

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2100

Introduced by Assembly Member Campos

February 20, 2014

An act to amend Section ~~4775~~ 4735 of the Civil Code, and to add Section 50034 to the Government Code, relating to drought relief.

LEGISLATIVE COUNSEL'S DIGEST

AB 2100, as amended, Campos. Common interest developments: local governments: yard maintenance: fines: drought.

~~The Davis-Stirling Common Interest Development Act governs the management and operation of common interest developments. The act sets forth the duties and responsibilities of the association and the owners of the separate interests with regard to maintenance and repair of common and exclusive use areas, as defined. Unless otherwise provided in the common interest development declaration, the association is responsible for maintaining, repairing, and replacing the common area, other than the exclusive use common area, and the owner of each separate interest is responsible for maintaining that separate interest and any exclusive use common area appurtenant to that interest. An association may impose a fine or assessment upon a separate interest owner for failure to maintain his or her property in accordance with the association rules for that development provides for the creation and regulation of common interest developments and requires that a development be managed by an association. That act provides that a provision of the governing documents of a development is 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, as specified.

This bill would prohibit an association from imposing a fine or assessment on separate interest owners for ~~yard maintenance issues related to under-watered plants and~~ *reducing or eliminating watering of vegetation or lawns* during any period for which the Governor has declared a state of emergency, *or a local government has declared a local emergency*, due to drought.

Existing law provides for the creation and powers of cities, counties, and cities and counties.

This bill would prohibit a city, county, or city and county from imposing a fine or assessment ~~on separate interest owners against a landowner for yard maintenance issues related to under-watered plants and~~ *reducing or eliminating watering of vegetation or lawns* during any period for which the Governor has declared a state of emergency due to drought. This bill would find and declare that these provisions are an issue of statewide concern and not a municipal or county affair, as specified.

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. Section 4735 of the Civil Code is amended to
- 2 read:
- 3 4735. (a) Notwithstanding any other law, a provision of the
- 4 governing documents shall be void and unenforceable if it does
- 5 any of the following:
- 6 (1) Prohibits, or includes conditions that have the effect of
- 7 prohibiting, the use of low water-using plants as a group.
- 8 (2) Has the effect of prohibiting or restricting compliance with
- 9 either of the following:
- 10 (A) A water-efficient landscape ordinance adopted or in effect
- 11 pursuant to subdivision (c) of Section 65595 of the Government
- 12 Code.
- 13 (B) Any regulation or restriction on the use of water adopted
- 14 pursuant to Section 353 or 375 of the Water Code.
- 15 (b) This section shall not prohibit an association from applying
- 16 landscaping rules established in the governing documents, to the

1 extent the rules fully conform with the requirements of subdivision
2 (a).

3 (c) *Notwithstanding any other provision of this part, an*
4 *association shall not impose a fine or assessment against an owner*
5 *of a separate interest for reducing or eliminating watering of*
6 *vegetation or lawns during any period for which either of the*
7 *following have occurred:*

8 (1) *The Governor has declared a state of emergency due to*
9 *drought pursuant to subdivision (b) of Section 8558 of the*
10 *Government Code.*

11 (2) *A local government has declared a local emergency due to*
12 *drought pursuant to subdivision (c) of Section 8558 of the*
13 *Government Code.*

14 ~~SECTION 1. Section 4775 of the Civil Code is amended to~~
15 ~~read:~~

16 ~~4775. (a) Unless otherwise provided in the declaration of a~~
17 ~~common interest development, the association is responsible for~~
18 ~~repairing, replacing, or maintaining the common area, other than~~
19 ~~exclusive use common area, and the owner of each separate interest~~
20 ~~is responsible for maintaining that separate interest and any~~
21 ~~exclusive use common area appurtenant to the separate interest.~~

22 ~~(b) The costs of temporary relocation during the repair and~~
23 ~~maintenance of the areas within the responsibility of the association~~
24 ~~shall be borne by the owner of the separate interest affected.~~

25 ~~(c) Notwithstanding any other provision of this part, an~~
26 ~~association shall not impose a fine or assessment against an owner~~
27 ~~of a separate interest for yard maintenance issues related to~~
28 ~~under-watered plants and lawns during any period for which the~~
29 ~~Governor has declared a state of emergency due to drought.~~

30 ~~SEC. 2. Section 50034 is added to the Government Code, to~~
31 ~~read:~~

32 ~~50034. Notwithstanding any other law, a city, county, or city~~
33 ~~and county shall not impose a fine or assessment against a~~
34 ~~landowner for yard maintenance issues related to under-watered~~
35 ~~plants and reducing or eliminating watering of vegetation or lawns~~
36 ~~during any period for which the Governor has declared a state of~~
37 ~~emergency due to drought pursuant to subdivision (b) of Section~~
38 ~~8558 of the Government Code.~~

39 ~~SEC. 3. The Legislature finds and declares that the prohibition~~
40 ~~of fines or assessments against landowners for yard maintenance~~

1 ~~issues~~ *for reducing or eliminating watering of vegetation or lawns*
2 during any period for which the Governor has declared a state of
3 emergency due to drought is a matter of statewide concern and not
4 a municipal affair, as that term is used in Section 5 of Article XI
5 of the California Constitution, or a county affair described in
6 Section 4 of Article XI of the California Constitution. Therefore,
7 Section 2 of the act applies to a charter city or county.

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