

SENATE BILL NO. 377—SENATOR PARKS (BY REQUEST)

MARCH 17, 2015

Referred to Committee on Revenue and  
Economic Development

SUMMARY—Revises various provisions relating to the taxation of property. (BDR 32-542)

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 the taxation of property; revising provisions governing the filing of an appeal by mail with a county board of equalization; revising provisions governing the assessment of the common elements of common-interest communities; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Under existing law, an appeal to the county board of equalization must be filed  
2 not later than January 15 or, if January 15 falls on a Saturday, Sunday or legal  
3 holiday, on the next business day. (NRS 361.340, 361.356, 361.357) Existing law  
4 further provides that any document required or permitted by law to be filed by  
5 mailing to the State or a local government is deemed to be filed on the date of the  
6 postmark dated by the post office on the envelope in which the document was  
7 mailed. However, if the document is not received by the addressee or if the  
8 document is received but the postmark is illegible or omitted, the document is  
9 deemed to be filed on the date it was mailed, if the sender: (1) establishes that the  
10 mailing date was on or before the required filing date by providing the postal  
11 receipt for registered or certified mail; or (2) files a duplicate of the document  
12 within 15 days after he or she becomes aware that the document was not received.  
13 (NRS 238.100) **Section 2** of this bill specifically provides that any appeal to a  
14 county board of equalization filed by mail is deemed to be filed on the postmark  
15 dated by the post office on the envelope in which the appeal was mailed or, if the  
16 postmark is omitted or illegible, on the day the appeal is received. **Section 2** further  
17 provides that any postmark not provided directly by the post office does not  
18 establish that an appeal is timely filed.

19 Existing law provides that the property taxes assessed upon real property in a  
20 common-interest community must be assessed upon the community units and not  
21 upon the common-interest community as a whole. Existing law further provides a  
22 methodology for allocating the taxable value of the common elements of a



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23 common-interest community on an equal basis to each of the community units of  
24 that common-interest community. (NRS 361.233) **Section 3** of this bill provides  
25 that this methodology may be used only if the community association provides to  
26 the county assessor such information as the county assessor determines to be  
27 necessary to identify the community units to which the taxable value of the  
28 common elements must be allocated. If the community association does not provide  
29 such information to the county assessor, property taxes on the common elements  
30 must be paid by the person or association who is the owner of the common  
31 elements.

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

1 **Section 1.** The Legislature hereby finds and declares that:

2 1. In *Sun City Summerlin Community Association v.*  
3 *Department of Taxation*, 113 Nev. 835 (1997), the Nevada Supreme  
4 Court held that a statute which provided that no separate tax or  
5 assessment could be rendered against certain common elements of a  
6 common-interest community or planned community, was  
7 unconstitutional and void insofar as it precluded the taxation of  
8 common elements in a planned community because the statute  
9 violated the requirement of a uniform and equal rate of assessment  
10 and taxation of all property as set forth in Section 1 of Article 10 of  
11 the Nevada Constitution;

12 2. The provisions of NRS 361.233 prohibit any ad valorem  
13 taxes and special assessments from being levied upon the common  
14 elements of a common-interest community but instead provide for  
15 the allocation of the taxable value of the common elements of a  
16 common-interest community on an equal basis to each of the  
17 community units of that common-interest community; and

18 3. Because any taxes assessed on the common elements of a  
19 common-interest community would be allocated to the community  
20 units and paid by the owners of the community units through  
21 assessments for common expenses, the imposition of ad valorem  
22 taxes and special assessments upon the common elements of a  
23 common-interest community is equivalent to the allocation of the  
24 taxable value of the common elements to the community units under  
25 current law and does not result in the unequal assessment and  
26 taxation of the common elements.

27 **Sec. 2.** Chapter 361 of NRS is hereby amended by adding  
28 thereto a new section to read as follows:

29 *1. Except as provided in subsection 2, any appeal to the*  
30 *county board of equalization filed by mail shall be deemed to be*  
31 *filed on the date of the postmark dated by the post office on the*  
32 *envelope in which the appeal was mailed.*



1       **2. If the postmarked date on an envelope in which an appeal**  
2 **was mailed is illegible or omitted, the appeal shall be deemed filed**  
3 **on the date it was received by the county board of equalization.**

4       **3. A postmark provided by a postage meter, a postage vending**  
5 **machine, any postage purchased through the Internet or any other**  
6 **form of dated postage which is not directly postmarked by the post**  
7 **office does not establish that an appeal is timely filed.**

8       **Sec. 3.** NRS 361.233 is hereby amended to read as follows:

9       361.233 1. Notwithstanding any other provision of law ~~§~~, **if**  
10 **a community association provides such information as the county**  
11 **assessor determines to be necessary to identify each community**  
12 **unit in the common-interest community:**

13       (a) Any ad valorem taxes or special assessments assessed upon  
14 any real property within a common-interest community:

15           (1) Must be assessed upon the community units and not upon  
16 the common-interest community as a whole; and

17           (2) Must not be assessed upon any common elements of the  
18 common-interest community.

