



2026

THE STATUTE BOOK & LEGAL DIRECTORY

The Davis-Stirling Act and Other Statutes
Governing California Community Associations

ADVOCACY | EDUCATION | CONNECTION



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About the Davis-Stirling Act

The Davis-Stirling Act is the portion of the California Civil Code that dictates how common interest developments (CIDs) must govern themselves. In 2012, the State Legislature adopted AB 805, which completely reconfigured the Act. It was amended again in 2013 to correct minor errors and became effective in 2014. Each year new laws are promulgated adding to and amending the Act. This updated edition of the 2026 *Echo Statute Book* presents the most current version of the Davis-Stirling Act.

The Davis-Stirling Act is written specifically for laws relating to common interest developments. Laws other than those contained in the Act also relate to the governance and management of an association. For the reader's convenience, a selection of these laws are also included in this book.

How to Use This Book

Additions or changes to the law are shown in a bold, italic font in the table of contents as well as the text. Deletions are marked with three asterisks. The *Echo Statute Book* is also available as a digital download on the Echo website at: www.echo-ca.org. If you are reading the digital version, clicking within the table of contents will take you directly to that section.

Notice: Information contained in this book has been obtained by Executive Council of Homeowners (Echo) from sources believed to be reliable. However, Echo does not guarantee the accuracy or completeness of any information published herein and shall not be responsible for any errors, omissions, or damages arising out of the use of this information. This book is published with the understanding that Echo is supplying information but is not attempting to render professional services. If such services are desired, the assistance of an appropriate professional should be sought.

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Acknowledgments

It takes many dedicated volunteers to compile this important collection of laws governing common interest developments (CIDs). The bulk of these laws are found in California Civil Code Sections 4000 through 6150 – commonly known as the Davis-Stirling Act. But the laws are not limited to just these sections, and, as many HOA boards have learned, there are several other statutes and hundreds of cases that create the legal framework in which HOA board members, homeowners, and professionals in the industry work.

The *Echo Statute Book* includes legal code important to HOA operations and management. It also provides a quick reference web link to important HOA case laws on the Adams|Stirling PLC website (www.davis-stirling.com/HOME/Case-Law/Case-Law-Intro) and includes a directory of professionals specializing in HOA legal matters. The intent of the 2026 edition of the *Echo Statute Book* is to provide the reader with a framework of the most important laws affecting HOA management, as well as a directory of HOA legal professionals to help navigate the maze of California law governing homeowner associations.

The *Echo Statute Book* is also the reference text used by the Echo HOA University for the HOA Legal Environment Series of three courses. The first course examines the Davis-Stirling Act. The second examines laws other than those in the Davis-Stirling Act and found in this booklet. Finally, the third course examines judicial interpretations (that is, case law) related to practical application of the law and decisions made by the courts affecting HOAs. The reader will find seminal cases included in this handbook. Combined, these three courses provide a core understanding of the legal environment in which HOAs operate. A fourth course is offered annually after the legislative session to review new legislation and update attendees on important case law. Those pursuing this legal curriculum will be well-schooled in the body of laws most important to HOA leadership. Visit echo-ca.org to learn more. The HOA Legal Environment Series is a prerequisite for receiving certification from the Echo HOA University Board Member Preparedness program. More information about the certification program can be found at: echo-ca.org/browse-educational-topics/echo-hoa-university.

It is with warm appreciation that Echo acknowledges the guidance and tutelage of Deon R. Stein, Esq., and Rosalind D. Olson, Esq., from Berding|Weil Attorneys at Law. Without their commitment to compile the *Echo Statute Book* in a timely and accurate manner, there would be no tool for our HOA boards and homeowners. Their contribution to the HOA community is more than most understand, and their efforts help build communities and the competence to manage them. Many thanks to Deon Stein and Rosalind Olson for their many years of updating the *Echo Statute Book*. As the pages turn, may your new chapters be rich and full and happy. Thank you!

Further appreciation is shared with Adrian Adams of Adams|Stirling PLC for allowing us to use the industry leading repository of HOA case law website. Thank you for supporting our mission to educate HOA boards and homeowners!

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THE DAVIS-STIRLING COMMON INTEREST DEVELOPMENT ACT

PART 5. COMMON INTEREST DEVELOPMENTS

CHAPTER 1. GENERAL PROVISIONS

Article 1. Preliminary Provisions

4000

This part shall be known and may be cited as the Davis-Stirling Common Interest Development Act. In a provision of this part, the part may be referred to as the act.

4005

Division, part, title, chapter, article, and section headings do not in any manner affect the scope, meaning, or intent of this act.

4010

Nothing in the act that added this part shall be construed to invalidate a document prepared or action taken before January 1, 2014, if the document or action was proper under the law governing common interest developments at the time that the document was prepared or the action was taken. For the purposes of this section, "document" does not include a governing document.

4020

Unless a contrary intent is clearly expressed, a local zoning ordinance is construed to treat like structures, lots, parcels, areas, or spaces in like manner regardless of the form of the common interest development.

4035

(a) If a provision of this act requires that a document be delivered to an association, the document shall be delivered to the person designated in the annual policy statement, prepared pursuant to Section 5310, to receive documents on behalf of the association. If no person has been

designated to receive documents, the document shall be delivered to the president or secretary of the association.

- (b) A document delivered pursuant to this section may be delivered by any of the following methods:
 - (1) By e-mail, facsimile, or other electronic means, if the association has assented to that method of delivery.
 - (2) By personal delivery, if the association has assented to that method of delivery. If the association accepts a document by personal delivery it shall provide a written receipt acknowledging delivery of the document.
 - (3) By first-class mail, postage prepaid, registered or certified mail, express mail, or overnight delivery by an express service center.

4040

- (a) (1) If a provision of this act requires an association to deliver a document by "individual delivery" or "individual notice," the association shall deliver that document in accordance with the preferred delivery method specified by the member pursuant to Section 4041.
- (2) If the member has not provided a valid delivery method pursuant to Section 4041, the association shall deliver the document by first-class mail, registered or certified mail, express mail, or overnight delivery by an express service carrier addressed to the recipient at the address last shown on the books of the association.
- (b) Upon receipt of a request by a member identifying a secondary email or mailing address for delivery of notices, pursuant to Section 5260, the association shall deliver an additional copy of both of the following to the secondary address identified in that request:
 - (1) The documents to be delivered to the member pursuant to Article 7 (commencing with Section 5300) of Chapter 6.
 - (2) The documents to be delivered to the member pursuant to Article 2 (commencing with Section 5650) of Chapter 8 and Section 5710.
- (c) For the purposes of this section, an unrecorded provision of the governing documents providing for a particular method of delivery does not constitute agreement by a member to that method of delivery.
- (d) This section shall become operative on January 1, 2023.

4041

- (a) A member shall, on an annual basis, provide written notice to the association of all of the following:

- (1) The member’s preferred delivery method for receiving notices from the association, which shall include the option of receiving notices at one or both of the following:
 - (A) A mailing address.
 - (B) A valid email address.
 - (2) An alternate or secondary delivery method for receiving notices from the association, which shall include the option to receive notices at one or both of the following:
 - (A) A mailing address.
 - (B) A valid email address.
 - (3) The name, mailing address, and, if available, valid email address of the owner’s legal representative, if any, including any person with power of attorney or other person who can be contacted in the event of the member’s extended absence from the separate interest.
 - (4) Whether the separate interest is owner-occupied, is rented out, if the parcel is developed but vacant, or if the parcel is undeveloped land.
- (b) (1) The association shall solicit the annual notices described in subdivision (a) of each owner and, at least 30 days before making its own required disclosure under Sections 5300 and 5310, shall enter the data into its books and records.
- (2) The association shall include in the solicitation required by paragraph (1) both of the following:
- (A) Notification that the member does not have to provide an email address to the association.
 - (B) A simple method for the member to inform the association in writing that the member wishes to change their preferred delivery method for receiving notices from the association.
- (c) If a member fails to provide the notices set forth in subdivision (a), the last mailing address provided in writing by the member or, if none, the property address shall be deemed to be the address to which notices are to be delivered.
- (d) (1) To the extent that interests regulated in Chapter 2 (commencing with Section 11210) of Part 2 of Division 4 of the Business and Professions Code are part of a mixed-use project where those interests comprise a portion of a common interest development, the association, as defined in Section 4080, shall be deemed compliant with this section if, at least once annually, it obtains from the time-share plan association a copy of the list described in subdivision (e) of Section 11273 of the Business and Professions Code, and enters the data into its books and records.

- (2) Notwithstanding subdivision (e) of Section 11273 of the Business and Professions Code, the time-share plan association shall provide the list required by paragraph (1) to the association at least annually for this purpose.

- (e) For the purposes of this section, a valid email address is one that, after a notice is sent, does not result in a bounce or other error notification indicating failure of the message. If the association delivers a notice to a member’s email address and finds that the email address provided is no longer valid, the association shall resend the notice to a mailing or email address identified by the member pursuant to Section 4040.

4045

- (a) If a provision of this act requires “general delivery” or “general notice,” the document shall be provided by one or more of the following methods:
 - (1) Any method provided for delivery of an individual notice pursuant to Section 4040.
 - (2) Inclusion in a billing statement, newsletter, or other document that is delivered by one of the methods provided in this section.
 - (3) Posting the printed document in a prominent location that is accessible to all members, if the location has been designated for the posting of general notices by the association in the annual policy statement, prepared pursuant to Section 5310.
 - (4) If the association broadcasts television programming for the purpose of distributing information on association business to its members, by inclusion in the programming.
 - (5) If the association maintains an internet website for the purpose of distributing information on association business to its members, by posting the notice on the association’s internet website in a prominent location that is accessible to all members if designated as a location for posting general notices in the annual policy statement prepared pursuant to Section 5310.
- (b) Notwithstanding subdivision (a), if a member requests to receive general notices by individual delivery, all general notices to that member, given under this section, shall be delivered pursuant to Section 4040. The option provided in this subdivision shall be described in the annual policy statement, prepared pursuant to Section 5310.

4050

- (a) This section governs the delivery of a document pursuant to this act.
- (b) If a document is delivered by mail, delivery is deemed to be complete on deposit into the United States mail.

(c) If a document is delivered by electronic means, delivery is complete at the time of transmission.

4055

If the association or a member receives information by electronic delivery pursuant to Section 4040, and a provision of this act requires that the information be in writing, that requirement is satisfied if the information is provided in an electronic record capable of retention by the recipient at the time of receipt. An electronic record is not capable of retention by the recipient if the sender or its information processing system inhibits the ability of the recipient to print or store the electronic record.

4065

If a provision of this act requires that an action be approved by a majority of all members, the action shall be approved or ratified by an affirmative vote of a majority of the votes entitled to be cast.

4070

If a provision of this act requires that an action be approved by a majority of a quorum of the members, the action shall be approved or ratified by an affirmative vote of a majority of the votes represented and voting in a duly held election in which a quorum is represented, which affirmative votes also constitute a majority of the required quorum.

Article 2.
Definitions

4075

The definitions in this article govern the construction of this act.

4076

“Annual budget report” means the report described in Section 5300.

