

Senate Bill No. 1016

CHAPTER 376

An act to amend Section 4745 of, and to add Section 4745.1 to, the Civil Code, relating to common interest developments.

[Approved by Governor September 13, 2018. Filed with
Secretary of State September 13, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1016, Allen. Common interest developments: EV-dedicated TOU meters.

The Davis-Stirling Common Interest Development Act defines and regulates common interest developments, which include community apartment projects, condominium projects, planned developments, and stock cooperatives. The act provides that any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a common interest development, or any provision of the governing documents of a common interest development, that effectively prohibits or restricts the installation or use of an electric vehicle (EV) charging station in an owner's designated parking space is void and unenforceable. The act authorizes an association, as defined, to impose reasonable restrictions on those stations, as specified, and imposes requirements with respect to an association's approval process for those stations. If the station is to be placed in a common area or an exclusive use common area, the act requires the homeowner to pay for the electricity usage associated with the charging station and to be responsible for various costs associated with maintaining and repairing the station, as well as costs for damage to common areas and adjacent units resulting from installation and maintenance of the station. Existing law requires the owner and each successive owner of the charging station to, at all times, maintain a homeowner liability coverage policy in the amount of \$1,000,000 and name the association as a named additional insured. Existing law requires the award of reasonable attorney's fees to a prevailing plaintiff in an action to enforce these provisions.

This bill would, with respect to an EV charging station placed in a common area or an exclusive use common area, require the homeowner to agree to pay the costs associated with the installation of the charging station. The bill would instead require the owner of the charging station, wherever located within the common interest development, to maintain a liability coverage policy, and provide the association with a corresponding certificate of insurance, as specified. The bill would instead require the award of those fees to a prevailing plaintiff in an action by a homeowner requesting to have an EV charging station installed.

The bill would also provide that any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a common interest development, or any provision of the governing documents of a common interest development, that effectively prohibits or restricts the installation or use of an electric vehicle charging station within an owner's unit or of an EV-dedicated TOU meter, as defined, is void and unenforceable. This bill would extend specified existing authorizations and requirements to these meters and certain wiring and would require the award of reasonable attorney's fees to a prevailing plaintiff in an action by a homeowner requesting to have an EV-dedicated TOU meter installed and seeking to enforce compliance with those requirements.

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

SECTION 1. Section 4745 of the Civil Code is amended to read:

4745. (a) Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a common interest development, and any provision of a governing document, as defined in Section 4150, that either effectively prohibits or unreasonably restricts the installation or use of an electric vehicle charging station within an owner's unit or in a designated parking space, including, but not limited to, a deeded parking space, a parking space in an owner's exclusive use common area, or a parking space that is specifically designated for use by a particular owner, or is in conflict with this section is void and unenforceable.

(b) (1) This section does not apply to provisions that impose reasonable restrictions on electric vehicle charging stations. However, it is the policy of the state to promote, encourage, and remove obstacles to the use of electric vehicle charging stations.

(2) For purposes of this section, "reasonable restrictions" are restrictions that do not significantly increase the cost of the station or significantly decrease its efficiency or specified performance.

(c) An electric vehicle charging station shall meet applicable health and safety standards and requirements imposed by state and local authorities, and all other applicable zoning, land use, or other ordinances, or land use permits.

(d) For purposes of this section, "electric vehicle charging station" means a station that is designed in compliance with the California Building Standards Code and delivers electricity from a source outside an electric vehicle into one or more electric vehicles. An electric vehicle charging station may include several charge points simultaneously connecting several electric vehicles to the station and any related equipment needed to facilitate charging plug-in electric vehicles.

(e) If approval is required for the installation or use of an electric vehicle charging station, the application for approval shall be processed and approved

by the association in the same manner as an application for approval of an architectural modification to the property, and shall not be willfully avoided or delayed. The approval or denial of an application shall be in writing. If an application is not denied in writing within 60 days from the date of receipt of the application, the application shall be deemed approved, unless that delay is the result of a reasonable request for additional information.

(f) If the electric vehicle charging station is to be placed in a common area or an exclusive use common area, as designated in the common interest development's declaration, the following provisions apply:

(1) The owner first shall obtain approval from the association to install the electric vehicle charging station and the association shall approve the installation if the owner agrees in writing to do all of the following:

(A) Comply with the association's architectural standards for the installation of the charging station.

(B) Engage a licensed contractor to install the charging station.

(C) Within 14 days of approval, provide a certificate of insurance that names the association as an additional insured under the owner's insurance policy in the amount set forth in paragraph (3).

(D) Pay for both the costs associated with the installation of and the electricity usage associated with the charging station.

(2) The owner and each successive owner of the charging station shall be responsible for all of the following:

(A) Costs for damage to the charging station, common area, exclusive use common area, or separate interests resulting from the installation, maintenance, repair, removal, or replacement of the charging station.

(B) Costs for the maintenance, repair, and replacement of the charging station until it has been removed and for the restoration of the common area after removal.

(C) The cost of electricity associated with the charging station.

