

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 691

Introduced by Assembly Member Silva

February 21, 2007

An act to amend Sections 11500, 11501, 11502, 11502.5, 11504, and 11505 of, and to repeal Chapter 5 (commencing with Section 11506) of Part 4 of Division 4 of, the Business and Professions Code relating to common interest developments.

LEGISLATIVE COUNSEL'S DIGEST

AB 691, as amended, Silva. ~~Common~~ *Certified common* interest development managers.

Existing law, the Davis-Stirling Common Interest Development Act, establishes a scheme for the regulation of common interest developments. Existing law requires a person to meet certain requirements in order to be called a "certified common interest development manager" and imposes other requirements with regard to common interest development managers. *Existing law, makes professional associations, as defined, responsible for the certification of common interest development managers, as specified. Existing law defines various terms for carrying out these provisions.* Under existing law, the provisions regulating *certified* common interest development managers become inoperative and are repealed on January 1, 2008.

~~This bill would declare the intent of the Legislature to enact legislation that would extend the date upon which these provisions become inoperative and are repealed.~~

This bill would extend the operation of these provisions indefinitely. The bill would modify the requirements in order to be called a "certified

common interest development manager” and would require professional associations to offer continuing education courses to common interest development managers. The bill would also revise various definitions. The bill would make numerous, nonsubstantive and technical changes.

Vote: majority. Appropriation: no. Fiscal committee: no.
 State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. *The Legislature finds and declares all of the*
- 2 *following:*
- 3 (i) *There are approximately 41,000 common interest*
- 4 *developments in this state. California common interest*
- 5 *developments contain over 10 million homes that house more than*
- 6 *10 million people.*
- 7 (ii) *Homes in common interest developments, like homes that*
- 8 *are not in common interest developments, most often represent the*
- 9 *owner’s single largest lifetime investment.*
- 10 (iii) *The management and operation of common interest*
- 11 *developments is governed by a complex set of statutes and*
- 12 *decisional law. In addition to possessing an understanding of the*
- 13 *law, the successful professional common interest development*
- 14 *management and operation of common interest developments*
- 15 *require fundamental skills in subjects including, but not limited*
- 16 *to, finance, accounting, bookkeeping, contract administration,*
- 17 *human resources, and parliamentary procedure.*
- 18 (iv) *Common interest development managers are often delegated*
- 19 *the authority, by the governing body of a common interest*
- 20 *development, to collect and disburse substantial sums of money*
- 21 *annually in homeowner assessments, which are used for the*
- 22 *purpose of operating the community.*
- 23 (v) *The growth in common interest developments, coupled with*
- 24 *the addition of governing statutes and decisional law, has*
- 25 *emphasized the importance for common interest development*
- 26 *managers to have the necessary skills and technical expertise to*
- 27 *manage these associations.*
- 28 (vi) *Individuals managing common interest developments who*
- 29 *have these skills and expertise may identify themselves as*
- 30 *“certified,” if they have met the requirements of Section 11502 of*
- 31 *the Business and Professions Code.*

1 (g) *Since the enactment of the certification law in 2003,*
2 *voluntary certification has tripled, resulting in a significant*
3 *increase in the number of educated professional community*
4 *managers.*

5 (h) *Residents of common interest developments in this state,*
6 *who serve as board members of those developments, should be*
7 *made aware that those managers who refer to themselves as*
8 *“certified community managers” have met specific educational*
9 *requirements and standards.*

10 SEC. 2. *Section 11500 of the Business and Professions Code*
11 *is amended to read:*

12 11500. For purposes of this chapter, the following definitions
13 apply:

14 (a) “Common interest development” means a residential
15 development identified in subdivision (c) of Section 1351 of the
16 Civil Code.

17 (b) ~~“Community association” means a nonprofit corporation or~~
18 ~~unincorporated association created for the purpose of managing a~~
19 ~~common interest development. A community association is an~~
20 ~~“association.”~~ “Association” has the same meaning as defined in
21 subdivision (a) of Section 1351 of the Civil Code.

