner for the loss of the use or the reduction
24 in value of the patented mine or mining claim resulting from the action taken by the
25 governing body.

26 **Sections 1 and 3** of this bill provide that any covenant, restriction or condition
27 contained in a legal instrument which affects the transfer or sale of, or any other
28 interest in, real property and which prohibits or unreasonably restricts or has the
29 effect of prohibiting or unreasonably restricting the owner of a patented mine or
30 mining claim from using or performing work on the patented mine or mining claim
31 is void and unenforceable. **Sections 1 and 3** provide that such a covenant,
32 restriction or condition is not an unreasonable restriction on the use of a patented
33 mine or mining claim if the owner of the patented mine or mining claim agrees in
34 writing to the covenant, restriction or condition.

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

1 **Section 1.** Chapter 278 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *1. A governing body shall not adopt or amend an ordinance,*
4 *regulation or plan or take any other action, including, without*
5 *limitation, designating real property as historic or as part of a*
6 *historic neighborhood, that prohibits or unreasonably restricts or*
7 *has the effect of prohibiting or unreasonably restricting the owner*
8 *of a patented mine or mining claim from using or performing*
9 *work on the patented mine or mining claim.*

10 *2. Any covenant, restriction or condition contained in a deed,*
11 *contract or other legal instrument which affects the transfer or*
12 *sale of, or any other interest in, real property and which prohibits*
13 *or unreasonably restricts or has the effect of prohibiting or*
14 *unreasonably restricting the owner of a patented mine or mining*
15 *claim from using or performing work on the patented mine or*
16 *mining claim is void and unenforceable.*

17 *3. For the purposes of this section:*

18 *(a) An ordinance, regulation, plan or other action by a*
19 *governing body shall be deemed not to be an unreasonable*



1 *restriction on the use of a patented mine or mining claim if the*
2 *governing body, before adopting or amending the ordinance,*
3 *regulation or plan or taking any other action, enters into an*
4 *agreement with the owner of the patented mine or mining claim to*
5 *make reasonable compensation to the owner for the loss of the use*
6 *or the reduction in value of the patented mine or mining claim*
7 *resulting from the adoption or amendment of the ordinance,*
8 *regulation or plan or other action taken by the governing body.*

9 *(b) A covenant, restriction or condition shall be deemed not to*
10 *be an unreasonable restriction on the use of a patented mine or*
11 *mining claim if the owner of the patented mine or mining claim*
12 *has agreed in writing to the covenant, restriction or condition.*

13 *4. As used in this section, the term "patented mine or mining*
14 *claim" has the meaning ascribed to it in NRS 362.010.*

15 **Sec. 2.** NRS 278.010 is hereby amended to read as follows:

16 278.010 As used in NRS 278.010 to 278.630, inclusive, *and*
17 *section 1 of this act*, unless the context otherwise requires, the
18 words and terms defined in NRS 278.0103 to 278.0195, inclusive,
19 have the meanings ascribed to them in those sections.

20 **Sec. 3.** Chapter 111 of NRS is hereby amended by adding
21 thereto a new section to read as follows:

22 *1. Any covenant, restriction or condition contained in a deed,*
23 *contract or other legal instrument which affects the transfer or*
24 *sale of, or any other interest in, real property and which prohibits*
25 *or unreasonably restricts or has the effect of prohibiting or*
26 *unreasonably restricting the owner of a patented mine or mining*
27 *claim from using or performing work on the patented mine or*
28 *mining claim is void and unenforceable.*

29 *2. For the purposes of this section, a covenant, restriction or*
30 *condition shall be deemed not to be an unreasonable restriction on*
31 *the use of a patented mine or mining claim if the owner of the*
32 *patented mine or mining claim has agreed in writing to the*
33 *covenant, restriction or condition.*

34 *3. As used in this section, the term "patented mine or mining*
35 *claim" has the meaning ascribed to it in NRS 362.010.*

36 **Sec. 4.** This act becomes effective on July 1, 2015.

