

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

AB 2035 (Dixon)
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Hearing Date: June 30, 2026
Fiscal: No
Urgency: No
ID

SUBJECT

Common interest developments: declarations: amendments

DIGEST

This bill permits a court to approve a petition to reduce the percentage of member votes needed by a homeowner's association to amend the community's covenants, conditions, and restrictions to 37 percent, if certain criteria are met.

EXECUTIVE SUMMARY

Common Interest Developments (CIDs) are self-governing housing developments comprised of individually-owned housing units and common space that all homeowners and residents of the CID can enjoy. CIDs are managed and governed by homeowner associations (HOAs), of which every owner within the CID is a member. The guiding framework and rules of the HOA and the CID are encompassed in the declaration of covenants, conditions, and restrictions (declaration, or CC&Rs) that are recorded with the county when the CID is established. The CC&Rs typically state the vote threshold of members required to amend the CC&Rs, but current law also provides a process by which an HOA or member may petition a court to reduce the vote threshold to 50 percent, if certain requirements are met and the court determines that the amendments are reasonable. AB 2035 permits a court to reduce the vote threshold to amend a CID's CC&Rs to 37 percent, if the CID is a senior housing development, has more than 6,000 separate units, has more than 25 percent of its units occupied by tenants; and has not amended its CC&Rs in at least 35 years.

AB 2035 is sponsored by the Laguna Hills Third Mutual HOA. The Committee has received no other letters of support or opposition. AB 2035 previously passed out of the Senate Housing Committee by a vote of 10 to 0.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes the Davis-Stirling Common Interest Development Act, providing rules and regulations governing the establishment and operation of residential common interest developments (CIDs) and the rights and responsibilities of a CID's homeowner association (HOA) and its members. (Civ. Code §§ 4000 et seq.)
- 2) Specifies that a CID is created whenever a separate interest coupled with an interest in a common area or membership in an association is conveyed, provided that a declaration, condominium plan, if any, and a final map or parcel map are recorded. (Civ. Code § 4200.)
- 3) Requires the declaration to contain a legal description of the CID, a statement that the CID is a community apartment project, condominium project, planned development, stock cooperative, or a combination thereof, and set forth the name of the HOA and the restrictions on the use or enjoyment of any portion of the CID that are intended to be enforceable equitable servitudes. (Civ. Code § 4250.)
- 4) Permits the declaration of a CID that specifies a termination date but does not contain provisions for an extension of the termination date, before its termination date, to be extended by the approval of the members by the percentage required by the declaration for an amendment to the declaration, or by a majority of all members if no percentage is specified in the declaration, the certification of this approval, and the recordation of the amendment in each county in which a portion of the CID is located, as specified. (Civ. Code §§ 4265, 4270.)
- 5) Permits the declaration of a CID to be amended pursuant to the declaration or statute, except where an alternative process for amending the declaration is provided in specified sections of law, and makes the amendment effective after:
 - a) the amendment has been approved by the percentage of members required by the declaration and any other person whose approval is required by the declaration, or by a majority of members if a percentage is not specified in the declaration;
 - b) the approval has been certified in a writing executed and acknowledged by the officer designated in the declaration, or by the President of the HOA if none is designated; and
 - c) the amendment is recorded in each county in which a portion of the CID is located. (Civ. Code § 4270.)
- 6) Specifies that, if the CID's declaration requires members with more than 50 percent of the votes of the HOA to approve an amendment to the declaration, the HOA or any member may petition the county superior court for an order reducing the

percentage of votes necessary for an amendment, and requires the petition to describe the effort that has been made to solicit approval of the members in the manner provided by the declaration, the number of affirmative and negative votes actually received, the number or percentage of affirmative votes required under the existing declaration, and other matters the petitioner considers relevant to the court's determination, as well as copies of specified documents.

- a) Permits the court to grant the petition if it finds that the petitioner has given at least 15 days written notice of the court hearing to all members, to the mortgagee or beneficiary of a deed of trust entitled to notice under the declaration, and to the city, county, or city and county; balloting was conducted in accordance with the governing documents; a reasonably diligent effort was made to permit all eligible members to vote; members with more than 50 percent of the votes voted in favor of the amendment; the amendment is reasonable; and granting the petition is not improper for any specified reason. (Civ. Code § 4275.)

This bill:

- 1) Permits the court to grant a petition reducing the percentage of affirmative votes needed to amend a CID's CC&Rs to 37%, following the procedures described in (6), above, when:
 - a) the CID is a senior citizen housing development, as defined in Civil Code section 51.3(b)(4);
 - b) the CID has more than 6,000 separate interests;
 - c) more than 25 percent of the separate interests in the CID are occupied by tenants; and
 - d) the CC&Rs have not been amended in at least 35 years.

COMMENTS

1. Author's statement

According to the author:

AB 2035 provides a commonsense solution to allow large, senior citizen common interest developments to amend significantly out of date declarations when they are unable to reach quorum requirements established by their CC&Rs.