22 (c) “Financial services” means an act performed or offered to
23 be performed, for compensation, for ~~a community~~ an association
24 including, but not limited to, the preparation of internal unaudited
25 financial statements, internal accounting and bookkeeping
26 functions, billing of assessments, and related services.

27 (d) “Management services” means an act performed or offered
28 to be performed in an advisory capacity for ~~a community~~ an
29 association including, but not limited to, the following:

30 (1) Administering or supervising the *collection, reporting, and*
31 *archiving of the* financial or common area assets of ~~a community~~
32 *an* association or common interest development, at the direction
33 of the ~~community~~ association’s ~~governing body~~ *board of directors.*

34 (2) Implementing resolutions and directives of the board of
35 directors of the ~~community~~ association elected to oversee the
36 operation of a common interest development.

37 (3) Implementing provisions of governing documents, as defined
38 in Section 1351 of the Civil Code, which govern the operation of
39 the ~~community association~~ or common interest development.

1 (4) Administering ~~a community association's~~ *association*
 2 contracts, including insurance contracts, within the scope of the
 3 ~~community~~ association's duties or with other common interest
 4 development managers, vendors, contractors, and other third-party
 5 providers of goods and services to ~~a community~~ *an* association or
 6 common interest development.

7 (e) "Professional association for common interest development
 8 managers" means an organization that meets all of the following:

9 (1) Has at least 200 members or certificants who are common
 10 interest development managers in California.

11 (2) Has been in existence for at least five years.

12 (3) Operates pursuant to Section 501(c) of the Internal Revenue
 13 Code.

14 (4) Certifies that a common interest development manager has
 15 met the criteria set forth in Section 11502 without requiring
 16 membership in the association.

17 (5) Requires adherence to a code of professional ethics and
 18 standards of practice for certified common interest development
 19 managers.

20 *SEC. 3. Section 11501 of the Business and Professions Code*
 21 *is amended to read:*

22 11501. (a) "Common interest development manager" means
 23 an individual who for compensation, or in expectation of
 24 compensation, provides or contracts to provide management or
 25 financial services, or represents himself or herself to act in the
 26 capacity of providing management or financial services to ~~a~~
 27 ~~community~~ *an* association. Notwithstanding any other provision
 28 of law, an individual may not be required to obtain a real estate or
 29 broker's license in order to perform the services of a common
 30 interest development manager to ~~a community~~ *an* association.

31 (b) "Common interest development manager" also means any
 32 of the following:

33 (1) An individual who is a partner in a partnership, a shareholder
 34 or officer in a corporation, or who, in any other business entity
 35 acts in a capacity to advise, supervise, and direct the activity of a
 36 registrant or provisional registrant, or who acts as a principal on
 37 behalf of a company that provides the services of a common
 38 interest development manager.

1 (2) An individual operating under a fictitious business name
2 who provides the services of a common interest development
3 manager.

4 This section may not be construed to require ~~a community an~~
5 association to hire for compensation a common interest
6 development manager, unless required to do so by ~~the its~~ governing
7 documents ~~of the common interest development~~. Nothing in this
8 part shall be construed to supersede any law that requires a license,
9 permit, or any other form of registration, to provide management
10 or financial services. Nothing in this section shall preclude a
11 licensee of the California Board of Accountancy ~~to provide from~~
12 ~~providing~~ financial services to ~~a community an~~ association within
13 the scope of his or her license in addition to the preparation of
14 reviewed and audited financial statements and the preparation of
15 the ~~community~~ association's tax returns.

16 *SEC. 4. Section 11502 of the Business and Professions Code*
17 *is amended to read:*

18 11502. In order to be called a "certified common interest
19 development manager," the person shall meet one of the following
20 requirements:

21 (a) Prior to July 1, 2003, has passed a knowledge, skills, and
22 aptitude examination as specified in Section 11502.5 or has been
23 granted a certification or a designation by a professional association
24 for common interest development managers, and who has, within
25 five years prior to July 1, 2004, received instruction in California
26 law pursuant to paragraph (1) of subdivision (b).

