

SENATE BILL NO. 251—SENATORS WOODHOUSE AND PARKS

MARCH 5, 2019

JOINT SPONSORS: ASSEMBLYMEN FUMO AND COHEN

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to the development of certain golf courses. (BDR 22-60)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: No.

CONTAINS UNFUNDED MANDATE (§ 4)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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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 property; establishing certain requirements for the conversion of land used as a residential golf course to another use; establishing requirements for the maintenance of certain residential golf courses; subjecting a residential golf course to a restrictive covenant enforceable by certain owners of land surrounding the residential golf course; authorizing such owners of land to bring an action to recover a diminution in value of the land as a result of the conversion of a residential golf course; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the governing bodies of cities and counties to regulate and restrict the improvement of land and to control the location and soundness of structures. (NRS 278.020) This bill imposes various requirements on the conversion of land used as a residential golf course to any other use. **Section 2** of this bill generally defines the term "residential golf course" to mean certain land used for golfing or golfing practice that is located within 2,000 feet of a lot or parcel of land used for residential purposes.

Section 3 of this bill requires an owner of a residential golf course who wishes to convert the land to any other use to provide notice to certain owners of surrounding land and hold two neighborhood meetings. **Section 3** also requires the



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governmental entity whose approval is necessary for such a conversion to require, as a condition of the approval: (1) the owner to prove that the operation of the residential golf course is not financially viable; (2) the owner to conduct an environmental impact study; (3) 35 percent of the converted land to be open-space land; and (4) certain setbacks for buildings on the converted land.

Section 4 of this bill requires the owner of a residential golf course that discontinues daily operation or maintenance of the residential golf course to: (1) provide notice to certain owners of surrounding land; and (2) continue maintenance on the residential golf course in accordance with procedures and standards adopted by the governing body of the city or county.

A restrictive covenant is a "private agreement, usually in a deed or lease, that restricts the use or occupancy of real property." (20 Am. Jur. 2d *Covenants, Etc.* § 148 (2019)) Though usually a private agreement in a deed or lease, common law restrictive covenants may also arise by implication in certain circumstances involving a common development scheme. The Nevada Supreme Court has not "acknowledged implied restrictive covenants in the context of a common development scheme, nor [has it] stated that one exists under Nevada law." (*Frederic & Barbara Rosenberg Living Trust v. MacDonald Highlands Realty, LLC*, 134 Nev. Adv. Op. 69, 427 P.3d 104, 110 (2018)) **Section 5** of this bill provides that a residential golf course is deemed to be subject to a restrictive covenant that restricts the use of the land to a residential golf course. Certain owners of land surrounding the residential golf course are authorized to enforce the restrictive covenant.

Section 6 of this bill authorizes certain owners of land surrounding a residential golf course that has been converted to any other use to bring an action to recover the diminution in value of their land caused by such a conversion.

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

Section 1. Chapter 278 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. 1. "Residential golf course" means a lot or parcel of land that:

(a) May be used for golfing or golfing practice by the public or by the members and guests of a private club; and

(b) Is located within 2,000 feet of a lot or parcel of land used for residential purposes.

2. The term includes improvements to such a lot or parcel of land, including, without limitation, turf, bunkers, trees, irrigation, lakes, lake liners, bridges, practice ranges, golf greens, golf tees, paths and trails.

3. The term does not include:

(a) A commercial golf driving range that is not operated in conjunction with a golf course.

(b) A clubhouse, pro shop, restaurant or other building that is associated with a golf course.



1 **Sec. 3. 1.** *An owner of a residential golf course may*
2 *convert the residential golf course to any other use of the land if*
3 *the change is approved by the appropriate governing body,*
4 *commission or board pursuant to NRS 278.010 to 278.630,*
5 *inclusive, and sections 2 to 6, inclusive, of this act.*

6 2. *An owner may undertake a conversion pursuant to*
7 *subsection 1 only if, in addition to any other requirements set forth*
8 *in NRS 278.010 to 278.630, inclusive, and sections 2 to 6,*
9 *inclusive, of this act, the owner holds two neighborhood meetings*
10 *to provide an explanation of the proposed conversion. Notice of*
11 *such meetings must be:*

12 (a) *Given by the owner of the residential golf course to the*
13 *owner, as listed on the records of the county assessor, of each lot*
14 *or parcel of land used for residential purposes located within*
15 *2,000 feet of the residential golf course; and*

16 (b) *Sent by mail at least 10 days before the neighborhood*
17 *meeting and include the date, time, place and purpose of the*
18 *neighborhood meeting.*

