

AMENDED IN SENATE JUNE 19, 2007

AMENDED IN ASSEMBLY MAY 1, 2007

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 691

Introduced by Assembly Member Silva

February 21, 2007

An act to amend Sections 11500, 11501, 11502, 11502.5, 11504, 11505, and 11506 of the Business and Professions Code, relating to common interest developments.

LEGISLATIVE COUNSEL'S DIGEST

AB 691, as amended, Silva. Certified common interest development managers.

Existing law, the Davis-Stirling Common Interest Development Act, establishes a scheme for the regulation of common interest developments. Existing law requires a person to meet certain requirements in order to be called a "certified common interest development manager" and imposes other requirements with regard to common interest development managers. Existing law makes professional associations, as defined, responsible for the certification of common interest development managers, as specified. Existing law defines various terms for carrying out these provisions. Under existing law, the provisions regulating certified common interest development managers are subject to review by the Joint Committee on Boards, Commissions, and Consumer Protection, as specified, and will become inoperative and be repealed on January 1, 2008.

This bill would ~~delete the review requirement and~~ extend the operation of these provisions until January 1, 2012. The bill would modify the requirements in order to be called a “certified common interest development manager” and would also revise various definitions. The bill would make numerous, nonsubstantive and technical changes.

Vote: majority. Appropriation: no. Fiscal committee: no.
 State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
 2 following:
- 3 (a) There are approximately 41,000 common interest
 4 developments in this state. California common interest
 5 developments contain over 10 million homes that house more than
 6 10 million people.
- 7 (b) Homes in common interest developments, like homes that
 8 are not in common interest developments, most often represent
 9 the owner’s single largest lifetime investment.
- 10 (c) The management and operation of common interest
 11 developments is governed by a complex set of statutes and
 12 decisional law. In addition to possessing an understanding of the
 13 law, the successful professional common interest development
 14 management and operation of common interest developments
 15 require fundamental skills in subjects including, but not limited
 16 to, finance, accounting, bookkeeping, contract administration,
 17 human resources, and parliamentary procedure.
- 18 (d) Common interest development managers are often delegated
 19 the authority, by the governing body of a common interest
 20 development, to collect and disburse substantial sums of money
 21 annually in homeowner assessments, which are used for the
 22 purpose of operating the community.
- 23 (e) The growth in common interest developments, coupled with
 24 the addition of governing statutes and decisional law, has
 25 emphasized the importance for common interest development
 26 managers to have the necessary skills and technical expertise to
 27 manage these associations.
- 28 (f) Individuals managing common interest developments who
 29 have these skills and expertise may identify themselves as

1 “certified,” if they have met the requirements of Section 11502 of
2 the Business and Professions Code.

3 (g) Since the enactment of the certification law in 2003,
4 voluntary certification has tripled, resulting in a significant increase
5 in the number of educated professional community managers.

6 (h) Residents of common interest developments in this state
7 who serve as board members of those developments should be
8 made aware that those managers who refer to themselves as
9 “certified community managers” have met specific educational
10 requirements and standards.

11 SEC. 2. Section 11500 of the Business and Professions Code
12 is amended to read:

13 11500. For purposes of this chapter, the following definitions
14 apply:

15 (a) “Common interest development” means a residential
16 development identified in subdivision (c) of Section 1351 of the
17 Civil Code.

18 (b) “Association” has the same meaning as defined in
19 subdivision (a) of Section 1351 of the Civil Code.

20 (c) “Financial services” means acts performed or offered to be
21 performed, for compensation, for an association, including, but
22 not limited to, the preparation of internal unaudited financial
23 statements, internal accounting and bookkeeping functions, billing
24 of assessments, and related services.

25 (d) “Management services” means acts performed or offered to
26 be performed in an advisory capacity for an association including,
27 but not limited to, the following:

28 (1) Administering or supervising the collection, reporting, and
29 archiving of the financial or common area assets of an association
30 or common interest development, at the direction of the
31 association’s board of directors.

32 (2) Implementing resolutions and directives of the board of
33 directors of the association elected to oversee the operation of a
34 common interest development.

35 (3) Implementing provisions of governing documents, as defined
36 in Section 1351 of the Civil Code, that govern the operation of the
37 common interest development.

38 (4) Administering association contracts, including insurance
39 contracts, within the scope of the association’s duties or with other
40 common interest development managers, vendors, contractors,

1 and other third-party providers of goods and services to an
2 association or common interest development.