Some HOAs, such as Third Laguna Hills Mutual, are unable to meet quorum requirements for amendments to their CC&Rs and the current statutory alternative to reduce quorum requirements to 50% is insufficient. AB 2035 creates an additional alternative to reduce quorum requirements to 37% when the common interest development meets specified conditions. Specifically, the common interest development is required to be a senior citizen housing development, must contain at

least 6,000 separate interest, more than 25% of those interests are occupied by non-owner residents, and that the development's declaration has not been amended in 35 years.

This alternative will allow large, senior citizen developments to amend their CC&Rs when they are unable to meet quorum requirements while maintaining strong guardrails to ensure an equitable outcome. By maintaining the existing court petition process used for quorum reduction requests, AB 2035 ensures that this exception will only be used in specific, unique and necessary situations.

2. Common Interest Developments in California

Common Interest Developments (CIDs) are self-governing housing developments comprised of individually-owned housing units and common space that all homeowners and residents of the CID can enjoy. Arrangements of CIDs can vary widely, from condominiums, townhouses, and detached single-family homes, to apartment-like high rises. They may be comprised of only a few housing units, or thousands. CIDs are commonly referred to as homeowner associations, or HOAs, for the body that provides for the CID's self-governance. There are an estimated 51,700 CIDs in the state, housing an estimated 14,489,00 Californians.¹

The laws that regulate CIDs are encompassed in the Davis-Sterling Common Interest Development Act (Civ. Code §§ 4000 et seq.). Many of the rules and structural elements of a CID are determined by the Declaration of Covenants, Conditions, and Restrictions (CC&Rs) that are filed with the county recorder when the CID is established by the developer. These CC&Rs are the guiding rules of the CID and outline the CID's common area, the HOA's responsibilities, the obligation of the HOA to collect assessments from homeowners to cover the HOA's expenses, and a variety of other topics. The CC&Rs of the CID run with the land, as in they apply to each homeowner's property and remain on the land after a sale or transfer, encumbering future owners of the land.

All homeowners in the CID are members of the HOA, which is often incorporated as a mutual benefit corporation upon the formation of the CID. The HOA manages the CID and maintains its common space. To do so, the HOA elects a board of directors (board), and passes bylaws outlining the governance rules of the HOA and its board of directors. The board has a number of duties and powers for the management of the community, including setting the regular, monthly assessments that members must pay in order to cover communal expenses. When a homeowner in the CID does not pay their assessments, the HOA board has the authority to impose a lien and foreclose on

¹ Foundation for Community Association Research, *Community Association Fact Book 2025: 2025 U.S. National and State Statistical Review* (2025).

the individual's property. (Civ. Code §§ 5660, 5700.) The HOA may also impose fines on individual members for violations of the rules of the HOA.

An HOA board also can establish rules governing a broad variety of topics relating to the CID and what members can and cannot do with their individual units and in the common areas. The HOA exists as essentially its own, self-governing municipal government for the development, "regulating many aspects of [the homeowners'] daily lives." (*Villa Milano Homeowners Ass'n v. Il Davorge* (2000) 84 Cal.App.4th 819, 836.)

3. Current law allows HOA CC&Rs to be amended with a majority vote of members

As the CC&Rs bind current and future property owners and are the guiding documents of the CID, they are typically designed to be difficult to change. They often include language specifying how they may be amended, including the vote threshold of the HOA required to pass amendments. If the CC&Rs do not include provisions for their amendment, they may be amended by approval of a majority of all HOA members and the recording of the amendment. (Civ. Code § 4270.) Amendments to the CID's CC&Rs are applied retroactively to every member regardless of when they purchased their unit. (*Villa de las Palmas Homeowners Assn. v. Terifaj* (2004) 33 Cal. 4th 73, 79.)

If the vote threshold in the CC&Rs proves too burdensome, the law also allows a court to lower the threshold to a majority in certain circumstances. (Civ. Code § 4275.) It permits the HOA, or any member of the HOA, to petition the superior court to reduce the percentage required to amend the CC&Rs to 50 percent plus one. In order to do so, the petition must describe: the effort that has been made to solicit approval of the HOA members; the number of affirmative and negative votes actually received; the number or percentage of affirmative votes required to affect the amendment under the CC&Rs; and any other matters that may be relevant, with specified exhibits. (Civ. Code § 4275(a).)

The court is permitted to grant this petition, in its discretion, if it finds that: the petitioner has given at least 15 days written notice of the court hearing to all members, to any mortgagee, and to the city, county, or city and county; balloting on the proposed amendment was conducted in accordance with the governing documents and applicable law; a reasonably diligent effort was made to permit all eligible members to vote on the proposed amendment; members of more than 50 percent of the votes voted in favor of the amendment; and the amendment is reasonable and not improper. (Civ. Code § 4275(c).) However, the court may not approve amendments through this process that may eliminate any special rights for the developer without the developer's consent, or that would impair the security interest of a mortgagee or beneficiary of a deed of trust.

