

Assembly Bill No. 349

Passed the Assembly August 27, 2015

Chief Clerk of the Assembly

Passed the Senate August 24, 2015

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2015, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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, 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 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.

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

SECTION 1. The Legislature hereby finds and declares:

(a) With the lowest snowpack ever recorded, California finds itself in 2015 in the fourth year of a historic, prolonged, and potentially devastating drought.

(b) Governor Edmund G. Brown Jr. issued an Executive Order on April 1, 2015, which, for the first time in California history, directs the State Water Resources Control Board to implement mandatory water reductions across the state to reduce water usage by 25 percent.

(c) One component of the Governor's Executive Order compels the replacement of 50 million square feet of lawns throughout the state with drought tolerant landscaping.

(d) Among a wide variety of drought tolerant landscaping are a variety of native plants and landscaping alternatives, including the installation of synthetic grass or artificial turf.

(e) According to the Department of Water Resources, landscape irrigation represents 43 percent of urban water use. The installation of artificial turf or synthetic grass, in lieu of conventional lawns and landscapes, can directly reduce outdoor water use to help meet the Governor's mandated 25-percent statewide water use reduction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

There have been numerous stories across the state regarding discrimination against homeowners by a homeowner's association when the homeowners attempt to replace their water-intensive lawns with artificial grass. California is in the fourth year of a drought with no end in sight. Governor Brown has ordered a 25 percent statewide reduction in urban water consumption and ordered that Californians take out 50 million square feet of lawns

to conserve water. Because residential landscaping accounts for 35 percent of urban water usage statewide, allowing homeowners the freedom to use conservation-friendly landscaping will be one important ingredient in reaching our mandatory water reduction goals as soon as possible.

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

Approved _____, 2015

Governor