

ACCESSORY DWELLING UNITS

• Rental or Leasing of Separate Interests

Existing law, the Davis-Stirling Common Interest Development Act, defines and regulates common interest developments. Existing law provides that an owner of a separate interest in a common interest development shall not be subject to a provision in a governing document or an amendment to a governing document that prohibits the rental or leasing of any separate interest in that common interest development to a renter, lessee, or tenant unless that governing document, or amendment thereto, was effective before the date the owner acquired title to the owner's separate interest. Existing law permits an owner of a separate interest of a common interest development, despite the above provision, to expressly consent to be subject to a governing document or an amendment to a governing document that prohibits the rental or leasing of any of the separate interests in the common interest development to a renter, lessee, or tenant. Existing law makes these provisions applicable only to a provision in a governing document or a provision in an amendment to a governing document that became effective on or after January 1, 2012.

This act deletes the provision limiting the application to governing documents that became effective on or after January 1, 2012, and also deletes the provision authorizing an owner to expressly consent to be subject to a prohibition on renting or leasing of the owner's separate interest. The act provides that an owner of a separate interest in a common interest development is not subject to a provision in a governing document or an amendment to a governing document that prohibits, has the effect of prohibiting, or unreasonably restricts the rental or leasing of any of the separate interests, accessory dwelling units, or junior accessory dwelling units in that common interest development to a renter, lessee, or tenant.

The act prohibits a common interest development from adopting or enforcing a provision that restricts the rental or lease of separate interests to less than 25% of the separate interests in the common interest development. The act specifies that these provisions do not prohibit a common interest development from adopting a provision in a governing document that prohibits transient or short-term rentals of 30 days or less.

Existing law requires a local agency to ministerially approve or deny a permit application for the creation of an accessory dwelling unit or junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot.

This act deems a permit application for the creation of an accessory dwelling unit or junior accessory dwelling unit approved if the local agency has not acted upon the completed application within 60 days.

Existing law requires ministerial approval of an application for a building permit within a residential or mixed-use zone to create one accessory dwelling unit or one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if certain requirements are met.

This act instead requires ministerial approval of an application for a building permit within a residential or mixed-use zone to create one accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if certain requirements are met.

Existing law authorizes a local agency to require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite water treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.

This act instead specifies that the percolation test may be required as part of the application for a permit to create an accessory dwelling unit connected to an onsite wastewater treatment system.

The act includes findings that changes made by this act address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

NOTE: This act incorporates additional changes to Section 65852.2 of the Government Code proposed by SB 1030 (Chapter 165).

Chapter 198 (AB 3182 – Ting): amending Section 4740 of, and adding Section 4741 to, the Civil Code, and amending Section 65852.2 of the Government Code.



Roxy 619.892.5841 | SendRoxyMail@gmail.com
 Stacey 760.214.3211 | Stacey.Angstead@ticortitle.com
 Megan 760.484.1288 | Megan.Acuna@ticortitle.com
www.TitleTalkin.com