4078

“Annual policy statement” means the statement described in Section 5310.

4080

“Association” means a nonprofit corporation or unincorporated

association created for the purpose of managing a common interest development.

4085

“Board” means the board of directors of the association.

4090

“Board meeting” means either of the following:

- (a) A congregation, at the same time and place, of a sufficient number of directors to establish a quorum of the board, to hear, discuss, or deliberate upon any item of business that is within the authority of the board.
(b) A teleconference, where a sufficient number of directors to establish a quorum of the board, in different locations, are connected by electronic means, through audio or video, or both. A teleconference meeting shall be conducted in a manner that protects the rights of members of the association and otherwise complies with the requirements of this act. Except for a meeting that will be held solely in executive session or conducted under Section 4926 or 5450, the notice of the teleconference meeting shall identify at least one physical location so that members of the association may attend, and at least one director or a person designated by the board shall be present at that location. Participation by directors in a teleconference meeting constitutes presence at that meeting as long as all directors participating are able to hear one another, as well as members of the association speaking on matters before the board.

4095

- (a) “Common area” means the entire common interest development except the separate interests therein. The estate in the common area may be a fee, a life estate, an estate for years, or any combination of the foregoing.
(b) Notwithstanding subdivision (a), in a planned development described in subdivision (b) of Section 4175, the common area may consist of mutual or reciprocal easement rights appurtenant to the separate interests.

4100

“Common interest development” means any of the following:

- (a) A community apartment project.
(b) A condominium project.
(c) A planned development.
(d) A stock cooperative.

4105

“Community apartment project” means a development in which an undivided interest in land is coupled with the right of exclusive occupancy of any apartment located thereon.

4110

- (a) “Community service organization or similar entity” means a nonprofit entity, other than an association, that is organized to provide services to residents of the common interest development or to the public in addition to the residents, to the extent community common area or facilities are available to the public.
- (b) “Community service organization or similar entity” does not include an entity that has been organized solely to raise moneys and contribute to other nonprofit organizations that are qualified as tax exempt under Section 501(c)(3) of the Internal Revenue Code and that provide housing or housing assistance.

4120

“Condominium plan” means a plan described in Section 4285.

4125

- (a) A “condominium project” means a real property development consisting of condominiums.
- (b) A condominium consists of an undivided interest in common in a portion of real property coupled with a separate interest in space called a unit, the boundaries of which are described on a recorded final map, parcel map, or condominium plan in sufficient detail to locate all boundaries thereof. The area within these boundaries may be filled with air, earth, water, or fixtures, or any combination thereof, and need not be physically attached to land except by easements for access and, if necessary, support. The description of the unit may refer to (1) boundaries described in the recorded final map, parcel map, or condominium plan, (2) physical boundaries, either in existence, or to be constructed, such as walls, floors, and ceilings of a structure or any portion thereof, (3) an entire structure containing one or more units, or (4) any combination thereof.
- (c) The portion or portions of the real property held in undivided interest may be all of the real property, except for the separate interests, or may include a particular three-dimensional portion thereof, the boundaries of which are described on a recorded final map, parcel map, or condominium plan. The area within these boundaries may be filled with air, earth, water, or fixtures, or any combination thereof, and need not be physically attached to land except by easements for access and, if necessary, support.

- (d) An individual condominium within a condominium project may include, in addition, a separate interest in other portions of the real property.

4130

“Declarant” means the person or group of persons designated in the declaration as declarant, or if no declarant is designated, the person or group of persons who sign the original declaration or who succeed to special rights, preferences, or privileges designated in the declaration as belonging to the signator of the original declaration.

4135

“Declaration” means the document, however denominated, that contains the information required by Sections 4250 and 4255.

4140

“Director” means a natural person who serves on the board.

4145

- (a) “Exclusive use common area” means a portion of the common area designated by the declaration for the exclusive use of one or more, but fewer than all, of the owners of the separate interests and which is or will be appurtenant to the separate interest or interests.
- (b) Unless the declaration otherwise provides, any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, patios, exterior doors, doorframes, and hardware incident thereto, screens and windows or other fixtures designed to serve a single separate interest, but located outside the boundaries of the separate interest, are exclusive use common area allocated exclusively to that separate interest.
- (c) Notwithstanding the provisions of the declaration, internal and external telephone wiring designed to serve a single separate interest, but located outside the boundaries of the separate interest, is exclusive use common area allocated exclusively to that separate interest.

4148

“General notice” means the delivery of a document pursuant to Section 4045.

4150

“Governing documents” means the declaration and any other documents, such as bylaws, operating rules, articles of

incorporation, or articles of association, which govern the operation of the common interest development or association.

4153

“Individual notice” means the delivery of a document pursuant to Section 4040.

4155

“Item of business” means any action within the authority of the board, except those actions that the board has validly delegated to any other person or persons, managing agent, officer of the association, or committee of the board comprising less than a quorum of the board.

4158

- (a) A “managing agent” is a person who, for compensation or in expectation of compensation, exercises control over the assets of a common interest development.
- (b) A “managing agent” does not include any of the following:
 - (1) A regulated financial institution operating within the normal course of its regulated business practice.
 - (2) An attorney at law acting within the scope of the attorney’s license.

4160

“Member” means an owner of a separate interest.

4170

“Person” means a natural person, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, limited liability company, association, or other entity.

4175

“Planned development” means a real property development other than a community apartment project, a condominium project, or a stock cooperative, having either or both of the following features:

- (a) Common area that is owned either by an association or in common by the owners of the separate interests who possess appurtenant rights to the beneficial use and enjoyment of the common area.
- (b) Common area and an association that maintains the common area with the power to levy assessments that may

become a lien upon the separate interests in accordance with Article 2 (commencing with Section 5650) of Chapter 8.

4177

“Reserve accounts” means both of the following:

- (a) Moneys that the board has identified for use to defray the future repair or replacement of, or additions to, those major components that the association is obligated to maintain.
- (b) The funds received, and not yet expended or disposed of, from either a compensatory damage award or settlement to an association from any person for injuries to property, real or personal, arising from any construction or design defects. These funds shall be separately itemized from funds described in subdivision (a).

4178

“Reserve account requirements” means the estimated funds that the board has determined are required to be available at a specified point in time to repair, replace, or restore those major components that the association is obligated to maintain.

4185

(a) “Separate interest” has the following meanings:

- (1) In a community apartment project, “separate interest” means the exclusive right to occupy an apartment, as specified in Section 4105.
- (2) In a condominium project, “separate interest” means a separately owned unit, as specified in Section 4125.
- (3) In a planned development, “separate interest” means a separately owned lot, parcel, area, or space.
- (4) In a stock cooperative, “separate interest” means the exclusive right to occupy a portion of the real property, as specified in Section 4190.
- (b) Unless the declaration or condominium plan, if any exists, otherwise provides, if walls, floors, or ceilings are designated as boundaries of a separate interest, the interior surfaces of the perimeter walls, floors, ceilings, windows, doors, and outlets located within the separate interest are part of the separate interest and any other portions of the walls, floors, or ceilings are part of the common area.
- (c) The estate in a separate interest may be a fee, a life estate, an estate for years, or any combination of the foregoing.

4190

- (a) "Stock cooperative" means a development in which a corporation is formed or availed of, primarily for the purpose of holding title to, either in fee simple or for a term of years, improved real property, and all or substantially all of the shareholders of the corporation receive a right of exclusive occupancy in a portion of the real property, title to which is held by the corporation. The owners' interest in the corporation, whether evidenced by a share of stock, a certificate of membership, or otherwise, shall be deemed to be an interest in a common interest development and a real estate development for purposes of subdivision (f) of Section 25100 of the Corporations Code.
- (b) A "stock cooperative" includes a limited equity housing cooperative which is a stock cooperative that meets the criteria of Section 817.

CHAPTER 2. APPLICATION OF ACT

4200

This act applies and a common interest development is created whenever a separate interest coupled with an interest in the common area or membership in the association is, or has been, conveyed, provided all of the following are recorded:

- (a) A declaration.
- (b) A condominium plan, if any exists.
- (c) A final map or parcel map, if Division 2 (commencing with Section 66410) of Title 7 of the Government Code requires the recording of either a final map or parcel map for the common interest development.

4201

Nothing in this act may be construed to apply to a real property development that does not contain common area. This section is declaratory of existing law.

4202

This part does not apply to a commercial or industrial common interest development, as defined in Section 6531.

CHAPTER 3. GOVERNING DOCUMENTS

Article 1.
General Provisions

4205

- (a) To the extent of any conflict between the governing documents and the law, the law shall prevail.
- (b) To the extent of any conflict between the articles of incorporation and the declaration, the declaration shall prevail.
- (c) To the extent of any conflict between the bylaws and the articles of incorporation or declaration, the articles of incorporation or declaration shall prevail.
- (d) To the extent of any conflict between the operating rules and the bylaws, articles of incorporation, or declaration, the bylaws, articles of incorporation, or declaration shall prevail.

4210

In order to facilitate the collection of regular assessments, special assessments, transfer fees as authorized by Sections 4530, 4575, and 4580, and similar charges, the board is authorized to record a statement or amended statement identifying relevant information for the association. This statement may include any or all of the following information:

- (a) The name of the association as shown in the declaration or the current name of the association, if different.
- (b) The name and address of a managing agent or treasurer of the association or other individual or entity authorized to receive assessments and fees imposed by the association.
- (c) A daytime telephone number of the authorized party identified in subdivision (b) if a telephone number is available.
- (d) A list of separate interests subject to assessment by the association, showing the assessor's parcel number or legal description, or both, of the separate interests.
- (e) The recording information identifying the declaration governing the association.
- (f) If an amended statement is being recorded, the recording information identifying the prior statement or statements which the amendment is superseding.

4215

Any deed, declaration, or condominium plan for a common interest development shall be liberally construed to facilitate

the operation of the common interest development, and its provisions shall be presumed to be independent and severable. Nothing in Article 3 (commencing with Section 715) of Chapter 2 of Title 2 of Part 1 of Division 2 shall operate to invalidate any provisions of the governing documents.

4220

In interpreting deeds and condominium plans, the existing physical boundaries of a unit in a condominium project, when the boundaries of the unit are contained within a building, or of a unit reconstructed in substantial accordance with the original plans thereof, shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed in the deed or condominium plan, if any exists, regardless of settling or lateral movement of the building and regardless of minor variance between boundaries shown on the plan or in the deed and those of the building.

4225

- (a) No declaration or other governing document shall include a restrictive covenant in violation of Section 12955 of the Government Code.
- (b) Notwithstanding any other provision of law or provision of the governing documents, the board, without approval of the members, shall amend any declaration or other governing document that includes a restrictive covenant prohibited by this section to delete the restrictive covenant, and shall restate the declaration or other governing document without the restrictive covenant but with no other change to the declaration or governing document.
- (c) If the declaration is amended under this section, the board shall record the restated declaration in each county in which the common interest development is located. If the articles of incorporation are amended under this section, the board shall file a certificate of amendment with the Secretary of State pursuant to Section 7814 of the Corporations Code.
- (d) If after providing written notice to an association, pursuant to Section 4035, requesting that the association delete a restrictive covenant that violates subdivision (a), and the association fails to delete the restrictive covenant within 30 days of receiving the notice, the Civil Rights Department, a city or county in which a common interest development is located, or any person may bring an action against the association for injunctive relief to enforce subdivision (a). The court may award attorney’s fees to the prevailing party.

