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ASSEMBLY BILL NO. 376—ASSEMBLYMEN BEERS AND MABEY

MARCH 17, 2003

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JOINT SPONSORS: SENATORS NOLAN AND RAWSON

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Referred to Committee on Judiciary

SUMMARY—Makes various changes to provisions governing common-interest communities. (BDR 10-10)

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.

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AN ACT relating to common-interest communities; revising the requirements to amend the declaration of a common-interest community; revising the requirements for rejection of the budget of an association; revising the requirements for the posting of a notice of a meeting of the executive board of a common-interest community association; and providing other matters properly relating thereto.

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

1     **Section 1.** NRS 116.2117 is hereby amended to read as  
2 follows:  
3     116.2117 1. Except in cases of amendments that may be  
4 executed by a declarant under subsection 6 of NRS 116.2109 or  
5 NRS 116.211, or by the association under NRS 116.1107,  
6 subsection 4 of NRS 116.2106, subsection 3 of NRS 116.2108,  
7 subsection 1 of NRS 116.2112 or NRS 116.2113, or by certain  
8 units' owners under subsection 2 of NRS 116.2108, subsection 1 of  
9 NRS 116.2112, subsection 2 of NRS 116.2113 or subsection 2 of  
10 NRS 116.2118, and except as limited by subsection 4, the



1 declaration, including any plats and plans, may be amended only  
2 by :

3 *(a) In an association that consists of less than 7,000 units or in*  
4 *an association that the declarant retains developmental rights in*  
5 *the common-interest community, vote or agreement of units'*  
6 *owners of units to which at least a majority of the votes in the*  
7 *association are allocated, or any larger majority the declaration*  
8 *specifies. The declaration may specify a smaller number only if all*  
9 *of the units are restricted exclusively to nonresidential use.*

10 *(b) In an association that consists of 7,000 or more units and*  
11 *the declarant does not possess any developmental rights in the*  
12 *common-interest community, vote or agreement of a majority of*  
13 *units' owners of units to which at least 20 percent of the votes in*  
14 *the association are allocated, or any larger majority the*  
15 *declaration specifies. The declaration may specify a smaller*  
16 *number only if all the units are restricted exclusively to*  
17 *nonresidential use.*

18 2. No action to challenge the validity of an amendment adopted  
19 by the association pursuant to this section may be brought more than  
20 ~~one~~ 1 year after the amendment is recorded.

21 3. Every amendment to the declaration must be recorded in  
22 every county in which any portion of the common-interest  
23 community is located and is effective only upon recordation. An  
24 amendment, except an amendment pursuant to NRS 116.2112, must  
25 be indexed in the grantee's index in the name of the  
26 common-interest community and the association and in the grantor's  
27 index in the name of the parties executing the amendment.

28 4. Except to the extent expressly permitted or required by other  
29 provisions of this chapter, no amendment may change the  
30 boundaries of any unit, the allocated interests of a unit or the uses to  
31 which any unit is restricted, in the absence of unanimous consent of  
32 the units' owners affected and the consent of a majority of the  
33 owners of the remaining units.

34 5. Amendments to the declaration required by this chapter to  
35 be recorded by the association must be prepared, executed, recorded  
36 and certified on behalf of the association by any officer of the  
37 association designated for that purpose or, in the absence of  
38 designation, by the president of the association.

39 **Sec. 2.** NRS 116.3103 is hereby amended to read as follows:  
40 116.3103 1. Except as otherwise provided in the declaration,  
41 the bylaws, this section or other provisions of this chapter, the  
42 executive board may act in all instances on behalf of the association.  
43 In the performance of their duties, the officers and members of the  
44 executive board are fiduciaries. The members of the executive board



1 are required to exercise the ordinary and reasonable care of directors  
2 of a corporation, subject to the business-judgment rule.

3 2. The executive board may not act on behalf of the association  
4 to amend the declaration, to terminate the common-interest  
5 community, or to elect members of the executive board or determine  
6 their qualifications, powers and duties or terms of office, but the  
7 executive board may fill vacancies in its membership for the  
8 unexpired portion of any term.

9 3. Within 30 days after adoption of any proposed budget for  
10 the common-interest community, the executive board shall provide a  
11 summary of the budget to all the units' owners, and shall set a date  
12 for a meeting of the units' owners to consider ratification of the  
13 budget not less than 14 nor more than 30 days after mailing of the  
14 summary. ~~Unless~~

15 4. *In an association that consists of less than 7,000 units or in*  
16 *an association that the declarant retains developmental rights in*  
17 *the common-interest community, unless* at that meeting a majority  
18 of all units' owners or any larger vote specified in the declaration  
19 reject the budget, the budget is ratified, whether or not a quorum is  
20 present.

