

AMENDED IN SENATE APRIL 18, 2007

AMENDED IN SENATE APRIL 11, 2007

SENATE BILL

No. 948

Introduced by Senator Harman

February 23, 2007

An act to add Section 1363.002 to the Civil Code, relating to common interest developments.

LEGISLATIVE COUNSEL'S DIGEST

SB 948, as amended, Harman. Common interest developments: board member education.

The Davis-Stirling Common Interest Development Act provides for the creation and regulation of common interest developments. Existing law requires the Department of Consumer Affairs and the Department of Real Estate, to the extent existing funds are available, to develop an online education course for the board of directors of an association regarding the role, duties, laws, and responsibilities of board members and prospective board members, and the nonjudicial foreclosure process.

This bill would, in addition, as of January 1, 2009, require every member of the board of directors of an association *that is comprised solely of residential separate interests* to complete at least one ~~3-hour~~ course during every term of office, *or, in the case of a member whose term of office is longer than 2 years, at least one course every 2 calendar years*, relating to decisional and statutory law regarding common interest developments. The bill would require such a course to be approved by the Department of Real Estate. *The bill would allow an association to pay for or reimburse board members for expenses associated with this requirement, as specified, and would exempt the declarant and the developer of a common interest development from this requirement*

until the board of directors governing that development is composed of a majority of separate interest owners.

Vote: majority. Appropriation: no. Fiscal committee: yes.
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 more than 35,000 common interest developments
4 in California, comprising more than 4,300,000 dwellings.
5 Dwellings in those common interest developments comprise
6 approximately $\frac{1}{4}$ of the state's housing stock.

7 (b) Common interest developments are governed by associations.
8 Managing an association is a complex responsibility. Association
9 members elect volunteer boards of directors and those directors
10 may have little or no experience serving in that capacity. In order
11 to properly discharge their duties, directors must comply with
12 many laws and, in so doing, must interpret and enforce those laws.
13 Directors must also interpret and apply the provisions of the
14 association's governing documents and rules. Additionally, board
15 members may not fully understand their rights and obligations
16 under the law. Mistakes and misunderstandings are inevitable and
17 may result in serious, costly, and divisive problems.

18 (c) While litigation is one form of dispute resolution, the
19 principal remedy for disputes should be based on a policy of
20 prevention. Litigation is not a positive means of resolving
21 association issues when the disputants are neighbors and must
22 maintain ongoing relationships. The adversarial nature of litigation
23 can disrupt these relationships, creating animosity that degrades
24 the quality of life within an association, shifts the focus of the
25 board, and increases the likelihood of future disputes. Litigation
26 may increase the expenses of an association, which must be paid
27 by its members through increased assessments. In some cases,
28 homeowners cannot personally afford to file or defend a lawsuit.

29 ~~(d) Anecdotal accounts of conflicts and alleged abuses within~~
30 ~~associations create continuing public demand for reform of~~
31 ~~common interest development law. This results in frequent legal~~
32 ~~changes, making~~

1 (d) *Frequent changes in law make the law more difficult to*
2 *understand and apply while imposing significant additional costs*
3 *on associations.*

4 (e) Education will provide association directors with ~~substantial~~
5 ~~knowledge and increased proficiency in understanding the law,~~
6 ~~and will provide a proactive, responsible, and nonjudicial approach~~
7 ~~to preventing a significantly greater awareness of the laws that~~
8 ~~prescribe association operational procedures and will better equip~~
9 ~~them to govern an association more efficiently and prudently.~~
10 *Board members' increased knowledge and proficiency in*
11 *understanding the law will provide them with the means to*
12 *proactively and responsibly use a nonjudicial approach to limiting*
13 *the frequency and severity of disputes within an association.*

14 SEC. 2. Section 1363.002 is added to the Civil Code, to read:

15 1363.002. (a) Every member of the board of directors of an
16 ~~association shall complete at least one three-hour course during~~
17 ~~every term of office association that is comprised solely of~~
18 ~~residential separate interests shall complete at least one course~~
19 ~~during every full term of office, or, in the case of a member whose~~
20 ~~term of office is longer than two years, at least one course every~~
21 ~~two calendar years while a member of the board, relating to~~
22 ~~decisional and statutory law regarding common interest~~
23 ~~developments.~~

24 (b) A course shall not satisfy the requirement imposed by
25 subdivision (a) unless it has been approved by the Department of
26 Real Estate. The Department of Real Estate shall require such a
27 course to provide instruction, at a minimum, in applicable
28 provisions of this code, the Business and Professions Code, the
29 Corporations Code, the Government Code, and the Vehicle Code
30 pertaining to common interest developments, as well as court
31 decisions relating to those provisions.

32 (c) Each association shall annually disclose, in writing, the
33 following information to the association members:

34 (1) That board members are required to comply with subdivision
35 (a).

36 (2) Whether current board members have complied with
37 subdivision (a).

38 (d) *An association may pay for or reimburse board members'*
39 *reasonable expenses to participate in the education required by*
40 *this section. That payment or reimbursement shall not exceed*

1 *twenty-five dollars (\$25) for course fees and one hundred dollars*
2 *(\$100) for travel expenses for each board member.*

3 *(e) The declarant and the developer of a common interest*
4 *development shall be exempt from the requirement imposed by*
5 *subdivision (a) until the board of directors governing that*
6 *development is composed of a majority of separate interest owners.*

7 *(f) Nothing in this section shall in any way operate to remove*
8 *or abrogate the board member immunities contained in Section*
9 *1365.7, or in Section 7231.5 of the Corporations Code, and the*
10 *immunities contained in those sections shall apply whether or not*
11 *an officer or director has taken the educational course required*
12 *by this section.*

13 ~~(d)~~

14 *(g) This section shall become operative on January 1, 2009.*