4230

- (a) Notwithstanding any provision of the governing documents to the contrary, the board may, after the developer has completed construction of the development, has terminated construction activities, and has terminated marketing activities for the sale, lease, or other disposition of separate

interests within the development, adopt an amendment deleting from any of the governing documents any provision which is unequivocally designed and intended, or which by its nature can only have been designed or intended, to facilitate the developer in completing the construction or marketing of the development. However, provisions of the governing documents relative to a particular construction or marketing phase of the development may not be deleted under the authorization of this subdivision until that construction or marketing phase has been completed.

- (b) The provisions which may be deleted by action of the board shall be limited to those which provide for access by the developer over or across the common area for the purposes of (1) completion of construction of the development, and (2) the erection, construction, or maintenance of structures or other facilities designed to facilitate the completion of construction or marketing of separate interests.
- (c) At least 30 days prior to taking action pursuant to subdivision (a), the board shall deliver to all members, by individual delivery, pursuant to Section 4040, (1) a copy of all amendments to the governing documents proposed to be adopted under subdivision (a), and (2) a notice of the time, date, and place the board will consider adoption of the amendments. The board may consider adoption of amendments to the governing documents pursuant to subdivision (a) only at a meeting that is open to all members, who shall be given opportunity to make comments thereon. All deliberations of the board on any action proposed under subdivision (a) shall only be conducted in an open meeting.
- (d) The board may not amend the governing documents pursuant to this section without the approval of a majority of a quorum of the members, pursuant to Section 4070. For the purposes of this section, “quorum” means more than 50 percent of the members who own no more than two separate interests in the development.

4235

- (a) Notwithstanding any other provision of law or provision of the governing documents, if the governing documents include a reference to a provision of the Davis-Stirling Common Interest Development Act that was repealed and continued in a new provision by the act that added this section, the board may amend the governing documents, solely to correct the cross-reference, by adopting a board resolution that shows the correction. Member approval is not required in order to adopt a resolution pursuant to this section.
- (b) A declaration that is corrected under this section may be restated in corrected form and recorded, provided that a copy of the board resolution authorizing the corrections is recorded along with the restated declaration.

Article 2. Declaration

4250

- (a) A declaration, recorded on or after January 1, 1986, shall contain a legal description of the common interest development, and a statement that the common interest development is a community apartment project, condominium project, planned development, stock cooperative, or combination thereof. The declaration shall additionally set forth the name of the association and the restrictions on the use or enjoyment of any portion of the common interest development that are intended to be enforceable equitable servitudes.
(b) The declaration may contain any other matters the declarant or the members consider appropriate.

4255

- (a) If a common interest development is located within an airport influence area, a declaration, recorded after January 1, 2004, shall contain the following statement:

NOTICE OF AIRPORT IN VICINITY

This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

- (b) For purposes of this section, an "airport influence area," also known as an "airport referral area," is the area in which current or future airport-related noise, overflight, safety, or airspace protection factors may significantly affect land uses or necessitate restrictions on those uses as determined by an airport land use commission.
(c) If a common interest development is within the San Francisco Bay Conservation and Development Commission jurisdiction, as described in Section 66610 of the Government Code, a declaration recorded on or after January 1, 2006, shall contain the following notice:

NOTICE OF SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION JURISDICTION

This property is located within the jurisdiction of the San Francisco Bay Conservation and Development Commission. Use and development of property within the commission's jurisdiction may be subject to special regulations, restrictions, and permit requirements.

You may wish to investigate and determine whether they are acceptable to you and your intended use of the property before you complete your transaction."

- (d) The statement in a declaration acknowledging that a property is located in an airport influence area or within the jurisdiction of the San Francisco Bay Conservation and Development Commission does not constitute a title defect, lien, or encumbrance.

4260

Except to the extent that a declaration provides by its express terms that it is not amendable, in whole or in part, a declaration that fails to include provisions permitting its amendment at all times during its existence may be amended at any time.

4265

- (a) The Legislature finds that there are common interest developments that have been created with deed restrictions that do not provide a means for the members to extend the term of the declaration. The Legislature further finds that covenants and restrictions contained in the declaration, are an appropriate method for protecting the common plan of developments and to provide for a mechanism for financial support for the upkeep of common area including, but not limited to, roofs, roads, heating systems, and recreational facilities. If declarations terminate prematurely, common interest developments may deteriorate and the housing supply of affordable units could be impacted adversely. The Legislature further finds and declares that it is in the public interest to provide a vehicle for extending the term of the declaration if the extension is approved by a majority of all members, pursuant to Section 4065.
(b) A declaration that specifies a termination date, but that contains no provision for extension of the termination date, may be extended, before its termination date, by the approval of members pursuant to Section 4270.
(c) No single extension of the terms of the declaration made pursuant to this section shall exceed the initial term of the declaration or 20 years, whichever is less. However, more than one extension may occur pursuant to this section.

4270

- (a) A declaration may be amended pursuant to the declaration or this act. Except where an alternative process for approving, certifying, or recording an amendment is provided in Section 4225, 4230, 4235, or 4275, an amendment is effective after all of the following requirements have been met:
(1) The amendment has been approved by the percentage of members required by the declaration and any other person whose approval is required by the declaration.

- (2) That fact has been certified in a writing executed and acknowledged by the officer designated in the declaration or by the association for that purpose, or if no one is designated, by the president of the association.
 - (3) The amendment has been recorded in each county in which a portion of the common interest development is located.
- (b) If the declaration does not specify the percentage of members who must approve an amendment of the declaration, an amendment may be approved by a majority of all members, pursuant to Section 4065.

4275

- (a) If in order to amend a declaration, the declaration requires members having more than 50 percent of the votes in the association, in a single class voting structure, or members having more than 50 percent of the votes in more than one class in a voting structure with more than one class, to vote in favor of the amendment, the association, or any member, may petition the superior court of the county in which the common interest development is located for an order reducing the percentage of the affirmative votes necessary for such an amendment. The petition shall describe the effort that has been made to solicit approval of the association members in the manner provided in the declaration, the number of affirmative and negative votes actually received, the number or percentage of affirmative votes required to effect the amendment in accordance with the existing declaration, and other matters the petitioner considers relevant to the court's determination. The petition shall also contain, as exhibits thereto, copies of all of the following:
- (1) The governing documents.
 - (2) A complete text of the amendment.
 - (3) Copies of any notice and solicitation materials utilized in the solicitation of member approvals.
 - (4) A short explanation of the reason for the amendment.
 - (5) Any other documentation relevant to the court's determination.
- (b) Upon filing the petition, the court shall set the matter for hearing and issue an ex parte order setting forth the manner in which notice shall be given.
- (c) The court may, but shall not be required to, grant the petition if it finds all of the following:
- (1) The petitioner has given not less than 15 days written notice of the court hearing to all members of the association, to any mortgagee of a mortgage or beneficiary of a deed of trust who is entitled to notice under the terms of the declaration, and to the city, county, or city and county in which the common

- interest development is located that is entitled to notice under the terms of the declaration.
 - (2) Balloting on the proposed amendment was conducted in accordance with the governing documents, this act, and any other applicable law.
 - (3) A reasonably diligent effort was made to permit all eligible members to vote on the proposed amendment.
 - (4) Members having more than 50 percent of the votes, in a single class voting structure, voted in favor of the amendment. In a voting structure with more than one class, where the declaration requires a majority of more than one class to vote in favor of the amendment, members having more than 50 percent of the votes of each class required by the declaration to vote in favor of the amendment voted in favor of the amendment.
 - (5) The amendment is reasonable.
 - (6) Granting the petition is not improper for any reason stated in subdivision (e).
- (d) If the court makes the findings required by subdivision (c), any order issued pursuant to this section may confirm the amendment as being validly approved on the basis of the affirmative votes actually received during the balloting period or the order may dispense with any requirement relating to quorums or to the number or percentage of votes needed for approval of the amendment that would otherwise exist under the governing documents.
- (e) Subdivisions (a) to (d), inclusive, notwithstanding, the court shall not be empowered by this section to approve any amendment to the declaration that:
- (1) Would change provisions in the declaration requiring the approval of members having more than 50 percent of the votes in more than one class to vote in favor of an amendment, unless members having more than 50 percent of the votes in each affected class approved the amendment.
 - (2) Would eliminate any special rights, preferences, or privileges designated in the declaration as belonging to the declarant, without the consent of the declarant.
 - (3) Would impair the security interest of a mortgagee of a mortgage or the beneficiary of a deed of trust without the approval of the percentage of the mortgagees and beneficiaries specified in the declaration, if the declaration requires the approval of a specified percentage of the mortgagees and beneficiaries.
- (f) An amendment is not effective pursuant to this section until the court order and amendment have been recorded in every county in which a portion of the common interest development is located. The amendment may be acknowledged by, and the court order and amendment may be recorded by, any person designated in the declaration or by the association for that purpose, or if no one is designated for that purpose, by the president of the association. Upon recordation of the amendment and

court order, the declaration, as amended in accordance with this section, shall have the same force and effect as if the amendment were adopted in compliance with every requirement imposed by the governing documents.

- (g) Within a reasonable time after the amendment is recorded the association shall deliver to each member, by individual delivery, pursuant to Section 4040, a copy of the amendment, together with a statement that the amendment has been recorded.

Article 3.
Articles of Incorporation

4280

- (a) The articles of incorporation of an association filed with the Secretary of State shall include a statement, which shall be in addition to the statement of purposes of the corporation, that does all of the following:
 - (1) Identifies the corporation as an association formed to manage a common interest development under the Davis-Stirling Common Interest Development Act.
 - (2) States the business or corporate office of the association, if any, and, if the office is not on the site of the common interest development, states the front street and nearest cross street for the physical location of the common interest development.
 - (3) States the name and address of the association’s managing agent, if any.
- (b) The statement filed by an incorporated association with the Secretary of State pursuant to Section 8210 of the Corporations Code shall also contain a statement identifying the corporation as an association formed to manage a common interest development under the Davis-Stirling Common Interest Development Act.
- (c) Documents filed prior to January 1, 2014, in compliance with former Section 1363.5, as it read on January 1, 2013, are deemed to be in compliance with this section.

Article 4.
Condominium Plan

4285

A condominium plan shall contain all of the following:

- (a) A description or survey map of a condominium project, which shall refer to or show monumentation on the ground.
- (b) A three-dimensional description of a condominium project, one or more dimensions of which may extend for an indefinite distance upwards or downwards, in sufficient

detail to identify the common area and each separate interest.

- (c) A certificate consenting to the recordation of the condominium plan pursuant to this act that is signed and acknowledged as provided in Section 4290.