21 5. *In an association that consists of 7,000 or more units and*  
22 *the declarant does not possess any developmental rights in the*  
23 *common-interest community, unless at that meeting 60 percent of*  
24 *the units' owners in the association are present and a majority of*  
25 *the units' owners present at that meeting, or any larger vote*  
26 *specified in the declaration, reject the budget, the budget is*  
27 *ratified, whether or not a quorum is present.*

28 6. If the proposed budget is rejected ~~[ ]~~ pursuant to subsection  
29 4 or 5, the periodic budget last ratified by the units' owners must be  
30 continued until such time as the units' owners ratify a subsequent  
31 budget proposed by the executive board.

32 **Sec. 3.** NRS 116.31083 is hereby amended to read as follows:

33 116.31083 1. A meeting of the executive board of an  
34 association must be held at least once every 90 days.

35 2. Except in an emergency or unless the bylaws of an  
36 association require a longer period of notice, the secretary or other  
37 officer specified in the bylaws of the association shall, not less than  
38 10 days before the date of a meeting of the executive board, cause  
39 notice of the meeting to be given to the units' owners. Such notice  
40 must be:

41 (a) Sent prepaid by United States mail to the mailing address of  
42 each unit within the common-interest community or to any other  
43 mailing address designated in writing by the unit's owner;



1 (b) If the association offers to send notice by electronic mail,  
2 sent by electronic mail at the request of the unit's owner to an  
3 electronic mail address designated in writing by the unit's owner; or

4 (c) Published in a newsletter or other similar publication that is  
5 circulated to each unit's owner ~~[ ]~~ *and posted on the bulletin boards*  
6 *of the association.*

7 3. In an emergency, the secretary or other officer specified in  
8 the bylaws of the association shall, if practicable, cause notice of the  
9 meeting to be ~~[sent prepaid by United States mail to the mailing~~  
10 ~~address of each unit within the common interest community. If~~  
11 ~~delivery of the notice in this manner is impracticable, the notice~~  
12 ~~must be hand delivered to each unit within the common interest~~  
13 ~~community or]~~ posted in a prominent place or places within the  
14 common elements of the association ~~[ ]~~ , *including, without*  
15 *limitation, the bulletin boards of the association.*

16 4. The notice of a meeting of the executive board of an  
17 association must state the time and place of the meeting and include  
18 a copy of the agenda for the meeting or the date on which and the  
19 locations where copies of the agenda may be conveniently obtained  
20 by the units' owners of the association. The notice must include  
21 notification of the right of a unit's owner to:

22 (a) Have a copy of the minutes or a summary of the minutes of  
23 the meeting distributed to him upon request and, if required by the  
24 executive board, upon payment to the association of the cost of  
25 making the distribution.

26 (b) Speak to the association or executive board, unless the  
27 executive board is meeting in executive session.

28 5. The agenda of the meeting of the executive board of an  
29 association must comply with the provisions of subsection 3 of NRS  
30 116.3108. The period required to be devoted to comments by units'  
31 owners and discussion of those comments must be scheduled for the  
32 beginning of each meeting. In an emergency, the executive board  
33 may take action on an item which is not listed on the agenda as an  
34 item on which action may be taken.

35 6. At least once every 90 days, unless the declaration or bylaws  
36 of the association impose more stringent standards, the executive  
37 board shall review at one of its meetings:

38 (a) A current reconciliation of the operating account of the  
39 association;

40 (b) A current reconciliation of the reserve account of the  
41 association;

42 (c) The actual revenues and expenses for the reserve account,  
43 compared to the budget for that account for the current year;

44 (d) The latest account statements prepared by the financial  
45 institutions in which the accounts of the association are maintained;



1 (e) An income and expense statement, prepared on at least a  
2 quarterly basis, for the operating and reserve accounts of the  
3 association; and

4 (f) The current status of any civil action or claim submitted to  
5 arbitration or mediation in which the association is a party.

6 7. The minutes of a meeting of the executive board of an  
7 association must be made available to the units' owners in  
8 accordance with the provisions of subsection 5 of NRS 116.3108.

9 8. As used in this section, "emergency" means any occurrence  
10 or combination of occurrences that:

11 (a) Could not have been reasonably foreseen;

12 (b) Affects the health, welfare and safety of the units' owners of  
13 the association;

14 (c) Requires the immediate attention of, and possible action by,  
15 the executive board; and

16 (d) Makes it impracticable to comply with the provisions of  
17 subsection 2 or 5.

18 **Sec. 4.** This act becomes effective on July 1, 2003.