4. The Laguna Hills Mutual HOA

The sponsor of this measure is an HOA to which this measure will apply, the Laguna Hills Mutual HOA in Laguna Hills. According to the author and sponsor, the Laguna Hills Mutual HOA has been unfortunately unable to muster enough votes of its membership to meet neither the vote threshold contained in its CC&Rs or the bare majority threshold permitted under Civil Code section 4275; the HOA has not amended its CC&Rs since 1988. The Laguna Hills Third Mutual HOA is a senior community made up of 6,102 homeowners. More than a quarter of its units are rented out by their owners. Apparently, the HOA has tried and failed twice to amend their CC&Rs within the past seven years, spending over \$140,000 to do so. Apparently, 85 percent of the members who did vote supported the proposed CC&R amendments.

AB 2035 would permit a very narrow category of HOAs to petition the court to amend their CC&Rs by a vote threshold of 37 percent. Specifically, the CID must be a senior citizen housing development with more than 6,000 separate interests, of which more than 25 percent are occupied by tenants, and must have not amended its CC&Rs in at least 35 years. Under these requirements, it appears that the Laguna Hills Third Mutual HOA would qualify, though it is unclear how many other HOAs, if any, would qualify.

There are a number of significant concerns with this proposal. First is simply the fact that it permits the enactment of changes to an HOA's guiding documents by less than a majority of the HOA members who will be affected by those changes. Such a lowered threshold raises questions of whether such a vote is truly democratic or truly represents the desires of a majority of the members of the HOA. In fact, by its very language, AB 2035 permits CC&R amendments that are *not* supported by the majority of the HOA. There is nothing within the bill that suggests that the permissible vote cannot include a majority of members voting no, as long as the affirmative votes reach 37 percent.

In addition, nothing in AB 2035 limits what the amendments to an HOA's CC&Rs can contain. While an HOA that has not updated its CC&Rs in 35 years undoubtedly has plenty of changes to make to modernize its CC&Rs, the HOA could also make any number of other amendments. It could, for example, ban short-term rentals within the HOA, or could attempt to remove its status as a senior housing development. While the judge has the ultimate say regarding approving the CC&R amendments and must find that the changes are reasonable, that is no guarantee that amendments may be enacted through AB 2035's process that are nonetheless actually unpopular or controversial among a majority of the HOA's members. To add another level of concern, AB 2035's requirement that the HOA not have amended its CC&Rs within 35 years means that *an HOA utilizing its process can essentially only do so once*. After the CC&Rs are amended, AB 2035's process is foreclosed from the HOA for another 35 years. These are important considerations when considering a measure designed for one particular HOA.

5. Arguments in support

According to the Laguna Hills Third Mutual HOA, which is the sponsor of this bill:

Third Mutual's 67% quorum requirement would be a high bar for many HOAs and has proven impossible for us to meet. But because of Third Mutual's unique circumstances, even reaching the 50% affirmative vote of the full membership required for judicial certification has proven impossible for us, as well. As a result, our bylaws have not been updated since 1988!

The problem is that with over 6,000 units, more than a quarter of which are rented out by owners typically uninterested in governance issues, and many part time residents, we just cannot get people to vote. We've tried twice just within the last seven years and, despite hundreds of hours of volunteer time and over \$ 140,000 spent conducting the elections and trying to turn out the vote, the best we've been able to muster is a 47% turnout. Approximately 85% of the members who voted were in favor of amending the CC&Rs, but clearly, if less than half the membership votes, it is mathematically impossible to reach the 50% affirmative vote of the full membership required to petition the court for judicial approval. [...]

In addition to updating Third Mutual's CC&Rs to reflect statutory changes to the Davis-Stirling Act over the last 38 years, we wish to update our CC&Rs to reflect current circumstances reflective of modern technology and policy changes that have occurred over the decades, such as the introduction and use of electrical vehicles and the correlating need for EV chargers.

AB 2035 is a fair and common-sense solution for Third Mutual of Laguna Hills to provide our homeowners with the ability to approve updated rules, and to provide the necessary and the appropriate clarity and accountability with respect to our oversight and governance.

SUPPORT

Third Mutual of Laguna Hills (sponsor)

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation:

AB 2692 (Irwin, 2026) permits the CC&Rs of a CID that have terminated to be reinstated by approval of the owners of the development's separate interests, as specified, limits the applicability of its provisions to the County of Los Angeles, and repeals its provisions on January 1, 2028. AB 2692 is currently pending on the floor of the Senate.

AB 1184 (Patterson, 2025) excludes a vote for an amendment of an HOA's operating rules from the requirement that the vote be held by secret ballot by the procedures required by the Davis-Sterling Act, among other things. AB 1184 is currently pending before this Committee and will be heard on the same day as this bill.

Prior Legislation:

AB 805 (Torres, Ch. 180, Stats. 2012) comprehensively reorganized and recodified the Davis-Sterling Common Interest Development Act into its current code sections and Civil Code sections 4000 et seq., and made a number of substantive changes to the Act.

(Sterling, Ch. 874, Stats. 1985) established the Davis-Sterling Common Interest Development Act.

PRIOR VOTES:

Senate Housing Committee (Ayes 10, Noes 0)
Assembly Floor (Ayes 73, Noes 0)
Assembly Judiciary Committee (Ayes 12, Noes 0)
Assembly Housing and Community Development Committee (Ayes 12, Noes 0)