4290

- (a) The certificate consenting to the recordation of a condominium plan that is required by subdivision (c) of Section 4285 shall be signed and acknowledged by all of the following persons:
 - (1) The record owner of fee title to that property included in the condominium project.
 - (2) In the case of a condominium project that will terminate upon the termination of an estate for years, by all lessors and lessees of the estate for years.
 - (3) In the case of a condominium project subject to a life estate, by all life tenants and remainder interests.
 - (4) The trustee or the beneficiary of each recorded deed of trust, and the mortgagee of each recorded mortgage encumbering the property.
- (b) Owners of mineral rights, easements, rights-of-way, and other nonpossessory interests do not need to sign the certificate.
- (c) In the event a conversion to condominiums of a community apartment project or stock cooperative has been approved by the required number of owners, trustees, beneficiaries, and mortgagees pursuant to Section 66452.10 of the Government Code, the certificate need only be signed by those owners, trustees, beneficiaries, and mortgagees approving the conversion.

4295

A condominium plan may be amended or revoked by a recorded instrument that is acknowledged and signed by all the persons who, at the time of amendment or revocation, are persons whose signatures are required under Section 4290.

Article 5.
Operating Rules

4340

For the purposes of this article:

- (a) “Operating rule” means a regulation adopted by the board that applies generally to the management and operation of the common interest development or the conduct of the business and affairs of the association.

- (b) “Rule change” means the adoption, amendment, or repeal of an operating rule by the board.

4350

An operating rule is valid and enforceable only if all of the following requirements are satisfied:

- (a) The rule is in writing.
- (b) The rule is within the authority of the board conferred by law or by the declaration, articles of incorporation or association, or bylaws of the association.
- (c) The rule is not in conflict with governing law and the declaration, articles of incorporation or association, or bylaws of the association.
- (d) The rule is adopted, amended, or repealed in good faith and in substantial compliance with the requirements of this article.
- (e) The rule is reasonable.

4355

- (a) Sections 4360 and 4365 only apply to an operating rule that relates to one or more of the following subjects:

- (1) Use of the common area or of an exclusive use common area.
- (2) Use of a separate interest, including any aesthetic or architectural standards that govern alteration of a separate interest.
- (3) Member discipline, including any schedule of monetary penalties for violation of the governing documents and any procedure for the imposition of penalties.
- (4) Any standards for delinquent assessment payment plans.
- (5) Any procedures adopted by the association for resolution of disputes.
- (6) Any procedures for reviewing and approving or disapproving a proposed physical change to a member’s separate interest or to the common area.
- (7) Procedures for elections.

- (b) Sections 4360 and 4365 do not apply to the following actions by the board:

- (1) A decision regarding maintenance of the common area.
- (2) A decision on a specific matter that is not intended to apply generally.
- (3) A decision setting the amount of a regular or special assessment.

- (4) A rule change that is required by law, if the board has no discretion as to the substantive effect of the rule change.

- (5) Issuance of a document that merely repeats existing law or the governing documents.

4360

- (a) The board shall provide general notice pursuant to Section 4045 of a proposed rule change at least 28 days before making the rule change. The notice shall include the text of the proposed rule change and a description of the purpose and effect of the proposed rule change. Notice is not required under this subdivision if the board determines that an immediate rule change is necessary to address an imminent threat to public health or safety or imminent risk of substantial economic loss to the association.
- (b) A decision on a proposed rule change shall be made at a board meeting, after consideration of any comments made by association members.
- (c) As soon as possible after making a rule change, but not more than 15 days after making the rule change, the board shall deliver general notice pursuant to Section 4045 of the rule change. If the rule change was an emergency rule change made under subdivision (d), the notice shall include the text of the rule change, a description of the purpose and effect of the rule change, and the date that the rule change expires.
- (d) If the board determines that an immediate rule change is required to address an imminent threat to public health or safety, or an imminent risk of substantial economic loss to the association, it may make an emergency rule change, and no notice is required, as specified in subdivision (a). An emergency rule change is effective for 120 days, unless the rule change provides for a shorter effective period. A rule change made under this subdivision may not be readopted under this subdivision.

4365

- (a) Members of an association owning 5 percent or more of the separate interests may call a special vote of the members to reverse a rule change.
- (b) A special vote of the members may be called by delivering a written request to the association. Not less than 35 days nor more than 90 days after receipt of a proper request, the association shall hold a vote of the members on whether to reverse the rule change, pursuant to Article 4 (commencing with Section 5100) of Chapter 6. The written request may not be delivered more than 30 days after the association gives general notice of the rule change, pursuant to Section 4045.
- (c) For the purposes of Section 5225 of this code and Section 8330 of the Corporations Code, collection of signatures to call a special vote under this section is a purpose reasonably

related to the interests of the members of the association. A member request to copy or inspect the membership list solely for that purpose may not be denied on the grounds that the purpose is not reasonably related to the member's interests as a member.

- (d) The rule change may be reversed by the affirmative vote of a majority of a quorum of the members, pursuant to Section 4070, or if the declaration or bylaws require a greater percentage, by the affirmative vote of the percentage required.
- (e) Unless otherwise provided in the declaration or bylaws, for the purposes of this section, a member may cast one vote per separate interest owned.
- (f) A rule change reversed under this section may not be readopted for one year after the date of the vote reversing the rule change. Nothing in this section precludes the board from adopting a different rule on the same subject as the rule change that has been reversed.
- (g) As soon as possible after the close of voting, but not more than 15 days after the close of voting, the board shall provide general notice pursuant to Section 4045 of the results of the member vote.
- (h) This section does not apply to an emergency rule change made under subdivision (d) of Section 4360.

4370

- (a) This article applies to a rule change commenced on or after January 1, 2004.
- (b) Nothing in this article affects the validity of a rule change commenced before January 1, 2004.
- (c) For the purposes of this section, a rule change is commenced when the board takes its first official action leading to adoption of the rule change.

4505

Unless the declaration otherwise provides:

- (a) In a community apartment project and condominium project, and in those planned developments with common area owned in common by the owners of the separate interests, there are appurtenant to each separate interest nonexclusive rights of ingress, egress, and support, if necessary, through the common area. The common area is subject to these rights.
- (b) In a stock cooperative, and in a planned development with common area owned by the association, there is an easement for ingress, egress, and support, if necessary, appurtenant to each separate interest. The common area is subject to these easements.

4510

Except as otherwise provided in law, an order of the court, or an order pursuant to a final and binding arbitration decision, an association may not deny a member or occupant physical access to the member's or occupant's separate interest, either by restricting access through the common area to the separate interest, or by restricting access solely to the separate interest.

4515

- (a) It is the intent of the Legislature to ensure that members and residents of common interest developments have the ability to exercise their rights under law to peacefully assemble and freely communicate with one another and with others with respect to common interest development living or for social, political, or educational purposes.
- (b) The governing documents, including bylaws and operating rules, shall not prohibit a member or resident of a common interest development from doing any of the following:
 - (1) Peacefully assembling or meeting with members, residents, and their invitees or guests during reasonable hours and in a reasonable manner for purposes relating to common interest development living, association elections, legislation, election to public office, or the initiative, referendum, or recall processes.
 - (2) Inviting public officials, candidates for public office, or representatives of homeowner organizations to meet with members, residents, and their invitees or guests and speak on matters of public interest.
 - (3) Using the common area, including the community or recreation hall or clubhouse, or, with the consent of the member, the area of a separate interest, for an assembly or meeting described in paragraph (1) or (2) when that facility or separate interest is not otherwise in use.

CHAPTER 4. OWNERSHIP AND TRANSFER OF INTERESTS

Article 1. Ownership Rights and Interests

4500

Unless the declaration otherwise provides, in a condominium project, or in a planned development in which the common area is owned by the owners of the separate interests, the common area is owned as tenants in common, in equal shares, one for each separate interest.

- (4) Canvassing and petitioning the members, the association board, and residents for the activities described in paragraphs (1) and (2) at reasonable hours and in a reasonable manner.
- (5) Distributing or circulating, without prior permission, information about common interest development living, association elections, legislation, election to public office, or the initiative, referendum, or recall processes, or other issues of concern to members and residents at reasonable hours and in a reasonable manner.
- (6) (A) Using social media or other online resources to discuss any of the following, even if the content is critical of the association or its governance:
 - (i) Development living.
 - (ii) Association elections.
 - (iii) Legislation.
 - (iv) Election to public office.
 - (v) The initiative, referendum, or recall processes.
 - (vi) Any other issues of concern to members and residents.
- (B) This paragraph does not require an association to provide social media or other online resources to members.
- (C) This paragraph does not require an association to allow members to post content on the association's internet website.
- (c) A member or resident of a common interest development shall not be required to pay a fee, make a deposit, obtain liability insurance, or pay the premium or deductible on the association's insurance policy, in order to use a common area for the activities described in paragraphs (1), (2), and (3) of subdivision (b).
- (d) A member or resident of a common interest development who is prevented by the association or its agents from engaging in any of the activities described in this section may bring a civil or small claims court action to enjoin the enforcement of a governing document, including a bylaw and operating rule, that violates this section. The court may assess a civil penalty of not more than five hundred dollars (\$500) for each violation.
- (e) An association shall not retaliate against a member or a resident for exercising any of the rights contained in this section.

Article 2. Transfer Disclosure

4525

- (a) The owner of a separate interest shall provide the following documents to a prospective purchaser of the separate interest, as soon as practicable before the transfer of title or the execution of a real property sales contract, as defined in Section 2985:
 - (1) A copy of all governing documents. If the association is not incorporated, this shall include a statement in writing from an authorized representative of the association that the association is not incorporated.
 - (2) If there is a restriction in the governing documents limiting the occupancy, residency, or use of a separate interest on the basis of age in a manner different from that provided in Section 51.3, a statement that the restriction is only enforceable to the extent permitted by Section 51.3 and a statement specifying the applicable provisions of Section 51.3.
 - (3) A copy of the most recent documents distributed pursuant to Article 7 (commencing with Section 5300) of Chapter 6.
 - (4) A true statement in writing obtained from an authorized representative of the association as to the amount of the association's current regular and special assessments and fees, any assessments levied upon the owner's interest in the common interest development that are unpaid on the date of the statement, and any monetary fines or penalties levied upon the owner's interest and unpaid on the date of the statement. The statement obtained from an authorized representative shall also include true information on late charges, interest, and costs of collection which, as of the date of the statement, are or may be made a lien upon the owner's interest in a common interest development pursuant to Article 2 (commencing with Section 5650) of Chapter 8.
 - (5) A copy or a summary of any notice previously sent to the owner pursuant to Section 5855 that sets forth any alleged violation of the governing documents that remains unresolved at the time of the request. The notice shall not be deemed a waiver of the association's right to enforce the governing documents against the owner or the prospective purchaser of the separate interest with respect to any violation. This paragraph shall not be construed to require an association to inspect an owner's separate interest.
 - (6) A copy of the initial list of defects provided to each member pursuant to Section 6000, unless the association and the builder subsequently enter into a settlement agreement or otherwise resolve the matter and the association complies with Section 6100. Disclosure of the initial list of defects pursuant to this paragraph does not waive any privilege attached to the

document. The initial list of defects shall also include a statement that a final determination as to whether the list of defects is accurate and complete has not been made.