19 3. *Before a residential golf course is converted to any other*
20 *use, the governing body, commission or board whose approval is*
21 *necessary pursuant to NRS 278.010 to 278.630, inclusive, and*
22 *sections 2 to 6, inclusive, of this act shall require, as a condition of*
23 *the approval of the conversion:*

24 (a) *The owner of the residential golf course to prove to the*
25 *governing body, commission or board, as applicable, by a*
26 *preponderance of the evidence that the continued operation of the*
27 *residential golf course is not financially viable;*

28 (b) *The owner of the residential golf course to conduct an*
29 *environmental impact study of the proposed conversion;*

30 (c) *Thirty-five percent of the converted land to be open-space*
31 *land; and*

32 (d) *Buildings on the converted land to be set back not less than*
33 *100 feet from any building existing at the time of conversion on an*
34 *adjacent lot or parcel of land.*

35 4. *As used in this section:*

36 (a) *"Open-space land" means land that is undeveloped natural*
37 *landscape, including, without limitation, ridges, stream corridors,*
38 *natural shoreline, scenic areas, viewsheds, agricultural or other*
39 *similar landscapes.*

40 (b) *"Preponderance of the evidence" has the meaning ascribed*
41 *to it in NRS 233B.0375.*

42 **Sec. 4. 1.** *If the owner of a residential golf course*
43 *discontinues daily operation or maintenance of the residential golf*
44 *course, the owner shall:*



1 (a) *Within 10 days after the discontinuance of daily operation*
2 *or maintenance, notify in writing the owner, as listed on the*
3 *records of the county assessor of each lot or parcel of land used*
4 *for residential purposes which is located within 2,000 feet of the*
5 *residential golf course; and*

6 (b) *Continue maintenance of the residential golf course in*
7 *accordance with procedures and standards adopted by the*
8 *governing body.*

9 2. *A governing body shall, by ordinance, set forth standards*
10 *and procedures for the continued maintenance of a residential*
11 *golf course that has discontinued daily operation or maintenance.*
12 *Such standards and procedures must ensure the maintenance of*
13 *the health, safety, aesthetic, economic and general welfare of*
14 *properties abutting the residential golf course and the protection*
15 *of the surrounding neighborhood against nuisances, blight and*
16 *deterioration.*

17 **Sec. 5.** *A residential golf course shall be deemed to be subject*
18 *to a restrictive covenant restricting the use of the land to a*
19 *residential golf course. The restrictive covenant runs with the land*
20 *and is fully binding on behalf of and enforceable by each owner of*
21 *a plot or parcel of land used for residential purposes that is located*
22 *within 2,000 feet of the residential golf course against the owner*
23 *of the residential golf course.*

24 **Sec. 6.** 1. *An owner of a plot or parcel of land used for*
25 *residential purposes that is located within 2,000 feet of a*
26 *residential golf course that has been converted to any other use*
27 *pursuant to section 3 of this act may bring an action against the*
28 *owner of the converted residential golf course to determine*
29 *whether such conversion caused a diminution in value of the plot*
30 *or parcel of land of the owner.*

31 2. *Upon a determination that such a conversion caused a*
32 *diminution in value of the plot or parcel of land of the owner, the*
33 *owner shall recover a sum equal to the diminution in value, plus*
34 *reasonable attorney's fees and costs.*

35 **Sec. 7.** NRS 278.010 is hereby amended to read as follows:
36 278.010 As used in NRS 278.010 to 278.630, inclusive, *and*
37 *sections 2 to 6, inclusive, of this act*, unless the context otherwise
38 requires, the words and terms defined in NRS 278.0103 to
39 278.0195, inclusive, *and section 2 of this act* have the meanings
40 ascribed to them in those sections.

41 **Sec. 8.** NRS 278.0235 is hereby amended to read as follows:
42 278.0235 No action or proceeding may be commenced for the
43 purpose of seeking judicial relief or review from or with respect to
44 any final action, decision or order of any governing body,
45 commission or board authorized by NRS 278.010 to 278.630,



1 inclusive, *and sections 2 to 6, inclusive, of this act* unless the action
2 or proceeding is commenced within 25 days after the date of filing
3 of notice of the final action, decision or order with the clerk or
4 secretary of the governing body, commission or board.

5 **Sec. 9.** The provisions of NRS 354.599 do not apply to any
6 additional expenses of a local government that are related to the
7 provisions of this act.

8 **Sec. 10.** This act becomes effective on July 1, 2019.

