

SENATE BILL NO. 161—SENATOR GANSERT

PREFILED FEBRUARY 13, 2017

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing the installation of drought tolerant landscaping in common-interest communities. (BDR 10-611)

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 provisions governing the installation of drought tolerant landscaping by a unit's owner in a common-interest community; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law prohibits a unit-owners' association from unreasonably denying or
2 withholding approval for the installation of drought tolerant landscaping by a unit's
3 owner or unreasonably determining that such drought tolerant landscaping is not
4 compatible with the style of the common-interest community. (NRS 116.330) This
5 bill provides that the following are prohibited because they are deemed to be an
6 unreasonable denial or withholding of approval for the installation of drought
7 tolerant landscaping or an unreasonable determination that such drought tolerant
8 landscaping is not compatible with the style of the common-interest community: (1)
9 an action of the executive board or a provision of the governing documents
10 requiring a unit's owner to choose among five or fewer genera of plants when
11 installing drought tolerant landscaping; or (2) an action of the executive board or a
12 provision of the governing documents prohibiting a unit's owner who is installing
13 drought tolerant landscaping from installing a species of plant that is authorized to
14 be installed by another unit's owner in the same common-interest community or in
15 a common-interest community that is part of the same master association, unless
16 the action of the executive board or the provision of the governing document is
17 necessary to protect the safety of the units' owners or residents of the
18 common-interest community.



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

Section 1. NRS 116.330 is hereby amended to read as follows:

116.330 1. The executive board shall not and the governing documents must not prohibit a unit's owner from installing or maintaining drought tolerant landscaping within such physical portion of the common-interest community as that owner has a right to occupy and use exclusively, including, without limitation, the front yard or back yard of the unit's owner, except that:

(a) Before installing drought tolerant landscaping, the unit's owner must submit a detailed description or plans for the drought tolerant landscaping for architectural review and approval in accordance with the procedures, if any, set forth in the governing documents of the association; and

(b) The drought tolerant landscaping must be selected or designed to the maximum extent practicable to be compatible with the style of the common-interest community.

➔ The provisions of this subsection must be construed liberally in favor of effectuating the purpose of encouraging the use of drought tolerant landscaping, and the executive board shall not and the governing documents must not unreasonably deny or withhold approval for the installation of drought tolerant landscaping or unreasonably determine that the drought tolerant landscaping is not compatible with the style of the common-interest community.

2. *For the purposes of subsection 1:*

(a) An action of the executive board or a provision of the governing documents requiring a unit's owner to choose among five or fewer genera of plants when installing drought tolerant landscaping is deemed to be an unreasonable denial or withholding of approval for the installation of drought tolerant landscaping or an unreasonable determination that the drought tolerant landscaping is not compatible with the style of the common-interest community.

(b) An action by the executive board to deny or withhold approval for, or a provision of the governing documents prohibiting, a unit's owner who is installing drought tolerant landscaping from installing a species of plant that is approved or authorized for installation by another unit's owner in the common-interest community or by a unit's owner in another common-interest community that is part of the same master association is deemed to be an unreasonable denial or withholding of approval for the installation of drought tolerant landscaping or an unreasonable determination that the drought tolerant landscaping is not compatible with the style of the



1 *common-interest community, unless the action by the executive*
2 *board or the provision of the governing documents is necessary for*
3 *the safety of the units' owners or residents of the common-interest*
4 *community.*

5 3. Installation of drought tolerant landscaping within any
6 common element or conversion of traditional landscaping or
7 cultivated vegetation, such as turf grass, to drought tolerant
8 landscaping within any common element shall not be deemed to be
9 a change of use of the common element unless:

10 (a) The common element has been designated as a park, open
11 play space or golf course on a recorded plat map; or

12 (b) The traditional landscaping or cultivated vegetation is
13 required by a governing body under the terms of any applicable
14 zoning ordinance, permit or approval or as a condition of approval
15 of any final subdivision map.

16 ~~3.1~~ 4. As used in this section, "drought tolerant landscaping"
17 means landscaping which conserves water, protects the environment
18 and is adaptable to local conditions. The term includes, without
19 limitation, the use of mulches such as decorative rock and artificial
20 turf.