4528

The form for billing disclosures required by Section 4530 shall be in at least 10-point type and substantially the following form:

- (7) A copy of the latest information provided for in Section 6100.
 - (8) Any change in the association's current regular and special assessments and fees which have been approved by the board, but have not become due and payable as of the date disclosure is provided pursuant to this subdivision.
 - (9) If there is a provision in the governing documents that prohibits the rental or leasing of any of the separate interests in the common interest development to a renter, lessee, or tenant, a statement describing the prohibition.
 - (10) If requested by the prospective purchaser, a copy of the minutes of board meetings, excluding meetings held in executive session, conducted over the previous 12 months, that were approved by the board.
 - (11) A copy of the report issued pursuant to the most recent inspection conducted pursuant to Section 5551.**
- (b) This section does not apply to an owner that is subject to Section 11018.6 of the Business and Professions Code.

CHARGES FOR DOCUMENTS PROVIDED AS REQUIRED BY SECTION 4525*

The seller may, in accordance with Section 4530 of the Civil Code, provide to the prospective purchaser, at no cost, current copies of any documents specified by Section 4525 that are in the possession of the seller.

A seller may request to purchase some or all of these documents, but shall not be required to purchase ALL of the documents listed on this form.

Property Address
 Owner of Property
 Owner's Mailing Address (If known or different from property address.)
 Provider of the Section 4525 Items:
 Print Name _____ Position or Title _____ Association or Agent
 Date Form Completed

Check or Complete Applicable Column or Columns Below

Document	Civil Code Section Included	Fee for Document	Not Available (N/A) or Not Applicable (N/App), or Directly Provided (DP) by Seller and confirmed in writing by Seller as a current document
Articles of Incorporation or statement that not incorporated	Section 4525(a)(1)		
CC&Rs	Section 4525(a)(1)		
Bylaws	Section 4525(a)(1)		
Operating Rules	Section 4525(a)(1)		
Age restrictions, if any	Section 4525(a)(2)		
Rental restrictions, if any	Section 4525(a)(9)		
Annual budget report or summary, including reserve study	Sections 5300 and 4525(a)(3)		
Assessment and reserve funding disclosure summary	Sections 5300 and 4525(a)(4)		
Financial statement review	Sections 5305 and 4525(a)(3)		
Assessment enforcement policy	Sections 5310 and 4525(a)(4)		
Insurance summary	Sections 5300 and 4525(a)(3)		
Regular assessment	Section 4525(a)(4)		
Special assessment	Section 4525(a)(4)		
Emergency assessment	Section 4525(a)(4)		
Other unpaid obligations of seller	Sections 5675 and 4525(a)(4)		
Approved changes to assessments	Sections 5300 and 4525(a)(4), (8)		
Settlement notice regarding common area defects	Sections 4525(a)(6), (7), and 6100		
Preliminary list of defects	Sections 4525(a)(6), 6000, and 6100		
Notice(s) of violation	Sections 5855 and 4525(a)(5)		
Required statement of fees	Section 4525		
Minutes of regular board meetings conducted over the previous 12 months, if requested	Section 4525(a)(10)		
Copy of the report issued pursuant to the most recent inspection of exterior elevated elements	Sections 4525(a)(11) and 5551		
Total fees for these documents:			

*The information provided by this form may not include all fees that may be imposed before the close of escrow. Additional fees that are not related to the requirements of Section 4525 may be charged separately.

4530

- (a) (1) Upon written request, the association shall, within 10 days of the mailing or delivery of the request, provide the owner of a separate interest, or any other recipient authorized by the owner, with a copy of all of the requested documents specified in Section 4525.
- (2) The documents required to be made available pursuant to this section may be maintained in electronic form, and may be posted on the association's Internet Web site. Requesting parties shall have the option of receiving the documents by electronic transmission if the association maintains the documents in electronic form.
- (3) Delivery of the documents required by this section shall not be withheld for any reason nor subject to any condition except the payment of the fee authorized pursuant to subdivision (b).
- (b) (1) The association may collect a reasonable fee from the seller based upon the association's actual cost for the procurement, preparation, reproduction, and delivery of the documents requested pursuant to this section. An additional fee shall not be charged for the electronic delivery in lieu of a hard copy delivery of the documents requested.
- (2) Upon receipt of a written request, the association shall provide, on the form described in Section 4528, a written or electronic estimate of the fees that will be assessed for providing the requested documents prior to processing the request in paragraph (1) of subdivision (a).
- (3) (A) A cancellation fee for documents specified in subdivision (a) shall not be collected if either of the following applies:
- (i) The request was canceled in writing by the same party that placed the order and work had not yet been performed on the order.
- (ii) The request was canceled in writing and any work that had been performed on the order was compensated.
- (B) The association shall refund all fees collected pursuant to paragraph (1) if the request was canceled in writing and work had not yet been performed on the order.
- (C) If the request was canceled in writing, the association shall refund the share of fees collected pursuant to paragraph (1) that represents the portion of the work not performed on the order.
- (4) Fees for any documents required by this section shall be distinguished from, separately stated, and separately billed from, all other fees, fines, or assessments billed as part of the transfer or sales transaction.

- (5) Any documents not expressly required by Section 4525 to be provided to a prospective purchaser by the seller shall not be included in the document disclosure required by this section. Bundling of documents required to be provided pursuant to this section with other documents relating to the transaction is prohibited.
- (6) A seller shall provide to the prospective purchaser, at no cost, current copies of any documents specified by Section 4525 that are in the possession of the seller.
- (7) The fee for each document provided to the seller for the purpose of transmission to the prospective purchaser shall be individually itemized in the statement required to be provided by the seller to the prospective purchaser.
- (8) It is the responsibility of the seller to compensate the association, person, or entity that provides the documents required to be provided by Section 4525 to the prospective purchaser.
- (c) An association may contract with any person or entity to facilitate compliance with this section on behalf of the association.
- (d) The association shall also provide a recipient authorized by the owner of a separate interest with a copy of the completed form specified in Section 4528 at the time the required documents are delivered. A seller may request to purchase some or all of these documents, but shall not be required to purchase all of the documents listed on the form specified in Section 4528.

4535

In addition to the requirements of this article, an owner transferring title to a separate interest shall comply with applicable requirements of Sections 1133 and 1134.

4540

Any person who willfully violates this article is liable to the purchaser of a separate interest that is subject to this section for actual damages occasioned thereby and, in addition, shall pay a civil penalty in an amount not to exceed \$500. In an action to enforce this liability, the prevailing party shall be awarded reasonable attorney's fees.

4545

Nothing in this article affects the validity of title to real property transferred in violation of this article.

**Article 3.
Transfer Fee**

4575

Except as provided in Section 4580, neither an association nor a community service organization or similar entity may impose or collect any assessment, penalty, or fee in connection with a transfer of title or any other interest except for the following:

- (a) An amount not to exceed the association’s actual costs to change its records.
- (b) An amount authorized by Section 4530.

4580

The prohibition in Section 4575 does not apply to a community service organization or similar entity, or to a nonprofit entity that provides services to a common interest development under a declaration of trust, of either of the following types:

- (a) An organization or entity that satisfies both of the following conditions:
 - (1) It was established before February 20, 2003.
 - (2) It exists and operates, in whole or in part, to fund or perform environmental mitigation or to restore or maintain wetlands or native habitat, as required by the state or local government as an express written condition of development.
- (b) An organization or entity that satisfies all of the following conditions:
 - (1) It is not an organization or entity described by subdivision (a).
 - (2) It was established and received a transfer fee before January 1, 2004.
 - (3) On and after January 1, 2006, it offers a purchaser the following payment options for the fee or charge it collects at time of transfer:
 - (A) Paying the fee or charge at the time of transfer.
 - (B) Paying the fee or charge pursuant to an installment payment plan for a period of not less than seven years. If the purchaser elects to pay the fee or charge in installment payments, the organization or entity may also collect additional amounts that do not exceed the actual costs for billing and financing on the amount owed. If the purchaser sells the separate interest before the end of the installment payment plan period, the purchaser shall pay the remaining balance before the transfer.

**Article 4.
Restrictions on Transfer**

4600

- (a) Unless the governing documents specify a different percentage, the affirmative vote of members owning at least 67 percent of the separate interests in the common interest development shall be required before the board may grant exclusive use of any portion of the common area to a member.
- (b) Subdivision (a) does not apply to the following actions:
 - (1) A reconveyance of all or any portion of that common area to the subdivider to enable the continuation of development that is in substantial conformance with a detailed plan of phased development submitted to the Real Estate Commissioner with the application for a public report.
 - (2) Any grant of exclusive use that is in substantial conformance with a detailed plan of phased development submitted to the Real Estate Commissioner with the application for a public report or in accordance with the governing documents approved by the Real Estate Commissioner.
 - (3) Any grant of exclusive use that is for any of the following reasons:
 - (A) To eliminate or correct engineering errors in documents recorded with the county recorder or on file with a public agency or utility company.
 - (B) To eliminate or correct encroachments due to errors in construction of any improvements.
 - (C) To permit changes in the plan of development submitted to the Real Estate Commissioner in circumstances where the changes are the result of topography, obstruction, hardship, aesthetic considerations, or environmental conditions.
 - (D) To fulfill the requirement of a public agency.
 - (E) To transfer the burden of management and maintenance of any common area that is generally inaccessible and not of general use to the membership at large of the association.
 - (F) To accommodate a disability.
 - (G) To assign a parking space, storage unit, or other amenity, that is designated in the declaration for assignment, but is not assigned by the declaration to a specific separate interest.
 - (H) To install and use an electric vehicle charging station in an owner’s garage or a designated parking space that meets the requirements of Section 4745, where the installation or use of the charging station requires reasonable access

through, or across, the common area for utility lines or meters.

- (I) To install and use an electric vehicle charging station through a license granted by an association under Section 4745.
 - (J) To install and use a solar energy system on the common area roof of a residence that meets the requirements of Sections 714, 714.1, and, if applicable, Section 4746.
 - (K) To comply with governing law.
- (c) Any measure placed before the members requesting that the board grant exclusive use of any portion of the common area shall specify whether the association will receive any monetary consideration for the grant and whether the association or the transferee will be responsible for providing any insurance coverage for exclusive use of the common area.

4605

- (a) A member of an association may bring a civil action for declaratory or equitable relief for a violation of Section 4600 by the association, including, but not limited to, injunctive relief, restitution, or a combination thereof, within one year of the date the cause of action accrues.
- (b) A member who prevails in a civil action to enforce the member’s rights pursuant to Section 4600 shall be entitled to reasonable attorney’s fees and court costs, and the court may impose a civil penalty of up to \$500 for each violation, except that each identical violation shall be subject to only one penalty if the violation affects each member equally. A prevailing association shall not recover any costs, unless the court finds the action to be frivolous, unreasonable, or without foundation.

4610

- (a) Except as provided in this section, the common area in a condominium project shall remain undivided, and there shall be no judicial partition thereof. Nothing in this section shall be deemed to prohibit partition of a cotenancy in a condominium.
- (b) The owner of a separate interest in a condominium project may maintain a partition action as to the entire project as if the owners of all of the separate interests in the project were tenants in common in the entire project in the same proportion as their interests in the common area. The court shall order partition under this subdivision only by sale of the entire condominium project and only upon a showing of one of the following:
 - (1) More than three years before the filing of the action, the condominium project was damaged or destroyed, so that a material part was rendered unfit for its prior use, and the condominium project has not been

rebuilt or repaired substantially to its state prior to the damage or destruction.

