

AMENDED IN SENATE JUNE 17, 2015

AMENDED IN ASSEMBLY MAY 22, 2015

AMENDED IN ASSEMBLY MAY 5, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 349

**Introduced by Assembly Member Gonzalez
(Coauthors: Assembly Members Dodd and Lackey)**

February 17, 2015

An act to amend Section 4735 of the Civil Code, relating to common interest developments, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 349, as amended, 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 artificial turf or any other synthetic surface that resembles grass.

This bill would also prohibit a requirement that an owner of a separate interest remove or reverse water-efficient landscaping measures, installed in response to a declaration of a state of emergency, upon the conclusion of the state of emergency.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
 State-mandated local program: no.

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

- 1 SECTION 1. The Legislature hereby finds and declares:
- 2 (a) With the lowest snowpack ever recorded, California finds
- 3 itself in 2015 in the fourth year of a historic, prolonged, and
- 4 potentially devastating drought.
- 5 (b) Governor ~~Jerry Brown~~ *Edmund G. Brown Jr.* issued an
- 6 Executive Order on April 1, 2015, which, for the first time in
- 7 California history, directs the State Water Resources Control Board
- 8 to implement mandatory water reductions across the state to reduce
- 9 water usage by 25 percent.
- 10 (c) One component of the Governor’s Executive Order compels
- 11 the replacement of 50 million square feet of lawns throughout the
- 12 state with drought tolerant landscaping.
- 13 (d) Among a wide variety of drought tolerant landscaping are
- 14 a variety of native plants and landscaping alternatives, including
- 15 the installation of synthetic grass or artificial turf.
- 16 (e) According to the Department of Water Resources, landscape
- 17 irrigation represents 43 percent of urban water use. The installation
- 18 of artificial turf or synthetic grass, in lieu of conventional lawns

1 and landscapes, can directly reduce outdoor water use to help meet
2 the Governor’s mandated 25-percent statewide water use reduction.

3 (f) The vast majority of Californians may today elect to install
4 artificial turf or synthetic grass in their single-family residential
5 landscapes. Homeowners within common interest developments
6 should also be afforded a similar opportunity within appropriate
7 design, aesthetic, and drainage standards defined by their
8 homeowners’ association.

9 SEC. 2. Section 4735 of the Civil Code is amended to read:

10 4735. (a) Notwithstanding any other law, a provision of the
11 governing documents or architectural or landscaping guidelines
12 or policies shall be void and unenforceable if it does any of the
13 following:

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

17 (2) Prohibits, or includes conditions that have the effect of
18 prohibiting, the use of artificial turf or any other synthetic surface
19 that resembles grass.

20 (3) Has the effect of prohibiting or restricting compliance with
21 either of the following:

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

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

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

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

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

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

4 (d) *An owner of a separate interest upon which water-efficient*
5 *landscaping measures have been installed in response to a*
6 *declaration of a state of emergency described in subdivision (c)*
7 *shall not be required to reverse or remove the water-efficient*
8 *landscaping measures upon the conclusion of the state of*
9 *emergency.*

10 SEC. 3. This act is an urgency statute necessary for the
11 immediate preservation of the public peace, health, or safety within
12 the meaning of Article IV of the Constitution and shall go into
13 immediate effect. The facts constituting the necessity are:

14 There have been numerous stories across the state regarding
15 discrimination against homeowners by a homeowner’s association
16 when the homeowners attempt to replace their water-intensive
17 lawns with artificial grass. California is in the fourth year of a
18 drought with no end in sight. Governor Brown has ordered a 25
19 percent statewide reduction in urban water consumption and
20 ordered that Californians take out 50 million square feet of lawns
21 to conserve water. Because residential landscaping accounts for
22 35 percent of urban water usage statewide, allowing homeowners
23 the freedom to use conservation-friendly landscaping will be one
24 important ingredient in reaching our mandatory water reduction
25 goals as soon as possible.

26 Throughout California, homeowners are subject to stricter water
27 conservation regulations. While in the middle of a water shortage
28 crisis, homeowner associations are not allowing homeowners to
29 make voluntary sacrifices and are still forcing them to maintain
30 grass lawns, and fining them if they are out of compliance. This
31 act ensures that all homeowners have the right to better conserve
32 water by voluntarily replacing grass with artificial grass. Property
33 owners who pursue water conservation should be encouraged, not
34 sued or fined. Thus, this act is necessary for the immediate
35 preservation of the public peace, health, and safety.

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