

ASSEMBLY BILL

No. 2104

Introduced by Assembly Member Gonzalez

February 20, 2014

An act to amend Section 4735 of the Civil Code, relating to common interest developments.

LEGISLATIVE COUNSEL'S DIGEST

AB 2104, as introduced, Gonzalez. 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. That act provides that a provision of any of the common interest development governing documents, as defined, include the declaration and any other documents, such as bylaws and operating rules, that govern the operation of a common interest 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 described above.

This bill would provide that, with respect to the above-described provisions, governing documents include architectural or landscaping guidelines or policies and decisions by the board of directors applicable

to a specific homeowner. The bill would apply these provisions to a prohibition on the replacement of existing turf with low water-using plants, as provided.

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, *including, but not limited to, architectural*
5 *or landscaping guidelines or policies and decisions by the board*
6 *of directors applicable to a specific homeowner*, shall be void and
7 unenforceable if it does any of the following:

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

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

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

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

17 (3) *Prohibits, or includes conditions that have the effect of*
18 *prohibiting, the replacement of existing turf with low water-using*
19 *plants.*

20 (b) This section shall not prohibit an association from applying
21 landscaping rules established in the governing documents, to the
22 extent the rules fully conform with ~~the requirements of subdivision~~

23 (a).