- (2) Three-fourths or more of the project is destroyed or substantially damaged and owners of separate interests holding in the aggregate more than a 50-percent interest in the common area oppose repair or restoration of the project.
- (3) The project has been in existence more than 50 years, is obsolete and uneconomic, and owners of separate interests holding in the aggregate more than a 50-percent interest in the common area oppose repair or restoration of the project.
- (4) Any conditions in the declaration for sale under the circumstances described in this subdivision have been met.

4615

- (a) In a common interest development, no labor performed or services or materials furnished with the consent of, or at the request of, an owner in the common interest development or the owners’ agent or contractor shall be the basis for the filing of a lien against any other property of an other owner in the common interest development unless that other owner has expressly consented to or requested the performance of the labor or furnishing of the materials or services. However, express consent shall be deemed to have been given by the owner of any separate interest in the case of emergency repairs thereto.
- (b) Labor performed or services or materials furnished for the common area, if duly authorized by the association, are deemed to be performed or furnished with the express consent of each separate interest owner.
- (c) The owner of any separate interest may remove that owner’s separate interest from a lien against two or more separate interests or any part thereof by doing either of the following:
 - (1) Pay to the holder of the lien the fraction of the total sum secured by the lien that is attributable to the owner’s separate interest.
 - (2) Record a lien release bond, pursuant to Section 8424, in an amount equal to 125 percent of the sum secured by the lien that is attributable to the owner’s separate interest.

4620

If the association is served with a claim of lien pursuant to Part 6 (commencing with Section 8000) for a work of improvement on a common area, the association shall, within 60 days of service, give individual notice to the members, pursuant to Section 4040.

**Article 5.
Transfer of Separate Interest**

4625

In a community apartment project, any conveyance, judicial sale, or other voluntary or involuntary transfer of the separate interest includes the undivided interest in the community apartment project. Any conveyance, judicial sale, or other voluntary or involuntary transfer of the owner’s entire estate also includes the owner’s membership interest in the association.

4630

In a condominium project the common area is not subject to partition, except as provided in Section 4610. Any conveyance, judicial sale, or other voluntary or involuntary transfer of the separate interest includes the undivided interest in the common area. Any conveyance, judicial sale, or other voluntary or involuntary transfer of the owner’s entire estate also includes the owner’s membership interest in the association.

4635

In a planned development, any conveyance, judicial sale, or other voluntary or involuntary transfer of the separate interest includes the undivided interest in the common area, if any exists. Any conveyance, judicial sale, or other voluntary or involuntary transfer of the owner’s entire estate also includes the owner’s membership interest in the association.

4640

In a stock cooperative, any conveyance, judicial sale, or other voluntary or involuntary transfer of the separate interest includes the ownership interest in the corporation, however evidenced. Any conveyance, judicial sale, or other voluntary or involuntary transfer of the owner’s entire estate also includes the owner’s membership interest in the association.

4645

Nothing in this article prohibits the transfer of exclusive use areas, independent of any other interest in a common interest subdivision, if authorization to separately transfer exclusive use areas is expressly stated in the declaration and the transfer occurs in accordance with the terms of the declaration.

4650

Any restrictions upon the severability of the component interests in real property which are contained in the declaration

shall not be deemed conditions repugnant to the interest created within the meaning of Section 711. However, these restrictions shall not extend beyond the period in which the right to partition a project is suspended under Section 4610.

**CHAPTER 5. PROPERTY USE AND
MAINTENANCE**

**Article 1.
Protected Uses**

4700

This article includes provisions that limit the authority of an association or the governing documents to regulate the use of a member’s separate interest. Nothing in this article is intended to affect the application of any other provision that limits the authority of an association to regulate the use of a member’s separate interest, including, but not limited to, the following provisions:

- (a) Sections 712 and 713, relating to the display of signs.
- (b) Sections 714 and 714.1, relating to solar energy systems.
- (c) Section 714.5, relating to structures that are constructed offsite and moved to the property in sections or modules.
- (d) Sections 782, 782.5, and 6150 of this code and Section 12956.1 of the Government Code, relating to racial restrictions.
- (e) Section 12927 of the Government Code, relating to the modification of property to accommodate a disability.
- (f) Section 1597.40 of the Health and Safety Code, relating to the operation of a family day care home.

4705

- (a) Except as required for the protection of the public health or safety, no governing document shall limit or prohibit, or be construed to limit or prohibit, the display of the flag of the United States by a member on or in the member’s separate interest or within the member’s exclusive use common area.
- (b) For purposes of this section, “display of the flag of the United States” means a flag of the United States made of fabric, cloth, or paper displayed from a staff or pole or in a window, and does not mean a depiction or emblem of the flag of the United States made of lights, paint, roofing, siding, paving materials, flora, or balloons, or any other similar building, landscaping, or decorative component.
- (c) In any action to enforce this section, the prevailing party shall be awarded reasonable attorney’s fees and costs.

4706

- (a) Except as restricted in Section 1940.5, no governing document shall limit or prohibit the display of one or more religious items on the entry door or entry door frame of the member’s separate interest.
- (b) If an association is performing maintenance, repair, or replacement of an entry door or door frame that serves a member’s separate interest, the member may be required to remove a religious item during the time the work is being performed. After completion of the association’s work, the member may again display or affix the religious item. The association shall provide individual notice to the member regarding the temporary removal of the religious item.

4710

- (a) The governing documents may not prohibit posting or displaying of noncommercial signs, posters, flags, or banners on or in a member’s separate interest, except as required for the protection of public health or safety or if the posting or display would violate a local, state, or federal law.
- (b) For purposes of this section, a noncommercial sign, poster, flag, or banner may be made of paper, cardboard, cloth, plastic, or fabric, and may be posted or displayed from the yard, window, door, balcony, or outside wall of the separate interest, but may not be made of lights, roofing, siding, paving materials, flora, or balloons, or any other similar building, landscaping, or decorative component, or include the painting of architectural surfaces.
- (c) An association may prohibit noncommercial signs and posters that are more than nine square feet in size and noncommercial flags or banners that are more than 15 square feet in size.

4715

- (a) No governing documents shall prohibit the owner of a separate interest within a common interest development from keeping at least one pet within the common interest development, subject to reasonable rules and regulations of the association. This section may not be construed to affect any other rights provided by law to an owner of a separate interest to keep a pet within the development.
- (b) For purposes of this section, “pet” means any domesticated bird, cat, dog, aquatic animal kept within an aquarium, or other animal as agreed to between the association and the homeowner.
- (c) If the association implements a rule or regulation restricting the number of pets an owner may keep, the new rule or regulation shall not apply to prohibit an owner from continuing to keep any pet that the owner currently keeps in the owner’s separate interest if the pet otherwise

conforms with the previous rules or regulations relating to pets.

- (d) For the purposes of this section, “governing documents” shall include, but are not limited to, the conditions, covenants, and restrictions of the common interest development, and the bylaws, rules, and regulations of the association.
- (e) This section shall become operative on January 1, 2001, and shall only apply to governing documents entered into, amended, or otherwise modified on or after that date.

4720

- (a) No association may require a homeowner to install or repair a roof in a manner that is in violation of Section 13132.7 of the Health and Safety Code.
- (b) Governing documents of a common interest development located within a very high fire severity zone, as designated by the Director of Forestry and Fire Protection pursuant to Article 9 (commencing with Section 4201) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code or by a local agency pursuant to Chapter 6.8 (commencing with Section 51175) of Part 1 of Division 1 of Title 5 of the Government Code, shall allow for at least one type of fire retardant roof covering material that meets the requirements of Section 13132.7 of the Health and Safety Code.

4725

- (a) Any covenant, condition, or restriction contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of, or any interest in, a common interest development that effectively prohibits or restricts the installation or use of a video or television antenna, including a satellite dish, or that effectively prohibits or restricts the attachment of that antenna to a structure within that development where the antenna is not visible from any street or common area, except as otherwise prohibited or restricted by law, is void and unenforceable as to its application to the installation or use of a video or television antenna that has a diameter or diagonal measurement of 36 inches or less.
- (b) This section shall not apply to any covenant, condition, or restriction, as described in subdivision (a), that imposes reasonable restrictions on the installation or use of a video or television antenna, including a satellite dish, that has a diameter or diagonal measurement of 36 inches or less. For purposes of this section, “reasonable restrictions” means those restrictions that do not significantly increase the cost of the video or television antenna system, including all related equipment, or significantly decrease its efficiency or performance and include all of the following:
 - (1) Requirements for application and notice to the association prior to the installation.

- (2) Requirement of a member to obtain the approval of the association for the installation of a video or television antenna that has a diameter or diagonal measurement of 36 inches or less on a separate interest owned by another.
- (3) Provision for the maintenance, repair, or replacement of roofs or other building components.
- (4) Requirements for installers of a video or television antenna to indemnify or reimburse the association or its members for loss or damage caused by the installation, maintenance, or use of a video or television antenna that has a diameter or diagonal measurement of 36 inches or less.
- (c) Whenever approval is required for the installation or use of a video or television antenna, including a satellite dish, the application for approval shall be processed by the appropriate approving entity for the common interest development in the same manner as an application for approval of an architectural modification to the property, and the issuance of a decision on the application shall not be willfully delayed.
- (d) In any action to enforce compliance with this section, the prevailing party shall be awarded reasonable attorney’s fees.

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4730

- (a) Any provision of a governing document that arbitrarily or unreasonably restricts an owner’s ability to market the owner’s interest in a common interest development is void.
- (b) No association may adopt, enforce, or otherwise impose any governing document that does either of the following:
 - (1) Imposes an assessment or fee in connection with the marketing of an owner’s interest in an amount that exceeds the association’s actual or direct costs. That assessment or fee shall be deemed to violate the limitation set forth in subdivision (b) of Section 5600.
 - (2) Establishes an exclusive relationship with a real estate broker through which the sale or marketing of interests in the development is required to occur. The limitation set forth in this paragraph does not apply to the sale or marketing of separate interests owned by the association or to the sale or marketing of common area by the association.
- (c) For purposes of this section, “market” and “marketing” mean listing, advertising, or obtaining or providing access to show the owner’s interest in the development.
- (d) This section does not apply to rules or regulations made pursuant to Section 712 or 713 regarding real estate signs.

