

AMENDED IN SENATE AUGUST 12, 2014

AMENDED IN ASSEMBLY APRIL 1, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2104

Introduced by Assembly Member Gonzalez
(Principal coauthor: Senator Nielsen)

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 amended, 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, including 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 a provision of the governing documents or of the architectural or landscaping guidelines or policies shall be void and unenforceable if it prohibits, or includes conditions that have the effect of prohibiting, low water-using plants as a group or as a replacement of existing turf, or if the provision has the effect of prohibiting or restricting compliance with a local water-efficient landscape ordinance or water conservation measure.

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 or architectural or landscaping guidelines~~
 5 ~~or policies shall be void and unenforceable if it does any of the~~
 6 ~~following:~~
 7 ~~(1) Prohibits, or includes conditions that have the effect of~~
 8 ~~prohibiting, the use of low water-using plants as a group or as a~~
 9 ~~replacement of existing turf.~~
 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 ~~(b) This section shall not prohibit an association from applying~~
 18 ~~landscaping rules established in the governing documents, to the~~
 19 ~~extent the rules fully conform with subdivision (a).~~
 20 ~~SECTION 1. Section 4735 of the Civil Code is amended to~~
 21 ~~read:~~
 22 ~~4735. (a) Notwithstanding any other law, a provision of the~~
 23 ~~governing documents or architectural or landscaping guidelines~~
 24 ~~or policies shall be void and unenforceable if it does any of the~~
 25 ~~following:~~

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

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

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

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

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

15 (c) Notwithstanding any other provision of this part, an
16 association shall not impose a fine or assessment against a member
17 of a separate interest for reducing or eliminating the watering of
18 vegetation or lawns during any period for which either of the
19 following have occurred:

20 (1) The Governor has declared a state of emergency due to
21 drought pursuant to subdivision (b) of Section 8558 of the
22 Government Code.

23 (2) A local government has declared a local emergency due to
24 drought pursuant to subdivision (c) of Section 8558 of the
25 Government Code.

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