19       (b) Except as otherwise provided in subsection 2, the taxable  
20 value of each parcel:

21           (1) Composed solely of a community unit must consist of:

22                   (I) The taxable value of that community unit; and

23                   (II) A percentage of the taxable value of all the common  
24 elements of that common-interest community which is equal to 1  
25 divided by the total number of community units in that common-  
26 interest community; or

27           (2) Composed of a community unit and any portion of the  
28 common elements of the common-interest community must consist  
29 of:

30                   (I) The taxable value of that community unit only; and

31                   (II) A percentage of the taxable value of all the common  
32 elements of that common-interest community which is equal to 1  
33 divided by the total number of community units in that common-  
34 interest community.

35       **2. If a community association does not provide such**  
36 **information as the county assessor determines to be necessary to**  
37 **identify each community unit in the common-interest community,**  
38 **any ad valorem taxes and special assessments upon real property**  
39 **must be assessed upon the common elements of the common-**  
40 **interest community, and the taxable value of the common elements**  
41 **is the sum of the taxable value of all the common elements of that**  
42 **common-interest community.**

43       **3.** If the declaration for a common-interest community or, in  
44 the absence of such a declaration, the recorded deeds for the  
45 community units of a common-interest community:



1 (a) Provide for the allocation to the community units of, except  
2 for any minor variations because of rounding, all the interests in the  
3 common elements of the common-interest community; or

4 (b) Do not provide for the allocation described in paragraph (a)  
5 but provide for the allocation to the community units of, except for  
6 any minor variations because of rounding, all the liabilities for the  
7 common expenses of the common-interest community,

8 and the formula for allocation provided in the declaration or  
9 deeds differs from the formula for allocation set forth in sub-  
10 subparagraph (II) of subparagraph (1) of paragraph (b) of subsection  
11 1 and sub-subparagraph (II) of subparagraph (2) of paragraph (b) of  
12 subsection 1, those sub-subparagraphs do not apply to the common-  
13 interest community, and the taxable value of the common elements  
14 of the common-interest community must be allocated to the  
15 community units in accordance with the formula for allocation  
16 provided in the declaration or deeds.

17 ~~[3.]~~ 4. The Nevada Tax Commission shall adopt such  
18 regulations as it determines to be appropriate to ensure that this  
19 section is carried out in a uniform and equal manner that does not  
20 result in the double taxation of any common elements of a common-  
21 interest community.

22 ~~[4.]~~ 5. For the purposes of this section:

23 (a) "Ad valorem tax" means an ad valorem tax levied by any  
24 governmental entity or political subdivision in this State on or after  
25 July 1, 2006.

26 (b) "Common elements" means the physical portion of a  
27 common-interest community, including, without limitation, any  
28 landscaping, swimming pools, fitness centers, community centers,  
29 maintenance and service areas, parking areas, hallways, elevators  
30 and mechanical rooms, which is:

31 (1) Intended for the general benefit of and potential use by all  
32 the owners of the community units and their invitees; and

33 (2) Owned:

34 (I) By the community association;

35 (II) By any person on behalf or for the benefit of the  
36 owners of the community units; or

37 (III) Jointly by the owners of the community units.

38 (c) "Common-interest community" means real property with  
39 respect to which a person, by virtue of his or her ownership of a  
40 community unit, is obligated to pay for any real property other than  
41 that unit. The term includes a common-interest community governed  
42 by the provisions of chapter 116 of NRS, a condominium hotel  
43 governed by the provisions of chapter 116B of NRS, a  
44 condominium project governed by the provisions of chapter 117 of  
45 NRS and any time-share project, planned unit development or other



1 real property which is organized as a common-interest community  
2 in this State.

3 (d) "Community association" means an association whose  
4 membership:

5 (1) Consists exclusively of the owners of the community  
6 units or their elected or appointed representatives; and

7 (2) Is a required condition of the ownership of a community  
8 unit.

9 (e) "Community unit" means a physical portion of a common-  
10 interest community, other than the common elements, which is:

11 (1) Designated for separate ownership or occupancy; ~~and~~

12 (2) Intended for:

13 (I) Residential use by the owner of that unit and his or her  
14 invitees; or

15 (II) Commercial use by the owner of that unit for the  
16 generation of revenue from any persons other than the owners of  
17 community units in that common-interest community and their  
18 invitees ~~and~~; *and*

19 (3) *Identified by the community association as a community*  
20 *unit for the purpose of distributing the taxable value of*  
21 *the common elements to the community units pursuant to*  
22 *subsection 1.*

23 (f) "Declaration" means any instrument, however denominated,  
24 that creates a common-interest community, including any  
25 amendment to an instrument.

26 (g) "Special assessment" means a special assessment levied by  
27 any governmental entity or political subdivision in this State on or  
28 after July 1, 2006.

29 **Sec. 4.** NRS 361.334 is hereby amended to read as follows:

30 361.334 As used in NRS 361.334 to 361.435, inclusive ~~and~~ ,  
31 *and section 1 of this act:*

32 1. The term "property" includes a leasehold interest,  
33 possessory interest, beneficial interest or beneficial use of a lessee or  
34 user of property which is taxable pursuant to NRS 361.157 or  
35 361.159.

36 2. Where the term "property" is read to mean a taxable  
37 leasehold interest, possessory interest, beneficial interest or  
38 beneficial use of a lessee or user of property, the term "owner" used  
39 in conjunction therewith must be interpreted to mean the lessee or  
40 user of the property.

41 **Sec. 5.** This act becomes effective on July 1, 2015.

