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SB-407 Common interest developments: noncommercial solicitation. (2017-2018)

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Senate Bill No. 407

CHAPTER 236

An act to add Section 4515 to the Civil Code, relating to common interest developments.

[Approved by Governor September 11, 2017. Filed with Secretary of State September 11, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

SB 407, Wieckowski. Common interest developments: noncommercial solicitation.

Existing law, the Davis-Stirling Common Interest Development Act, defines and regulates common interest developments that are managed by homeowners' associations. The act requires an association to adopt rules that ensure access to the common area meeting space, if any exists, during a campaign, at no cost, to all candidates and to all members advocating a point of view. The act also requires the adoption of rules that ensure that if any candidate or member advocating a point of view is provided access to association media, newsletters, or Internet Web sites during a campaign, for purposes that are related to that election, equal access is provided to all candidates and members advocating a point of view.

This bill would provide that the governing documents, including bylaws and operating rules, of a residential common interest development may not prohibit a member or resident of a common interest development from engaging in certain activities, including peacefully assembling or meeting during reasonable hours and in a reasonable manner for purposes relating to common interest development living, association elections, legislation, election to public office, or the initiative, referendum, or recall processes. The bill would prohibit a member or resident of a common interest development from being required to pay a fee, make a deposit, obtain liability insurance, or pay the premium or deductible on the association's insurance policy to use the association's common area for these activities. The bill would authorize a member or resident of a common interest development who is prevented by the association or its agents from engaging in any of these activities to bring a civil or small claims court action to enjoin the enforcement of a governing document that violates this bill. The bill would authorize a court to assess a civil penalty of not more than \$500 per violation.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 4515 is added to the Civil Code, to read:

4515. (a) It is the intent of the Legislature to ensure that members and residents of common interest developments have the ability to exercise their rights under law to peacefully assemble and freely communicate with one another and with others with respect to common interest development living or for social, political, or educational purposes.

(b) The governing documents, including bylaws and operating rules, shall not prohibit a member or resident of a common interest development from doing any of the following:

(1) Peacefully assembling or meeting with members, residents, and their invitees or guests during reasonable hours and in a reasonable manner for purposes relating to common interest development living, association elections, legislation, election to public office, or the initiative, referendum, or recall processes.

(2) Inviting public officials, candidates for public office, or representatives of homeowner organizations to meet with members, residents, and their invitees or guests and speak on matters of public interest.

(3) Using the common area, including the community or recreation hall or clubhouse, or, with the consent of the member, the area of a separate interest, for an assembly or meeting described in paragraph (1) or (2) when that facility or separate interest is not otherwise in use.

(4) Canvassing and petitioning the members, the association board, and residents for the activities described in paragraphs (1) and (2) at reasonable hours and in a reasonable manner.

(5) Distributing or circulating, without prior permission, information about common interest development living, association elections, legislation, election to public office, or the initiative, referendum, or recall processes, or other issues of concern to members and residents at reasonable hours and in a reasonable manner.

(c) A member or resident of a common interest development shall not be required to pay a fee, make a deposit, obtain liability insurance, or pay the premium or deductible on the association's insurance policy, in order to use a common area for the activities described in paragraphs (1), (2), and (3) of subdivision (b).

(d) A member or resident of a common interest development who is prevented by the association or its agents from engaging in any of the activities described in this section may bring a civil or small claims court action to enjoin the enforcement of a governing document, including a bylaw and operating rule, that violates this section. The court may assess a civil penalty of not more than five hundred dollars (\$500) for each violation.