

ASSEMBLY BILL

No. 349

Introduced by Assembly Member Gonzalez

February 17, 2015

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

LEGISLATIVE COUNSEL'S DIGEST

AB 349, as introduced, Gonzalez. Common interest developments: property use and maintenance.

The Davis-Stirling Common Interest Development Act governs the management and operation of common interest developments. Existing law provides that, unless otherwise provided in the common interest development declaration, the association is responsible for repairing, replacing, or maintaining the common area, other than 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. Existing law makes void and unenforceable any provision of the governing documents or architectural or landscaping guidelines or policies that prohibits use of low water-using plants, or prohibits or restricts compliance with water-efficient landscape ordinances or regulations on the use of water, as specified.

Existing law also prohibits an association, except an association that uses recycled water for landscape irrigation, from imposing a fine or assessment on separate interest owners for reducing or eliminating watering of vegetation or lawns during any period for which the Governor has declared a state of emergency or the local government has declared a local emergency due to drought.

This bill would also make void and unenforceable any provision of the governing documents or architectural or landscaping guidelines or policies that prohibits use of low water-using landscapes that require not more than a specified amount of water.

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) *Prohibits, or includes conditions that have the effect of*
11 *prohibiting, the use of low water-using landscapes that require*
12 *an amount of water that is not more than the amount of water*
13 *required by low water-using plants.*

14 ~~(2)~~(3) Has the effect of prohibiting or restricting compliance
15 with either of the following:

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

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

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

24 (c) Notwithstanding any other provision of this part, an
25 association, except an association that uses recycled water, as
26 defined in Section 13050 of the Water Code, for landscaping
27 irrigation, shall not impose a fine or assessment against an owner
28 of a separate interest for reducing or eliminating the watering of
29 vegetation or lawns during any period for which either of the
30 following have occurred:

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

4 (2) A local government has declared a local emergency due to
5 drought pursuant to subdivision (c) of Section 8558 of the
6 Government Code.

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