3 (e) “Professional association for common interest development
4 managers” means an organization that meets all of the following:

5 (1) Has at least 200 members or certificants who are common
6 interest development managers in California.

7 (2) Has been in existence for at least five years.

8 (3) Operates pursuant to Section 501(c) of the Internal Revenue
9 Code.

10 (4) Certifies that a common interest development manager has
11 met the criteria set forth in Section 11502 without requiring
12 membership in the association.

13 (5) Requires adherence to a code of professional ethics and
14 standards of practice for certified common interest development
15 managers.

16 SEC. 3. Section 11501 of the Business and Professions Code
17 is amended to read:

18 11501. (a) “Common interest development manager” means
19 an individual who for compensation, or in expectation of
20 compensation, provides or contracts to provide management or
21 financial services, or represents himself or herself to act in the
22 capacity of providing management or financial services to an
23 association. Notwithstanding any other provision of law, an
24 individual may not be required to obtain a real estate or broker’s
25 license in order to perform the services of a common interest
26 development manager to an association.

27 (b) “Common interest development manager” also means any
28 of the following:

29 (1) An individual who is a partner in a partnership, a shareholder
30 or officer in a corporation, or who, in any other business entity
31 acts in a capacity to advise, supervise, and direct the activity of a
32 registrant or provisional registrant, or who acts as a principal on
33 behalf of a company that provides the services of a common
34 interest development manager.

35 (2) An individual operating under a fictitious business name
36 who provides the services of a common interest development
37 manager.

38 This section may not be construed to require an association to
39 hire for compensation a common interest development manager,
40 unless required to do so by its governing documents. Nothing in

1 this part shall be construed to supersede any law that requires a
2 license, permit, or any other form of registration, to provide
3 management or financial services. Nothing in this section shall
4 preclude a licensee of the California Board of Accountancy from
5 providing financial services to an association within the scope of
6 his or her license in addition to the preparation of reviewed and
7 audited financial statements and the preparation of the association's
8 tax returns.

9 SEC. 4. Section 11502 of the Business and Professions Code
10 is amended to read:

11 11502. In order to be called a "certified common interest
12 development manager," a person shall meet one of the following
13 requirements:

14 (a) Prior to July 1, 2003, has passed a knowledge, skills, and
15 aptitude examination as specified in Section 11502.5 or has been
16 granted a certification or a designation by a professional association
17 for common interest development managers, and who has, within
18 five years prior to July 1, 2004, received instruction in California
19 law pursuant to paragraph (1) of subdivision (b).

20 (b) On or after July 1, 2003, has successfully completed an
21 educational curriculum that shall be no less than a combined 30
22 hours in coursework described in this subdivision and passed an
23 examination or examinations that test competence in common
24 interest development management in the following areas:

25 (1) The law that relates to the management of common interest
26 developments, including, but not limited to, the following courses
27 of study:

28 (A) Topics covered by the Davis-Stirling Common Interest
29 Development Act, contained in Title 6 (commencing with Section
30 1350) of Part 4 of Division 2 of the Civil Code, including, but not
31 limited to, the types of California common interest developments,
32 disclosure requirements pertaining to common interest
33 developments, meeting requirements, financial reporting
34 requirements, and member access to association records.

35 (B) Personnel issues, including, but not limited to, general
36 matters related to independent contractor or employee status, the
37 laws on harassment, the Unruh Civil Rights Act, the California
38 Fair Employment and Housing Act, and the Americans with
39 Disabilities Act.

- 1 (C) Risk management, including, but not limited to, insurance
- 2 coverage, maintenance, operations, and emergency preparedness.
- 3 (D) Property protection for associations, including, but not
- 4 limited to, pertinent matters relating to environmental hazards such
- 5 as asbestos, radon gas, and lead-based paint, the Vehicle Code,
- 6 local and municipal regulations, family day care facilities, energy
- 7 conservation, Federal Communications Commission rules and
- 8 regulations, and solar energy systems.
- 9 (E) Business affairs of associations, including, but not limited
- 10 to, necessary compliance with federal, state, and local law.
- 11 (F) Basic understanding of governing documents, codes, and
- 12 regulations relating to the activities and affairs of associations and
- 13 common interest developments.
- 14 (2) Instruction in general management that is related to the
- 15 managerial and business skills needed for management of a
- 16 common interest development, including, but not limited to, the
- 17 following:
 - 18 (A) Finance issues, including, but not limited to, budget
 - 19 preparation; management; administration or supervision of the
 - 20 collection, reporting, and archiving of the financial or common
 - 21 area assets of an association or common interest development;
 - 22 bankruptcy laws; and assessment collection.
 - 23 (B) Contract negotiation and administration.
 - 24 (C) Supervision of employees and staff.
 - 25 (D) Management of maintenance programs.
 - 26 (E) Management and administration of rules, regulations, and
 - 27 parliamentary procedures.
 - 28 (F) Management and administration of architectural standards.
 - 29 (G) Management and administration of the association's
 - 30 recreational programs and facilities.
 - 31 (H) Management and administration of owner and resident
 - 32 communications.
 - 33 (I) Training and strategic planning for the association's board
 - 34 of directors and its committees.
 - 35 (J) Implementation of association policies and procedures.
 - 36 (K) Ethics, professional conduct, and standards of practice for
 - 37 common interest development managers.
 - 38 (L) Current issues relating to common interest developments.
 - 39 (M) Conflict avoidance and resolution mechanisms.

