

CONCURRENCE IN SENATE AMENDMENTS

AB 3182 (Ting)

As Amended August 27, 2020

Majority vote

SUMMARY:

This bill requires common interest developments (CIDs) to allow at least 25% of owners to rent or lease out their units.

The Senate Amendments:

- 1) Authorizes a CID to impose reasonable rental restrictions that have the effect of limiting the total number of rentals of 25% or higher of the individual dwelling units in the CID. Provides that ADUs and junior accessory dwelling units (JADUs) must not be counted toward this cap. Provides that such a cap must not change the right of an individual owner who was renting their unit out prior to the effective date of this bill, to continue renting out their unit.
- 2) Requires CIDs to follow the requirements of this bill on January 1, 2021 and requires amendments of governing documents to be completed by CIDs by December 31, 2021. Requires CIDs to comply with this bill regardless of whether the governing documents have been amended.
- 3) Provides that a CID that violates the provisions of this bill must be liable for a civil penalty of up to \$1,000.
- 4) Adds a number of provisions to address chaptering errors related to several 2019 bills pertaining to ADUs.

COMMENTS:

California has over 52,000 CIDs which range in size from three to 27,000 units. Approximately one third of Californians live in a CIDs. CIDs include condominiums, community apartment projects, housing cooperatives, and planned unit developments. They are characterized by a separate ownership of dwelling units coupled with shared access to common spaces and facilities, restricted by covenants and conditions that limit the use of common area, and the separate ownership interests and the management of common property and enforcement of restrictions by an association.

CIDs are regulated under the Davis-Stirling Act (Civil Code Section 4000 *et seq*) as well as the governing documents of the association, including the bylaws, declaration, and operating rules. CIDs also have Covenants, Conditions, and Restrictions (CC&Rs) which are filed with the county recorded at the time they are established. Owners in a CID are contractually obligated to abide by the CC&Rs and the governing documents of a CID, which specify the rules regarding how an owner can modify their home. However, the Legislature has passed a number of laws ensuring that homeowners association (HOAs) cannot deny a homeowner's request to install solar energy systems, electric vehicle (EV) charging stations, low-water use plants, and artificial turf. While HOAs are allowed to impose reasonable restrictions on these types of improvements, the governing documents of an HOA cannot prohibit their use.

In 2011, SB 150 (Correa) Chapter 62, Statutes of 2011, prevented CIDs from creating new restrictions on the rental and lease of separate interests in CIDs. However, that legislation left an exception allowing existing rental bans to be grandfathered in if they were in effect before January 1, 2012. This bill would remove the exemption for pre-2012 rental bans and prevent the governing documents of a CID from banning the rental or leasing of a separate interest. In its place, this bill authorizes a CID to impose rental restrictions that have the effect of limiting the total number of rentals of 25% or higher of the individual dwelling units in the CID. This restriction to 25 percent is designed to enable CIDs to remain eligible for loans from government entities like the Federal Housing Authority and the Veterans Administration, which are predicated on CIDs maintaining certain owner occupancy rates.

According to the Author:

"We must marshal all available resources to address the housing and homelessness crisis. There are millions of homes across the state that have the potential to be rented to Californians in need of housing but that are prohibited from being leased under outdated homeowners association (HOA) rules. AB 3182 prohibits rental bans in HOAs to allow homeowners who want to rent out their homes."

Arguments in Support:

Supporters argue that the bill is necessary to ensure the development of ADUs and promote a diversity of housing options. According to California YIMBY, "HOAs can currently adopt rules that would ban tenants...prohibitions against tenants act as a prohibition against the production of important types of housing needed to solve California housing crisis, because if that housing cannot be occupied by a tenant, it is unlikely to be built in many cases. AB 3182 solves this issue by amending the Davis-Stirling Act...to limit the areas where CIDs can ban renters."

Arguments in Opposition:

Opponents argue that this bill would create impediments to their associations and prospective homebuyers. According to the Community Associations Institute - California Legislative Action Committee, "AB 3182 will create a couple major issues for associations, especially condominium associations. First, we are concerned it will jeopardize the opportunity for an association to access financing for critical maintenance and infrastructure issues that would otherwise need to be funded by assessment increases. It could also jeopardize the opportunity for first time homebuyers who rely on FHA loans, veterans who rely on VA loans and create issues for seniors seeking to refinance through reverse mortgages...AB 3182 will also increase investment buying within condominium associations because of the ability to rent multiple units."

FISCAL COMMENTS:

According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

VOTES:

ASM HOUSING AND COMMUNITY DEVELOPMENT: 5-2-1

YES: Chiu, Gabriel, Gloria, Limón, Maienschein

NO: Diep, Kiley

ABS, ABST OR NV: Quirk-Silva

ASSEMBLY FLOOR: 55-17-7

YES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bloom, Bonta, Calderon, Carrillo, Cervantes, Chau, Chiu, Chu, Cooley, Cooper, Daly, Eggman, Frazier, Friedman, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager, Levine, Limón, Low, Maienschein, McCarty, Medina, Mullin, Nazarian, O'Donnell, Petrie-Norris, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone, Ting, Weber, Wicks, Wood, Rendon

NO: Bigelow, Brough, Chen, Choi, Cunningham, Megan Dahle, Diep, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Obernolte, Patterson, Voepel, Waldron

ABS, ABST OR NV: Boerner Horvath, Burke, Gabriel, Mayes, Muratsuchi, Quirk, Quirk-Silva

SENATE FLOOR: 23-9-8

YES: Archuleta, Atkins, Beall, Bradford, Dodd, Durazo, Galgiani, Lena Gonzalez, Hertzberg, Hill, Hueso, Jackson, Leyva, McGuire, Mitchell, Monning, Pan, Roth, Skinner, Umberg, Wieckowski, Wiener, Wilk

NO: Bates, Borgeas, Chang, Dahle, Glazer, Grove, Morrell, Nielsen, Stern

ABS, ABST OR NV: Allen, Caballero, Hurtado, Jones, Melendez, Moorlach, Portantino, Rubio

UPDATED:

VERSION: August 27, 2020

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