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AB-1410 Common interest developments. (2021-2022)

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Assembly Bill No. 1410

CHAPTER 858

An act to amend Section 4515 of, and to add Sections 4739 and 5875 to, the Civil Code, relating to common interest developments.

[Approved by Governor September 30, 2022. Filed with Secretary of State September 30, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1410, Rodriguez. Common interest developments.

Existing law, the Davis-Stirling Common Interest Development Act, regulates common interest developments and associations, as defined. Existing law also regulates governing documents, as defined, and protects certain uses of a homeowner's separate property. That law, among other things, prohibits an association from restricting specified rights of a homeowner. These rights include the right to peacefully assemble, to invite public officials or other speakers to discuss matters of public interest, to distribute literature related to common interest development living, and to rent or lease a separate interest unless the governing document or amendment that restricts a homeowner's right to rent or lease their separate interest existed prior to the homeowner acquiring title to the separate interest.

This bill would prohibit the governing documents from prohibiting a member or resident of a common interest development from using social media or other online resources to discuss specified issues even if the content is critical of the association or its governance, including, among other issues, development living and association elections. The bill would additionally prohibit an association from retaliating against a member or a resident for exercising certain rights, including the right to peacefully assemble or to use social media or other online resources to discuss certain issues.

Under this bill, an owner of a separate interest in a common interest development would not be subject to a provision in a governing document that prohibits the rental or leasing of a portion of the owner-occupied separate interest for more than 30 days, without regard to whether such restriction existed at the time the homeowner acquired title to the separate interest.

Existing law authorizes associations to establish penalties for violation of the governing documents, and regulates how an association may enforce such penalties.

This bill would prohibit an association from taking any enforcement actions for the violation of governing documents during a declared emergency, as specified, except those actions relating to the homeowner's nonpayment of assessments, if the emergency makes it unsafe or impossible for the homeowner to either prevent or fix the violation.

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

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

SECTION 1. The Legislature finds and declares all of the following:

- (a) During an unprecedented pandemic and resulting economic crisis, homeowners have struggled in a variety of ways to maintain their homes.
- (b) It is in the interest of homeowners that special protections be put in place against enforcement actions and fines by an association in times of emergency.
- (c) It is counter to the interest of the state, its residents, and its housing and homelessness policy to prohibit homeowners from inviting a tenant into their home.
- (d) It is in the best interest of the state to ensure those with fiduciary responsibilities with regards to homeowners receive appropriate training.

SEC. 2. Section 4515 of the Civil Code is amended 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.

(6) (A) Using social media or other online resources to discuss any of the following, even if the content is critical of the association or its governance:

(i) Development living.

(ii) Association elections.

(iii) Legislation.

(iv) Election to public office.

(v) The initiative, referendum, or recall processes.

(vi) Any other issues of concern to members and residents.

(B) This paragraph does not require an association to provide social media or other online resources to members.

(C) This paragraph does not require an association to allow members to post content on the association's internet website.

(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.

(e) An association shall not retaliate against a member or a resident for exercising any of the rights contained in this section.

SEC. 3. Section 4739 is added to the Civil Code, to read:

4739. (a) Notwithstanding Section 4740, an owner of a separate interest in a common interest development shall not be subject to a provision in a governing document, or amendments thereto, that prohibits the rental or leasing of a portion of the owner-occupied separate interest in that common interest development to a renter, lessee, or tenant for a period of more than 30 days.

(b) Nothing in this section shall permit an owner of a separate interest or a resident renting or leasing a portion of the owner-occupied separate interest to violate any provision of the association governing documents that govern conduct in the separate interest or common areas, or that govern membership rights or privileges, including, but not limited to, parking restrictions and guest access to common facilities.

SEC. 4. Section 5875 is added to the Civil Code, to read:

5875. An association shall not pursue any enforcement actions for a violation of the governing documents, except those actions relating to the homeowner's nonpayment of assessments, during a declared state or local emergency if the nature of the emergency giving rise to the declaration makes it unsafe or impossible for the homeowner to either prevent or fix the violation.

SEC. 5. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.