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AB-572 Common interest developments: imposition of assessments. (2023-2024)

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Assembly Bill No. 572

CHAPTER 745

An act to amend Section 5605 of the Civil Code, relating to common interest developments.

[Approved by Governor October 11, 2023. Filed with Secretary of State October 11, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 572, Haney. Common interest developments: imposition of assessments.

Existing law, the Davis-Stirling Common Interest Development Act, defines and regulates common interest developments, including the establishment and imposition of assessments. Existing law limits increases in regular assessments and the aggregate of special assessments that the board may impose in any fiscal year without the approval of a majority of a quorum of members, as specified.

This bill would, with certain exceptions, prohibit an association that records its original declaration on or after January 1, 2025, from imposing an increase of a regular assessment on the owner of a deed-restricted affordable housing unit that is more than 5% plus the percentage change in the cost of living, not to exceed 10% greater than the preceding regular assessment for the association's preceding fiscal year.

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

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

SECTION 1. Section 5605 of the Civil Code is amended to read:

5605. (a) Annual increases in regular assessments for any fiscal year shall not be imposed unless the board has complied with paragraphs (1), (2), (4), (5), (6), (7), and (8) of subdivision (b) of Section 5300 with respect to that fiscal year, or has obtained the approval of a majority of a quorum of members, pursuant to Section 4070, at a member meeting or election.

(b) Notwithstanding more restrictive limitations placed on the board by the governing documents, the board may not impose a regular assessment that is more than 20 percent greater than the regular assessment for the association's preceding fiscal year or impose special assessments which in the aggregate exceed 5 percent of the budgeted gross expenses of the association for that fiscal year without the approval of a majority of a quorum of members, pursuant to Section 4070, at a member meeting or election.

(c) (1) (A) For an association that records its original declaration on or after January 1, 2025, notwithstanding more restrictive limitations placed on the board by the governing documents, except as provided in paragraph (3), the board shall not impose a regular assessment against an owner of a deed-restricted affordable housing unit that is more than 5 percent plus the percentage change in the cost of living, not to exceed 10 percent greater than the preceding regular assessment.

(B) For purposes of this paragraph, "percentage change in the cost of living" means the percentage change from April 1 of the prior year to April 1 of the current year in the regional Consumer Price Index for the region where the residential real property is located, as published by the United States Bureau of Labor Statistics. If a regional index is not available, the California Consumer Price Index for All Urban Consumers for all items, as determined by the Department of Industrial Relations, shall apply.

(2) For an association that records its original declaration on or after January 1, 2025, notwithstanding any other law, except as provided in paragraph (3), the board may impose an assessment against an owner of a deed-restricted affordable housing unit that is lower than the assessment imposed against other owners according to the proportional ownership of total subdivision interests subject to assessments.

(3) This subdivision does not apply to any of the following:

(A) A development where the percentage of the units, exclusive of a manager's unit or units, that are deed-restricted affordable housing units exceeds the percentage required by an applicable zoning ordinance in effect at the time the development received final approval.

(B) A development that is located within a city, county, or city and county that does not have an applicable zoning ordinance requiring a percentage of deed-restricted affordable housing units and meet either of the following conditions:

(i) The percentage of the units, exclusive of a manager's unit or units, that are deed-restricted affordable housing exceeds 10 percent of the total number of units in the development at the time the development received final approval.

(ii) If the development met the requirements described in subparagraph (B) of paragraph (1) of subdivision (b) of Section 65912.122 of the Government Code and was approved pursuant to Section 65912.124 of the Government Code, the percentage of the units, exclusive of a manager's unit or units, that are deed-restricted affordable housing exceeds 15 percent of the total number of units in the development at the time the development received final approval.

(C) A development of 20 units or fewer.

(d) For the purposes of this section, all of the following definitions apply:

(1) "Affordable housing unit" means a unit occupied by, or available at affordable housing cost to, lower income and moderate-income households, as defined by Sections 50079.5 and 50052.5, respectively, of the Health and Safety Code.

(2) "Final approval" has the same meaning as defined in clause (ii) of subparagraph (D) of paragraph (2) of subdivision (o) of Section 65589.5 of the Government Code.

(3) "Quorum" means more than 50 percent of the members.