

Assembly Bill No. 1061

Passed the Assembly August 27, 2009

Chief Clerk of the Assembly

Passed the Senate August 24, 2009

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1061, 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 if it has the effect of prohibiting or restricting compliance with a local water-efficient landscape ordinance or water conservation measure described above.

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

SECTION 1. The Legislature finds and declares all of the following:

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

(b) Landscape design, installation, maintenance, and management can and should be water efficient. The use of

water-efficient landscapes contributes to the state's efforts to increase the reliability of its water supplies.

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

(d) It is in the public interest to ensure that property owners within a common interest development comply with applicable state and local ordinances and regulations regarding water conservation and drought, while maintaining the inherent powers of a common interest development to establish uniform architectural and landscaping standards.

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

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 Section 1353.8 of the Civil Code is repealed.

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

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

(1) Prohibits, or includes conditions that have the effect of prohibiting, the use of low water-using plants as a group.

(2) Has the effect of prohibiting or restricting compliance with either of the following:

(A) A water-efficient landscape ordinance adopted or in effect pursuant to subdivision (c) of Section 65595 of the Government Code.

(B) Any regulation or restriction on the use of water adopted pursuant to Section 353 or 375 of the Water Code.

(b) This section shall not prohibit an association from applying landscaping rules and regulations established in the governing documents, to the extent the rules and regulations fully conform with the requirements of subdivision (a).

Approved _____, 2009

Governor