

Assembly Bill No. 670

CHAPTER 178

An act to add Section 4751 to the Civil Code, relating to common interest developments.

[Approved by Governor August 30, 2019. Filed with Secretary
of State August 30, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 670, Friedman. Common interest developments: accessory dwelling units.

The Planning and Zoning Law authorizes a local agency to provide for the creation of accessory dwelling units in single-family and multifamily residential zones by ordinance, and sets forth standards the ordinance is required to impose with respect to certain matters, including, among others, maximum unit size, parking, and height standards. Existing law authorizes a local agency to provide by ordinance for the creation of junior accessory dwelling units, as defined, in single-family residential zones and requires the ordinance to include, among other things, standards for the creation of a junior accessory dwelling unit, required deed restrictions, and occupancy requirements.

Existing law, the Davis-Stirling Common Interest Development Act, governs the management and operation of common interest developments. Existing law prohibits the governing document of a common interest development from prohibiting the rental or leasing of any separate interest in the common interest development, unless that governing document was effective prior to the date the owner acquired title to their separate interest.

This bill would make void and unenforceable 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 planned development, and any provision of a governing document, that effectively prohibits or unreasonably restricts the construction or use of an accessory dwelling unit or junior accessory dwelling unit on a lot zoned for single-family residential use that meets the above-described minimum standards established for those units. However, the bill would permit reasonable restrictions that do not unreasonably increase the cost to construct, effectively prohibit the construction of, or extinguish the ability to otherwise construct, an accessory dwelling unit or junior accessory dwelling unit consistent with those aforementioned minimum standards provisions.

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

SECTION 1. It is the intent of the Legislature in enacting this act to encourage the construction of affordable accessory dwelling units and junior accessory dwelling units that are owner-occupied and that are used for rentals of terms longer than 30 days.

SEC. 2. Section 4751 is added to the Civil Code, to read:

4751. (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 planned development, and any provision of a governing document, that either effectively prohibits or unreasonably restricts the construction or use of an accessory dwelling unit or junior accessory dwelling unit on a lot zoned for single-family residential use that meets the requirements of Section 65852.2 or 65852.22 of the Government Code, is void and unenforceable.

(b) This section does not apply to provisions that impose reasonable restrictions on accessory dwelling units or junior accessory dwelling units. For purposes of this subdivision, “reasonable restrictions” means restrictions that do not unreasonably increase the cost to construct, effectively prohibit the construction of, or extinguish the ability to otherwise construct, an accessory dwelling unit or junior accessory dwelling unit consistent with the provisions of Section 65852.2 or 65852.22 of the Government Code.