

Assembly Bill No. 2104

CHAPTER 421

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

[Approved by Governor September 18, 2014. Filed with
Secretary of State September 18, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2104, Gonzalez. Common interest developments: water-efficient landscapes.

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, that governs 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.

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 contains the above-described prohibitions or prohibits, or includes conditions that have the effect of prohibiting, low water-using plants as a replacement of existing turf.

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

SECTION 1. 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) 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 shall not impose a fine or assessment against a member 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.