

Date of Hearing: January 11, 2012

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

Norma Torres, Chair

SB 880 (Corbett) – As Amended: January 4, 2012

SENATE VOTE: Not relevant

SUBJECT: Common interest developments: electric vehicle charging stations

SUMMARY: Makes changes to the rules on installation of electric vehicle charging stations in common interest developments (CIDs). Specifically, this bill:

- 1) Specifies that the governing documents of a CID may not prohibit the installation of an electric vehicle charging station in an owner's designated parking space, including but not limited to a deed-restricted 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.
- 2) Requires an electric vehicle charging stations to meet any applicable zoning, land use, or other ordinances, or land use permits.
- 3) Provides that an association may only authorize the installation of an electric vehicle charging station in a common area that is not an exclusive use common area if it is impossible or unreasonably expensive to install the station in the owner's designated parking space.
- 4) Requires an association to enter into a licensing agreement with an owner for the use of space in a common area for an electric vehicle charging station.
- 5) Provides that an association or the owners in an association may install an electric vehicle charging station in the common area for the use of all the owners of the association and the association shall develop the terms of use for the charging station.
- 6) Allows an association to create a new parking space where one did not previously exist to facilitate the installation of an electric vehicle charging station.
- 7) Provides that the affirmative vote of the owners of an association is not needed to install and use an electric vehicle charging station in an owner's garage or a designated parking space if the installation or use of the charging station requires access through or across the common area for the utility lines or meters or to install and use an electric vehicle charging station through a license granted to an owner.

EXISTING LAW

- 1) Defines "governing documents" as the Covenants, Conditions and Restrictions (CC&Rs); bylaws; operating rules; articles of incorporation; and any other documents which govern the homeowners association (HOA) (Civil Code Section 1351).

- 2) Prohibits a covenant, restriction, or condition contained in any deed, contract, or security instrument affecting the transfer or sale of, or any interest in, real property, from preventing or restricting installation or use of a solar energy system (Civil Code Section 714).
- 3) Allows an HOA to impose reasonable restrictions on the installation of solar energy systems in common areas and requires an owner to obtain the approval of the HOA prior to installing a solar energy system in another owner's separate interest (Civil Code Section 714.1).
- 4) Provides that it is the policy of the state to promote and encourage the use of solar energy systems and to remove obstacles to their installation. Finds that reasonable restrictions on solar energy systems are those restrictions that do not significantly increase the cost of the system or significantly decrease efficiency (Civil Code Section 714).
- 5) Requires solar energy systems to meet appropriate health and safety standards and specified national certification standards (Civil Code Section 714).
- 6) Makes void and unenforceable any covenant, restriction or conditions contained in any deed, contract, security instrument, or other instrument in a CID that prohibits or restricts the installation of an electric vehicle charging stations (Civil Code 1353.9).

FISCAL EFFECT: None.

### COMMENTS

There are over 47,000 CIDs in the state that range in size from three to 27,000 units. CIDs make up over six million total housing units, which represents approximately one quarter of the state's housing stock. In the 1990s, over 60% of all residential construction starts in the state were in CIDs. CIDs include condominiums, community apartment projects, housing cooperatives, and planned unit developments. They are characterized by a separate ownership of dwelling space coupled with an undivided interest in a common property, 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 governed by the Davis Stirling Act (Civil Code Section 1350 et al.) as well as the governing documents of the association, including the bylaws, declaration, and operating rules. Except when CIDs are first developed, no state agency provides oversight to these communities.

The governing documents of CIDs generally require approval of the HOA owner's can make improvements or alterations to their separate interests. HOAs are required to provide a fair, reasonable, and expeditious procedure for reviewing applications for improvements or alterations. In the case of the installation of energy savings technology, the Legislature has taken proactive steps to ensure that HOAs cannot deny a homeowner's request to make changes to his/her separate unit. In 2008, AB 1892 (Smyth), Chapter 40, clarified that any provision of the governing documents of a CID that prohibits or restricts the installation or use of a solar energy system is considered void and unenforceable.

Last year, AB 209 (Corbett) Chaptered 121, Statutes of 2011, prohibited the governing documents of an association from denying or restricting the installation of an electric charging station by an owner in a CID. The bill specified conditions for the installation of an electric charging station in the common area of a CID.

Although the Governor signed the bill he included the following signing message:

Senate Bill 209 advances the important state interests of lowering vehicle emissions and of decreasing dependency of foreign oil. These interests are advanced statutorily by removing unreasonable burdens in common interest developments to the installation of plug-in vehicle charging stations. Charging stations are part of the infrastructure that must be built in integrate electric vehicles into our daily lives by allowing plug-in vehicles to be recharged faster and to minimize impact to the electrical grid. I enthusiastically support this bill.

This bill, unfortunately, contains language that could permit individual homeowners to unreasonably use or occupy common areas. The author has assured me that she will pursue legislation that clearly protects the rights of the common interest development to establish reasonable rules for any use of common areas for charging stations.

SB 880 attempts to address the Governor's signing message by clarifying the circumstances in which an electric charging station may be installed in the common area. The bill allows a charging station to be installed in the common area for one individual to use if installation in the owner's own parking space is impossible or unreasonably expensive. The owner is required to enter into a licensing agreement with the association and to maintain insurance and comply with various installation and usage requirements outlined by AB 209 (Corbett). The bill also allows the association to install a charging station in the common area if it is available to all owners and after developing appropriate terms for the use of the station. Finally, the bill adds a provision allowing the association to create a new parking space if it is necessary to facilitate the installation of a charging station.

#### Committee Amendments:

On page 3, line 9 after "prohibits or" insert "unreasonably"

On page 5, line 19 after "station" insert "for the exclusive use of an owner"

On page 5, line 21 after "space" insert "that is owned in fee or as an exclusive use easement"

On page 5, line 25, after "and" insert "owner"

#### REGISTERED SUPPORT / OPPOSITION:

##### Support

Plug In America

Opposition

None on file.

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