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4735

- (a) Notwithstanding any other law, a provision of the governing documents or architectural or landscaping guidelines or policies shall be void and unenforceable if it does any of the following:
 - (1) Prohibits, or includes conditions that have the effect of prohibiting, the use of low water-using plants as a group or as a replacement of existing turf.
 - (2) Prohibits, or includes conditions that have the effect of prohibiting, the use of artificial turf or any other synthetic surface that resembles grass.
 - (3) Has the effect of prohibiting or restricting compliance with either of the following:
 - (A) A water-efficient landscape ordinance adopted or in effect pursuant to subdivision (c) of Section 65595 of the Government Code.
 - (B) Any regulation or restriction on the use of water adopted pursuant to Section 353 or 375 of the Water Code.
- (b) This section shall not prohibit an association from applying landscaping rules established in the governing documents, to the extent the rules fully conform with the requirements of subdivision (a).
- (c) Notwithstanding any other provision of this part, except as provided in subdivision (d), an association, except an association that uses recycled water, as defined in Section 13050 of the Water Code, for landscaping irrigation, shall not impose a fine or assessment against an owner of a separate interest for reducing or eliminating the watering of vegetation or lawns during any period for which either of the following have occurred:
 - (1) The Governor has declared a state of emergency due to drought pursuant to subdivision (b) of Section 8558 of the Government Code.
 - (2) A local government has declared a local emergency due to drought pursuant to subdivision (c) of Section 8558 of the Government Code.
- (d) Subdivision (c) shall not apply to an owner of a separate interest that, prior to the imposition of a fine or assessment described in subdivision (c), receives recycled water, as defined in Section 13050 of the Water Code, from a retail water supplier, as defined in Section 13575 of the Water Code, and fails to use that recycled water for landscaping irrigation.
- (e) An owner of a separate interest upon which water-efficient landscaping measures have been installed in response to a declaration of a state of emergency described in subdivision (c) shall not be required to reverse or remove the water-efficient landscaping measures upon the conclusion of the state of emergency.

4736

- (a) A provision of the governing documents shall be void and unenforceable if it requires pressure washing the exterior of a separate interest and any exclusive use common area appurtenant to the separate interest during a state or local government declared drought emergency.
- (b) For purposes of this section, “pressure washing” means the use of a high-pressure sprayer or hose and potable water to remove loose paint, mold, grime, dust, mud, and dirt from surfaces and objects, including buildings, vehicles, and concrete surfaces.

4739

- (a) Notwithstanding Section 4740, an owner of a separate interest in a common interest development shall not be subject to a provision in a governing document, or amendments thereto, that prohibits the rental or leasing of a portion of the owner-occupied separate interest in that common interest development to a renter, lessee, or tenant for a period of more than 30 days.
- (b) Nothing in this section shall permit an owner of a separate interest or a resident renting or leasing a portion of the owner-occupied separate interest to violate any provision of the association governing documents that govern conduct in the separate interest or common areas, or that govern membership rights or privileges, including, but not limited to, parking restrictions and guest access to common facilities.

4740

- (a) 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 of the separate interests in that common interest development to a renter, lessee, or tenant unless that governing document, or amendment thereto, was effective prior to the date the owner acquired title to their separate interest.
- (b) For purposes of this section, the right to rent or lease the separate interest of an owner shall not be deemed to have terminated if the transfer by the owner of all or part of the separate interest meets at least one of the following conditions:
 - (1) Pursuant to Section 62 or 480.3 of the Revenue and Taxation Code, the transfer is exempt, for purposes of reassessment by the county tax assessor.
 - (2) Pursuant to subdivision (b) of, solely with respect to probate transfers, or subdivision (e), (f), or (g) of, Section 1102.2, the transfer is exempt from the requirements to prepare and deliver a Real Estate Transfer Disclosure Statement, as set forth in Section 1102.6.

- (c) Prior to renting or leasing their separate interest as provided by this section, an owner shall provide the association verification of the date the owner acquired title to the separate interest and the name and contact information of the prospective tenant or lessee or the prospective tenant’s or lessee’s representative.
- (d) Nothing in this section shall be deemed to revise, alter, or otherwise affect the voting process by which a common interest development adopts or amends its governing documents.

4741

- (a) 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, 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.
- (b) A common interest development shall not adopt or enforce a provision in a governing document or amendment to a governing document that restricts the rental or lease of separate interests within a common interest to less than 25 percent of the separate interests. Nothing in this subdivision prohibits a common interest development from adopting or enforcing a provision authorizing a higher percentage of separate interests to be rented or leased.
- (c) This section does not prohibit a common interest development from adopting and enforcing a provision in a governing document that prohibits transient or short-term rental of a separate property interest for a period of 30 days or less.
- (d) For purposes of this section, an accessory dwelling unit or junior accessory dwelling unit shall not be construed as a separate interest.
- (e) For purposes of this section, a separate interest shall not be counted as occupied by a renter if the separate interest, or the accessory dwelling unit or junior accessory dwelling unit of the separate interest, is occupied by the owner.
- (f) A common interest development shall comply with the prohibition on rental restrictions specified in this section on and after January 1, 2021, regardless of whether the common interest development has revised their governing documents to comply with this section. However, a common interest development shall amend their governing documents to conform to the requirements of this section no later than December 31, 2021. Notwithstanding any other provision of law or provision of the governing documents, the board, without approval of the members, shall amend any declaration or other governing document no later than July 1, 2022, that includes a restrictive covenant prohibited by this section by either deleting or restating the restrictive covenant to be compliant with this section, and shall restate the declaration or other governing document without the restrictive covenant

but with no other change to the declaration or governing document. A board shall provide general notice pursuant to Section 4045 of the amendment at least 28 days before approving the amendment. The notice shall include the text of the amendment and a description of the purpose and effect of the amendment. The decision on the amendment shall be made at a board meeting, after consideration of any comments made by association members.

- (g) A common interest development 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).
- (h) In accordance with Section 4740, this section does not change the right of an owner of a separate interest who acquired title to their separate interest before the effective date of this section to rent or lease their property.

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**4745**  
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- (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 the provisions of 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 *** **as required by** 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 \$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.

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.

4746

- (a) When reviewing a request to install a solar energy system on a multifamily common area roof shared by more than one homeowner pursuant to Sections 714 and 714.1, an association shall require both of the following:
 - (1) An applicant to notify each owner of a unit in the building on which the installation will be located of the application to install a solar energy system.
 - (2) The owner and each successive owner to maintain a homeowner liability coverage policy at all times and provide the association with the corresponding certificate of insurance within 14 days of approval of the application and annually thereafter.
- (b) When reviewing a request to install a solar energy system on a multifamily common area roof shared by more than one homeowner pursuant to Sections 714 and 714.1, an association may impose additional reasonable provisions that:
 - (1) (A) Require the applicant to submit a solar site survey showing the placement of the solar energy system prepared by a licensed contractor or the contractor’s registered salesperson knowledgeable in the installation of solar energy systems to determine usable solar roof area. This survey or the costs to determine useable space shall not be deemed as part of the cost of the system as used in Section 714.
 - (B) The solar site survey shall also include a determination of an equitable allocation of the usable solar roof area among all owners sharing the same roof, garage, or carport.

- (2) Require the owner and each successive owner of the solar energy system to be responsible for all of the following:
 - (A) Costs for damage to the common area, exclusive use common area, or separate interests resulting from the installation, maintenance, repair, removal, or replacement of the solar energy system.
 - (B) Costs for the maintenance, repair, and replacement of solar energy system until it has been removed and for the restoration of the common area, exclusive use common area, or separate interests after removal.
 - (C) Disclosing to prospective buyers the existence of any solar energy system of the owner and the related responsibilities of the owner under this section.

- (c) For purposes of this section:
 - (1) “Association” has the same meaning as defined in Section 4080 or 6528.
 - (2) “Common area” has the same meaning as defined in Section 4095 or 6532.
 - (3) “Separate interest” has the same meaning as defined in Section 4185 or 6564.
- (d) This section imposes additional requirements for any proposed installation of a solar energy system on a multifamily common area roof shared by more than one homeowner.
- (e) This section does not diminish the authority of an association to impose reasonable provisions pursuant to Section 714.1.

4750

- (a) For the purposes of this section, “personal agriculture” has the same definition as in Section 1940.10.
- (b) Any provision of a governing document, as defined in Section 4150, shall be void and unenforceable if it effectively prohibits or unreasonably restricts the use of a homeowner’s backyard for personal agriculture.
- (c) (1) This section does not apply to provisions that impose reasonable restrictions on the use of a homeowner’s yard for personal agriculture.
- (2) For purposes of this section, “reasonable restrictions” are restrictions that do not significantly increase the cost of engaging in personal agriculture or significantly decrease its efficiency.
- (d) This section applies only to yards that are designated for the exclusive use of the homeowner.

- (e) This section shall not prohibit a homeowners' association from applying rules and regulations requiring that dead plant material and weeds, with the exception of straw, mulch, compost, and other organic materials intended to encourage vegetation and retention of moisture in the soil, are regularly cleared from the backyard.

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 Article 2 (commencing with Section 66314) or Article 3 (commencing with Section 66333) of Chapter 13 of Division 1 of Title 7 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 Article 2 (commencing with Section 66314) or Article 3 (commencing with Section 66333) of Chapter 13 of Division 1 of Title 7 of the Government Code.

4752

- (a) **Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument, and any provision of a governing document shall be void and unenforceable to the extent that it prohibits, or includes conditions that have the effect of prohibiting, a substantially similar reconstruction of a residential structure that was destroyed or damaged in a disaster.**
- (b) **A court shall award reasonable attorney's fees to the owner of a separate interest in a common interest development who prevails in an action to enforce this section.**
- (c) **For purposes of this section, the following definitions apply:**
- (1) **"Disaster" means any of the following:**
- (A) **A state of disaster or emergency declared by the federal government.**
- (B) **A state of emergency proclaimed by the governor pursuant to Section 8625 of the Government Code.**

(C) A local emergency proclaimed by a local governing body or official pursuant to Section 8630 of the Government Code.

(2) "Objective design standard" means a standard that involves no personal or subjective judgment and is uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the applicant and the association before submittal.

(3) "Substantially similar reconstruction of a residential structure" means a proposal that rebuilds a residential structure on a separate interest located in a common interest development that complies with all of the following:

(A) (i) The local building code.

(ii) For purposes of this subparagraph, a proposal shall be considered to be in compliance with the local building code if the building permit is deemed approved by the local agency with appropriate jurisdiction.

(B) The interior livable square footage of the rebuilt residential structure will not exceed 110 percent of the square footage that existed when the structure was damaged or destroyed.

(C) The exterior footprint of the rebuilt residential structure will meet either of the following:

(i) The rebuilt residential structure will be constructed in the same location and to the same exterior dimensions as the structure that was damaged or destroyed.

(ii) The setbacks for the rebuilt residential structure will be at least four feet from the side and rear lot lines.

(D) The height of the rebuilt residential structure will not exceed 110 percent of the height that existed when the residential structure was damaged or destroyed, or 100 percent of the height allowed by the governing documents of the association in effect at the time the proposal was submitted, whichever is greater.

(E) Any objective design standard in effect at the time the original residential structure was destroyed or damaged in a disaster, provided that the standard does not unreasonably increase the cost to construct, effectively prohibit the construction of, or extinguish the ability to otherwise rebuild, a substantially similar residential structure.