(D) Disclosing to prospective buyers the existence of any charging station of the owner and the related responsibilities of the owner under this section.

(3) The owner of the charging station, whether located within a separate unit or within the common area or exclusive use common area, shall, at all times, maintain a liability coverage policy. The owner that submitted the application to install the charging station shall provide the association with the corresponding certificate of insurance within 14 days of approval of the application. That owner and each successor owner shall provide the association with the certificate of insurance annually thereafter.

(4) A homeowner shall not be required to maintain a homeowner liability coverage policy for an existing National Electrical Manufacturers Association standard alternating current power plug.

(g) Except as provided in subdivision (h), installation of an electric vehicle charging station for the exclusive use of an owner in a common area, that is not an exclusive use common area, shall be authorized by the association only if installation in the owner's designated parking space is impossible or unreasonably expensive. In such cases, the association shall enter into a

license agreement with the owner for the use of the space in a common area, and the owner shall comply with all of the requirements in subdivision (f).

(h) The association or owners may install an electric vehicle charging station in the common area for the use of all members of the association and, in that case, the association shall develop appropriate terms of use for the charging station.

(i) An association may create a new parking space where one did not previously exist to facilitate the installation of an electric vehicle charging station.

(j) An association that willfully violates this section shall be liable to the applicant or other party for actual damages, and shall pay a civil penalty to the applicant or other party in an amount not to exceed one thousand dollars (\$1,000).

(k) In any action by a homeowner requesting to have an electric vehicle charging station installed and seeking to enforce compliance with this section, the prevailing plaintiff shall be awarded reasonable attorney's fees.

SEC. 2. Section 4745.1 is added to the Civil Code, to read:

4745.1. (a) Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a common interest development, and any provision of a governing document, as defined in Section 4150, that either effectively prohibits or unreasonably restricts the installation or use of an EV-dedicated TOU meter or is in conflict with this section is void and unenforceable.

(b) (1) This section does not apply to provisions that impose reasonable restrictions on the installation of an EV-dedicated TOU meter. However, it is the policy of the state to promote, encourage, and remove obstacles to the effective installation of EV-dedicated TOU meters.

(2) For purposes of this section, "reasonable restrictions" are restrictions based upon space, aesthetics, structural integrity, and equal access to these services for all homeowners, but an association shall attempt to find a reasonable way to accommodate the installation request, unless the association would need to incur an expense.

(c) An EV-dedicated TOU meter shall meet applicable health and safety standards and requirements imposed by state and local authorities, and all other applicable zoning, land use, or other ordinances, or land use permits.

(d) For purposes of this section, an "EV-dedicated TOU meter" means an electric meter supplied and installed by an electric utility, that is separate from, and in addition to, any other electric meter and is devoted exclusively to the charging of electric vehicles, and that tracks the time of use (TOU) when charging occurs. An "EV-dedicated TOU meter" includes any wiring or conduit necessary to connect the electric meter to an electric vehicle charging station, as defined in Section 4745, regardless of whether it is supplied or installed by an electric utility.

(e) If approval is required for the installation or use of an EV-dedicated TOU meter, the application for approval shall be processed and approved by the association in the same manner as an application for approval of an architectural modification to the property, and shall not be willfully avoided

or delayed. The approval or denial of an application shall be in writing. If an application is not denied in writing within 60 days from the date of receipt of the application, the application shall be deemed approved, unless that delay is the result of a reasonable request for additional information.

(f) If the EV-dedicated TOU meter is to be placed in a common area or an exclusive use common area, as designated in the common interest development's declaration, the following provisions apply:

(1) The owner first shall obtain approval from the association to install the EV-dedicated TOU meter and the association shall approve the installation if the owner agrees in writing to do both of the following:

(A) Comply with the association's architectural standards for the installation of the EV-dedicated TOU meter.

(B) Engage the relevant electric utility to install the EV-dedicated TOU meter and, if necessary, a licensed contractor to install wiring or conduit necessary to connect the electric meter to an EV charging station.

(2) The owner and each successive owner of an EV-dedicated TOU meter shall be responsible for all of the following:

(A) Costs for damage to the EV-dedicated TOU meter, common area, exclusive use common area, or separate interests resulting from the installation, maintenance, repair, removal, or replacement of the EV-dedicated TOU meter.

(B) Costs for the maintenance, repair, and replacement of the EV-dedicated TOU meter until it has been removed and for the restoration of the common area after removal.

(C) Disclosing to prospective buyers the existence of any EV-dedicated TOU meter of the owner and the related responsibilities of the owner under this section.

(g) The association or owners may install an EV-dedicated TOU meter in the common area for the use of all members of the association and, in that case, the association shall develop appropriate terms of use for the EV-dedicated TOU meter.

(h) An association that willfully violates this section shall be liable to the applicant or other party for actual damages, and shall pay a civil penalty to the applicant or other party in an amount not to exceed one thousand dollars (\$1,000).

(i) In any action by a homeowner requesting to have an EV-dedicated TOU meter installed and seeking to enforce compliance with this section, the prevailing plaintiff shall be awarded reasonable attorney's fees.