1 ~~(e) Nothing in this section shall be construed to prohibit a~~
2 ~~professional association for common interest development~~
3 ~~managers from offering continuing education coursework as part~~
4 ~~of its certification program.~~

5 SEC. 5. Section 11502.5 of the Business and Professions Code
6 is amended to read:

7 11502.5. The course related competency examination or
8 examinations and education provided to a certified common interest
9 development manager pursuant to Section 11502 by any
10 professional association for common interest development
11 managers, or any postsecondary educational institution, shall be
12 developed and administered in a manner consistent with standards
13 and requirements set forth by the American Educational Research
14 Association's "Standards for Educational and Psychological
15 Testing," and the Equal Employment Opportunity Commission's
16 "Uniform Guidelines for Employee Selection Procedures," the
17 Unruh Civil Rights Act, the California Fair Employment and
18 Housing Act, and the Americans with Disabilities Act of 1990, or
19 the course or courses that have been approved as a continuing
20 education course or an equivalent course of study pursuant to the
21 regulations of the Real Estate Commissioner.

22 SEC. 6. Section 11504 of the Business and Professions Code
23 is amended to read:

24 11504. On or before September 1, 2003, and annually
25 thereafter, a person who either provides or contemplates providing
26 the services of a common interest development manager to an
27 association shall disclose to the board of directors of the association
28 the following information:

29 (a) Whether or not the common interest development manager
30 has met the requirements of Section 11502 so he or she may be
31 called a certified common interest development manager.

32 (b) The name, address, and telephone number of the professional
33 association that certified the common interest development
34 manager, the date the manager was certified, and the status of the
35 certification.

36 (c) The location of his or her primary office.

37 (d) Prior to entering into or renewing a contract with an
38 association, the common interest development manager shall
39 disclose to the board of directors of the association or common
40 interest development whether the fidelity insurance of the common

1 interest development manager or his or her employer covers the
 2 current year’s operating and reserve funds of the association. This
 3 requirement shall not be construed to compel an association to
 4 require a common interest development manager to obtain or
 5 maintain fidelity insurance.

6 (e) Whether the common interest development manager
 7 possesses an active real estate license.

8 This section may not preclude a common interest development
 9 manager from disclosing information as required in Section 1363.1
 10 of the Civil Code.

11 SEC. 7. Section 11505 of the Business and Professions Code
 12 is amended to read:

13 11505. It is an unfair business practice for a common interest
 14 development manager, a company that employs the common
 15 interest development manager, or a company that is controlled by
 16 a company that also has a financial interest in a company
 17 employing that manager, to do any of the following:

18 (a) On or after July 1, 2003, to hold oneself out or use the title
 19 of “certified common interest development manager” or any other
 20 term that implies or suggests that the person is certified as a
 21 common interest development manager without meeting the
 22 requirements of Section 11502.

23 (b) To state or advertise that he or she is certified, registered,
 24 or licensed by a governmental agency to perform the functions of
 25 a certified common interest development manager.

26 (c) To state or advertise a registration or license number, unless
 27 the license or registration is specified by a statute, regulation, or
 28 ordinance.

29 (d) To fail to comply with any item to be disclosed in Section
 30 11504 of this code, or Section 1363.1 of the Civil Code.

31 SEC. 8. Section 11506 of the Business and Professions Code
 32 is amended to read:

33 11506. *This part shall be subject to the review required by*
 34 *Division 1.2 (commencing with Section 473).* This part shall remain
 35 in effect only until January 1, 2012, and as of that date is repealed,
 36 unless a later enacted statute, that is enacted before January 1,
 37 2012, deletes or extends that date.