27 (b) On or after July 1, 2003, has successfully completed an
28 educational curriculum that shall be no less than a combined 30
29 hours in coursework described in this subdivision and passed an
30 examination or examinations that test competence in common
31 interest development management in the following areas:

32 (1) ~~Instruction in California~~ *The law that is related relates to*
33 *the management of common interest developments, including, but*
34 *not limited to, the following courses of study:*

35 (A) ~~The topics~~ *Topics* covered by the Davis-Stirling Common
36 Interest Development Act, contained in ~~Sections 1350 to 1376,~~
37 ~~inclusive,~~ *Title 6 (commencing with Section 1350) of Part 4 of*
38 *Division 2 of the Civil Code, including, but not limited to, the*
39 *types of California common interest developments, disclosure*
40 *requirements pertaining to common interest developments, meeting*

1 requirements for community association boards of directors and
 2 members, financial disclosure and reporting requirements, and
 3 member access to community association records.

4 (B) Personnel issues, including, but not limited to, general
 5 matters related to independent contractor or employee status, issues
 6 related to types of the laws on harassment, the Unruh Civil Rights
 7 Act, fair employment laws the California Fair Employment and
 8 Housing Act, and the Americans with Disabilities Act.

9 (C) Risk management as it pertains to common interest
 10 development, including, but not limited to, required insurance
 11 coverage and preventative, maintenance programs, operations,
 12 and emergency preparedness.

13 (D) Property protection for associations, including, but not
 14 limited to, general pertinent matters relating to hazardous materials
 15 environmental hazards such as asbestos, radon gas, and lead
 16 lead-based paint, the Vehicle Code, local and municipal
 17 regulations, family day care homes facilities, energy conservation,
 18 Federal Communications Commission rules and regulations, and
 19 solar energy systems.

20 (E) The business-Business affairs of community associations,
 21 including, but not limited to, necessary compliance with all
 22 required local, state, and federal laws and treaties federal, state,
 23 and local law.

24 (F) Basic understanding of governing documents, codes, and
 25 regulations relating to the activities and affairs of community
 26 associations and common interest developments.

27 (2) Instruction in general management that is related to the
 28 managerial and business skills needed for management of a
 29 common interest development, including, but not limited to, the
 30 following:

31 (A) Finance issues, including, but not limited to, budget
 32 preparation, management, and preparation; management;
 33 administration of community association financial affairs, or
 34 supervision of the collection, reporting, and archiving of the
 35 financial or common area assets of an association or common
 36 interest development; bankruptcy laws, laws; and assessment
 37 collection activities.

38 (B) Contract negotiation and administration.

39 (C) Supervision of common interest development employees
 40 and staff.

- 1 (D) Management of ~~common interest development~~ maintenance
2 programs.
- 3 (E) Management and administration of rules, regulations, *and*
4 parliamentary procedures, ~~and architectural standards pertaining~~
5 ~~to community associations and common interest developments.~~
- 6 (F) *Management and administration of architectural standards.*
7 ~~(F)~~
- 8 (G) Management and administration of ~~common interest~~
9 ~~development~~ *the association's* recreational programs and facilities.
- 10 ~~(G)~~
- 11 (H) Management and administration of owner and resident
12 communications.
- 13 ~~(H)~~
- 14 (I) Training and strategic planning for the ~~community~~
15 association's board of directors and *its* committees, ~~and other~~
16 ~~activities of residents in a common interest development.~~
- 17 ~~(I) Risk management as it pertains to common interest~~
18 ~~development properties, activities, and emergency preparedness.~~
- 19 (J) Implementation of ~~community~~ association policies and
20 procedures.
- 21 (K) *Ethics, professional conduct, and standards of practice* for
22 common interest development managers.
- 23 ~~(L) Professional conduct and standards of practice for common~~
24 ~~interest development managers.~~
- 25 ~~(M)~~
- 26 (L) Current issues relating to common interest developments.
- 27 (M) *Conflict avoidance and resolution mechanisms.*
- 28 (c) *A professional association for common interest development*
29 *managers administering the coursework and examination or*
30 *examinations set forth in this section shall offer continuing*
31 *education courses to common interest development managers who*
32 *have previously met the requirements of this section. The*
33 *professional association shall determine the coursework on*
34 *pertinent issues related to common interest developments, which*
35 *shall include changes related to federal, state, and local law.*
- 36 SEC. 5. *Section 11502.5 of the Business and Professions Code*
37 *is amended to read:*
- 38 11502.5. The course related competency examination or
39 examinations and education provided to a certified common interest
40 development manager pursuant to Section 11502 by any

