

AMENDED IN SENATE MAY 25, 2007
AMENDED IN SENATE MAY 1, 2007
AMENDED IN SENATE APRIL 18, 2007
AMENDED IN SENATE APRIL 11, 2007

SENATE BILL

No. 948

**Introduced by Senator Harman
(Coauthor: Senator Lowenthal)**

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 course during *the first 12 months of* his or her first full term of office, and at least one course every ~~3~~ 4 calendar years after becoming a member of the board, relating to decisional and statutory law regarding common interest developments, ~~subject to a requirement that~~. *The bill would*

prohibit the cost of the course not exceed from exceeding \$25. The bill would require such a course to be approved by the Department of Real Estate, and would require the department to establish uniform guidelines for the courses, as specified. The bill would require an association to include an item for board member education in its budget and would allow an association to pay for or reimburse board members for expenses associated with this requirement, as specified, and. The bill 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, and would also exempt specified real estate licensees, attorneys, and common interest development managers.

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

1 the quality of life within an association, shifts the focus of the
2 board, and increases the likelihood of future disputes. Litigation
3 may increase the expenses of an association, which must be paid
4 by its members through increased assessments. In some cases,
5 homeowners cannot personally afford to file or defend a lawsuit.

6 (d) Frequent changes in law make the law more difficult to
7 understand and apply while imposing significant additional costs
8 on associations.

9 (e) Education will provide association directors with a
10 significantly greater awareness of the laws that prescribe
11 association operational procedures and will better equip them to
12 govern an association more efficiently and prudently. Board
13 members' increased knowledge and proficiency in understanding
14 the law will provide them with the means to proactively and
15 responsibly use a nonjudicial approach to ~~limiting~~ *resolve disputes*
16 *and to limit* the frequency and severity of disputes within an
17 association.

18 (f) *In order to decrease litigation and to promote a nonjudicial*
19 *approach to resolving common interest development disputes and,*
20 *in turn, benefit the state as a whole, California community colleges*
21 *are encouraged to offer courses on common interest development*
22 *management and governance.*

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

24 1363.002. (a) Every member of the board of directors of an
25 association that is comprised solely of residential separate interests
26 shall complete at least one course during *the first 12 months of* his
27 or her first full term of office, and at least one course every ~~three~~
28 *four* calendar years after *first* becoming a member of the board,
29 relating to decisional and statutory law regarding common interest
30 developments. *The course may be offered by correspondence,*
31 *on-line, or in person.* An approved course may not be offered at
32 a cost higher than twenty-five dollars (\$25) per participant.

33 (b) A course shall not satisfy the requirement imposed by
34 subdivision (a) unless it has been approved by the Department of
35 Real Estate. The Department of Real Estate shall *establish uniform*
36 *guidelines that* require such a course to provide instruction, at a
37 minimum, ~~in applicable provisions of this code, the Business and~~
38 ~~Professions Code, the Corporations Code, the Government Code,~~
39 ~~and the Vehicle Code pertaining to common interest developments,~~
40 ~~as well as court decisions relating to those provisions: on the~~

1 *provisions of this title, on court decisions relating to this title, and*
2 *on common interest development activities, governance, and*
3 *operations.*

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

6 (1) That board members *serving a full term* are required to
7 comply with subdivision (a).

8 (2) Whether current board members *who are serving a full term*
9 have complied with subdivision (a).

10 (d) ~~An~~ *Beginning in its fiscal year 2008–09, or its calendar*
11 *year 2009, and each year following, an association shall include*
12 *a line item for board member education in its budget, and may*
13 *pay for or reimburse all or a portion of a board members’*
14 *reasonable expenses to participate in the education required by*
15 *this section. That payment or reimbursement shall not exceed*
16 *twenty-five dollars (\$25) for course fees and one hundred dollars*
17 *(\$100) for travel expenses for each board member.*

18 (e) *The following parties are exempt from the requirements of*
19 *subdivision (a):*

20 (e)

21 (1) The declarant and the developer of a common interest
22 development ~~shall be exempt from the requirement imposed by~~
23 ~~subdivision (a)~~ *development until the board of directors governing*
24 *that development is composed of a majority of separate interest*
25 *owners.*

26 (2) *A real estate licensee who has renewed his or her license,*
27 *has satisfied the requirements of Section 10170.5 of the Business*
28 *and Professions Code, and whose continuing education hours*
29 *credited include instruction in common interest development*
30 *activities, governance, and operations, and legal issues relating*
31 *to this title.*

32 (3) *An attorney who has received mandatory continuing legal*
33 *education credit related to the provisions of this title, on court*
34 *decisions relating to this title, and on common interest development*
35 *activities, governance, and operations.*

36 (4) *A certified common interest development manager, as*
37 *defined in Section 11502 of the Business and Professions Code.*

38 (f) Nothing in this section shall in any way operate to remove
39 or abrogate the board member immunities contained in Section
40 1365.7, or in Section 7231.5 of the Corporations Code, and the

- 1 immunities contained in those sections shall apply whether or not
- 2 an officer or director has taken the educational course required by
- 3 this section.
- 4 (g) This section shall become operative on January 1, 2009.

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