

ASSEMBLY BILL

No. 1061

Introduced by Assembly Member Lieu
(Coauthor: Assembly Member Skinner)
(Coauthors: Senators Hancock and Lowenthal)

February 27, 2009

An act to repeal and add Section 1353.8 of the Civil Code, relating to common interest developments.

LEGISLATIVE COUNSEL'S DIGEST

AB 1061, as introduced, Lieu. Common interest developments: water-efficient landscapes.

Existing law requires a local agency to adopt a specified updated model ordinance regarding water-efficient landscapes or a water-efficient landscape ordinance that is at least as effective in conserving water as the updated model ordinance. Existing law allows certain water providers to take specified actions regarding water conservation.

The Davis-Stirling Common Interest Development Act provides for the creation and regulation of common interest developments. The act provides that the architectural guidelines of a common interest development shall not prohibit or include conditions that have the effect of prohibiting the use of low water-using plants as a group.

This bill would, instead, provide that a provision of any of the governing documents of a common interest development shall be void and unenforceable if it prohibits, or includes conditions that have the effect of prohibiting, the use of low water-using plants as a group, or has the effect of prohibiting or restricting compliance with a local

water-efficient landscape ordinance or water conservation measure described above.

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) Landscapes are essential to the quality of life in California,
4 and are an important aesthetic element with economic value in
5 common interest developments.

6 (b) According to the Center for California Homeowner
7 Associations Law, nearly 25 percent of the state’s population lives
8 in a common interest development.

9 (c) Landscape design, installation, maintenance, and
10 management can and should be water efficient. The use of
11 water-efficient landscapes contributes to the state’s efforts to
12 increase the reliability of its water supplies.

13 (d) There are common interest developments with governing
14 documents that hinder or preclude property owners from complying
15 with applicable water conservation requirements.

16 (e) It is in the public interest to ensure that property owners
17 within a common interest development comply with water
18 conservation requirements, while permitting common interest
19 developments to maintain their interest in preserving a uniform
20 landscape aesthetic.

21 (f) It is also in the public interest to ensure that property owners
22 within a common interest development may comply with
23 emergency water use regulations adopted by authorized providers
24 of public water supply.

25 SEC. 2. Section 1353.8 of the Civil Code is repealed.

26 ~~1353.8. The architectural guidelines of a common interest
27 development shall not prohibit or include conditions that have the
28 effect of prohibiting the use of low water-using plants as a group.~~

29 SEC. 3. Section 1353.8 is added to the Civil Code, to read:

30 1353.8. Notwithstanding any other law, a provision of any of
31 the governing documents of a common interest development shall
32 be void and unenforceable if it does any of the following:

- 1 (a) Prohibits, or includes conditions that have the effect of
- 2 prohibiting, the use of low water-using plants as a group.
- 3 (b) Has the effect of prohibiting or restricting compliance with
- 4 either of the following:
- 5 (1) A water-efficient landscape ordinance adopted or in effect
- 6 pursuant to subdivision (c) of Section 65595 of the Government
- 7 Code.
- 8 (2) Any regulation or restriction on the use of water adopted
- 9 pursuant to Section 353 or 375 of the Water Code.