1 professional association for common interest development
 2 managers, or any postsecondary educational institution, shall be
 3 developed and administered in a manner consistent with standards
 4 and requirements set forth by the American Educational Research
 5 Association’s “Standards for Educational and Psychological
 6 Testing,” and the Equal Employment Opportunity Commission’s
 7 “Uniform Guidelines for Employee Selection Procedures,” ~~the~~
 8 ~~Civil Rights Act of 1991, the Unruh Civil Rights Act, the California~~
 9 ~~Fair Employment and Housing Act, and the Americans with~~
 10 ~~Disabilities Act of 1990, or the course or courses that have been~~
 11 ~~approved as a continuing education course or an equivalent course~~
 12 ~~of study pursuant to the regulations of the Real Estate~~
 13 ~~Commissioner.~~

14 *SEC. 6. Section 11504 of the Business and Professions Code*
 15 *is amended to read:*

16 11504. On or before September 1, 2003, and ~~on an annual basis~~
 17 ~~annually~~ thereafter, a person who either provides or contemplates
 18 providing the services of a common interest development manager
 19 to ~~a community~~ *an* association shall disclose to the board of
 20 directors of the ~~community~~ association the following information:

21 (a) Whether or not the common interest development manager
 22 has met the requirements of Section 11502 so he or she may be
 23 called a certified common interest development manager.

24 (b) The name, address, and telephone number of the professional
 25 association that certified the common interest development
 26 manager, the date the manager was certified, and the status of the
 27 certification.

28 (c) The location of his or her primary office.

29 (d) Prior to entering into or renewing a contract with ~~a~~
 30 ~~community~~ *an* association, the common interest development
 31 manager shall disclose to the ~~governing~~ *board of directors* of the
 32 ~~community~~ association *or common interest development* whether
 33 the fidelity insurance of the ~~community~~ *common interest*
 34 *development* manager or his or her employer covers the *current*
 35 *year’s* operating and reserve funds of the ~~community~~ association.
 36 This requirement ~~may~~ *shall* not be construed to compel ~~or require~~
 37 ~~a community~~ *an* association ~~or to require~~ a common interest
 38 development manager to ~~require~~ *obtain or maintain* fidelity
 39 insurance.

1 (e) ~~Possession of~~ *Whether the common interest development*
2 *manager possesses an active real estate license, if applicable.*

3 This section may not preclude a common interest development
4 manager from disclosing information as required in Section 1363.1
5 of the Civil Code.

6 *SEC. 7. Section 11505 of the Business and Professions Code*
7 *is amended to read:*

8 11505. It is an unfair business practice for a common interest
9 development manager, a company that employs the *common*
10 *interest development* manager, or a company that is controlled by
11 a company that also has a financial interest in a company
12 employing ~~a~~ *that* manager, to do any of the following:

13 (a) On or after July 1, 2003, to hold oneself out or use the title
14 of “certified common interest development manager” or any other
15 term that implies or suggests that the person is certified as a
16 common interest development manager without meeting the
17 requirements of Section 11502.

18 (b) To state or advertise that he or she is certified, registered,
19 or licensed by a governmental agency to perform the functions of
20 a certified common interest development manager.

21 (c) To state or advertise a registration or license number, unless
22 the license or registration is specified by a statute, regulation, or
23 ordinance.

24 (d) To fail to ~~disclose or misrepresent~~ *comply with* any item to
25 be disclosed in Section 11504 of this code, or Section 1363.1 of
26 the Civil Code.

27 *SEC. 8. Chapter 5 (commencing with Section 11506) of Part*
28 *4 of Division 4 of the Business and Professions Code is repealed.*

29 ~~SECTION 1. It is the intent of the Legislature to enact~~
30 ~~legislation that would extend the date upon which the provisions~~
31 ~~of the Davis-Stirling Common Interest Development Act regulating~~
32 ~~certified common interest development managers are repealed.~~