4753

- (a) For the purposes of this section, “clothesline” includes a cord, rope, or wire from which laundered items may be hung to dry or air. A balcony, railing, awning, or other part of a structure or building shall not qualify as a clothesline.
- (b) For the purposes of this section, “drying rack” means an apparatus from which laundered items may be hung to dry or air. A balcony, railing, awning, or other part of a structure or building shall not qualify as a drying rack.
- (c) Any provision of a governing document, as defined in Section 4150, shall be void and unenforceable if it effectively prohibits or unreasonably restricts an owner’s ability to use a clothesline or drying rack in the owner’s backyard.
- (d) (1) This section does not apply to provisions that impose reasonable restrictions on an owner’s backyard for the use of a clothesline or drying rack.
- (2) For purposes of this section, “reasonable restrictions” are restrictions that do not significantly increase the cost of using a clothesline or drying rack.
- (3) This section applies only to backyards that are designated for the exclusive use of the owner.
- (e) Nothing in this section shall prohibit an association from establishing and enforcing reasonable rules governing clotheslines or drying racks.

Article 2.

Modification of Separate Interest

4760

- (a) Subject to the governing documents and applicable law, a member may do the following:
 - (1) Make any improvement or alteration within the boundaries of the member’s separate interest that does not impair the structural integrity or mechanical systems or lessen the support of any portions of the common interest development.
 - (2) Modify the member’s separate interest, at the member’s expense, to facilitate access for persons who are blind, visually handicapped, deaf, or physically disabled, or to alter conditions which could be hazardous to these persons. These modifications may also include modifications of the route from the public way to the door of the separate interest for the purposes of this paragraph if the separate interest is on the ground floor or already accessible by an existing ramp or elevator. The right granted by this paragraph is subject to the following conditions:

- (A) The modifications shall be consistent with applicable building code requirements.
 - (B) The modifications shall be consistent with the intent of otherwise applicable provisions of the governing documents pertaining to safety or aesthetics.
 - (C) Modifications external to the dwelling shall not prevent reasonable passage by other residents, and shall be removed by the member when the separate interest is no longer occupied by persons requiring those modifications who are blind, visually handicapped, deaf, or physically disabled.
 - (D) Any member who intends to modify a separate interest pursuant to this paragraph shall submit plans and specifications to the association for review to determine whether the modifications will comply with the provisions of this paragraph. The association shall not deny approval of the proposed modifications under this paragraph without good cause.
- (b) Any change in the exterior appearance of a separate interest shall be in accordance with the governing documents and applicable provisions of law.

4765

- (a) This section applies if the governing documents require association approval before a member may make a physical change to the member’s separate interest or to the common area. In reviewing and approving or disapproving a proposed change, the association shall satisfy the following requirements:
 - (1) The association shall provide a fair, reasonable, and expeditious procedure for making its decision. The procedure shall be included in the association’s governing documents. The procedure shall provide for prompt deadlines. The procedure shall state the maximum time for response to an application or a request for reconsideration by the board.
 - (2) A decision on a proposed change shall be made in good faith and may not be unreasonable, arbitrary, or capricious.
 - (3) Notwithstanding a contrary provision of the governing documents, a decision on a proposed change may not violate any governing provision of law, including, but not limited to, the Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code), or a building code or other applicable law governing land use or public safety.
 - (4) A decision on a proposed change shall be in writing. If a proposed change is disapproved, the written decision shall include both an explanation of why the proposed change is disapproved and a description of

the procedure for reconsideration of the decision by the board.

- (5) If a proposed change is disapproved, the applicant is entitled to reconsideration by the board, at an open meeting of the board. This paragraph does not require reconsideration of a decision that is made by the board or a body that has the same membership as the board, at a meeting that satisfies the requirements of Article 2 (commencing with Section 4900) of Chapter 6. Reconsideration by the board does not constitute dispute resolution within the meaning of Section 5905.
- (b) Nothing in this section authorizes a physical change to the common area in a manner that is inconsistent with an association's governing documents, unless the change is required by law.
- (c) An association shall annually provide its members with notice of any requirements for association approval of physical changes to property. The notice shall describe the types of changes that require association approval and shall include a copy of the procedure used to review and approve or disapprove a proposed change.

4766

- (a) Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument, and any provision of a governing document that subjects a substantially similar reconstruction of a residential structure that was destroyed or damaged in a disaster to review by a body shall be processed and approved in accordance with this section.**
- (b) (1) The body shall determine whether an application is complete or incomplete and provide written notice of this determination to the applicant no later than 30 calendar days after the body receives the application.**
- (2) If the body determines that an application is incomplete, the body shall simultaneously provide the applicant with a list of incomplete items and a description of how the application can be made complete.**
- (A) After receiving a notice that the application is incomplete, an applicant may cure and address the items that are deemed incomplete by the body by resubmitting the application.**
- (B) In the review of an application resubmitted pursuant to subparagraph (A), the body shall not require the applicant to include an item that was not identified as necessary in covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument, and any provision of a governing document in effect at the time the application was originally submitted.**

(C) (i) If an applicant resubmits an application pursuant to subparagraph (A), the body shall determine whether the additional application has remedied all incomplete items listed in the determination issued pursuant to this paragraph.

(ii) The review and determination of the resubmitted application shall be subject to the timelines and requirements specified in this subdivision.

(3) If the body does not make a timely determination as required by this subdivision, the application or resubmitted application shall be deemed to be complete for the purposes of this section.

(c) Once an application is deemed complete, the body shall conduct any review of the proposed modification to the separate interest, including a substantially similar reconstruction of a residential structure, and do either of the following within 45 calendar days:

(1) If the body determines that the complete application is not compliant with the body's lawfully adopted standards in effect at the time the application was first submitted, the body shall return in writing a full set of comments to the applicant with a comprehensive request for revisions.

(2) If the body determines that the complete application is compliant with the body's lawfully adopted standards in effect at the time the application was first submitted, the body shall approve the application and notify the applicant accordingly.

(d) (1) If a body finds that a complete application is noncompliant, the body shall provide the applicant with a list of items that are noncompliant and a description of how the application can be remedied by the applicant within the time limits specified in subdivision (b).

(2) The body shall provide the list and description authorized by paragraph (1) when it transmits its determination to the applicant as required by subdivision (b).

(3) If a body denies an application based on a determination that the application is noncompliant, the applicant may attempt to remedy the application.

(4) If an applicant submits an application pursuant to paragraph (3), the additional application is subject to the timelines of a new application as specified in subdivision (b).

(e) (1) If an application is determined to be incomplete pursuant to subdivision (b) or determined to be noncompliant pursuant to subdivision (d), the body

shall provide a process for the applicant to appeal that decision pursuant to Section 4765.

- (2) The body shall provide a final written determination on the appeal no later than 60 calendar days after receipt of the applicant’s written appeal.**
- (f) (1) Once a body approves an application pursuant to this section, the body shall not subject the applicant to any appeals or additional hearings.**
- (2) The prohibition described in paragraph (1) does not apply to the applicant’s noncompliance with the approved application.**
- (g) A court shall award reasonable attorney’s fees to the applicant who prevails in an action to enforce this section.**
- (h) For purposes of this section, the following definitions apply:**
 - (1) “Body” means an association, architectural review committee, or similar body.**
 - (2) “Disaster” has the same meaning as in Section 4752.**
 - (3) “Substantially similar reconstruction of a residential structure” has the same meaning as in Section 4752.**

Article 3.
Maintenance

4775

- (a) (1) Except as provided in paragraph (4), unless otherwise provided in the declaration of a common interest development, the association is responsible for repairing, replacing, and maintaining the common area.
- (2) (A) Unless otherwise provided in the declaration of a common interest development, or unless the utility service that failed is required to be maintained, repaired, or replaced by a public, private, or other utility service provider, the association is responsible for repairs and replacements necessary to restore interrupted gas, heat, water, or electrical services that begin in the common area even if the matter extends into a separate interest or the exclusive use common area appurtenant to a separate interest.
- (B) This paragraph does not change any legal duty or obligation of a utility company or local government to repair or replace components pertaining to gas, heat, water, or electrical services.
- (3) Unless otherwise provided in the declaration of a common interest development, the owner of each

separate interest is responsible for repairing, replacing, and maintaining that separate interest.

- (4) Unless otherwise provided in the declaration of a common interest development, the owner of each separate interest is responsible for maintaining the exclusive use common area appurtenant to that separate interest and the association is responsible for repairing and replacing the exclusive use common area.
- (b) (1) An association’s board shall commence the process to make the repairs necessary to restore gas, heat, water, or electrical services, as required by this section, within 14 days of the interruption of services.
- (2) If there are insufficient reserve funds available to cover the costs of repairs or replacements, as required by this section, an association may obtain competitive financing from a financial institution, in compliance with Section 5735, to pay for the costs of the repairs or replacements described in paragraph (1) without requiring a vote of the members and levy an emergency assessment to allow for the repayment of the loan. However, before obtaining that financing, the board shall pass a resolution containing written findings regarding the nature of the association’s expenses and how the association’s reserves do not cover the necessary costs. The resolution shall be distributed to the members with the notice of the emergency assessment and with notices otherwise required by law or governing documents pursuant to the board’s action, if any.
- (3) Notwithstanding any other section of law or the association’s governing documents, if an association’s board is unable to meet a quorum within 14 days, pursuant to this section, then at the next duly noticed board meeting following the 14th day, the requirements for a quorum shall be reduced so that the total number of directors at that board meeting shall constitute a quorum. This reduced quorum shall only apply for the vote to commence the process specified in paragraph (1). The notice shall contain a provision indicating the use of a reduced quorum.
- (4) Notwithstanding the requirements of Section 4910, if directors of an association are required to vote to initiate any repairs or replacements pursuant to this subdivision, voting may be performed by electronic means, including, but not limited to, email. All records of the vote shall be deemed association records and subject to the inspection and retention rules specified in Section 5210.
- (c) The costs of temporary relocation during the repair, replacement, or maintenance of the areas within the responsibility of the association shall be borne by the owner of the separate interest affected.
- (d) Nothing in this section shall be construed to result in the personal liability of a director of an association.
- (e) This section shall not apply if the association is in an area affected by one or more of the following conditions,

and such condition or conditions materially affect the association’s ability to perform its responsibilities pursuant to this section:

- (1) A state of disaster or emergency declared by the federal government.
- (2) A state of emergency proclaimed by the Governor pursuant to Section 8625 of the Government Code.
- (3) A local emergency proclaimed by a local governing body or official under Section 8630 of the Government Code.

4777

(a) For the purposes of this section:

- (1) “Adjacent separate interest” means a separate interest that is directly beside, above, or below a particular separate interest or the common area.
- (2) “Authorized agent” means an individual, organization, or other entity that has entered into an agreement with the association to act on the association’s behalf.
- (3) “Broadcast application” means spreading pesticide over an area greater than two square feet.
- (4) “Electronic delivery” means delivery of a document by electronic means to the electronic address at, or through which, an owner of a separate interest has authorized electronic delivery.
- (5) “Licensed pest control operator” means anyone licensed by the state to apply pesticides.
- (6) “Pest” means a living organism that causes damage to property or economic loss, or transmits or produces diseases.
- (7) “Pesticide” means any substance, or mixture of substances, that is intended to be used for controlling, destroying, repelling, or mitigating any pest or organism, excluding antimicrobial pesticides as defined by the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136(mm)).

(b) (1) An association or its authorized agent that applies any pesticide to a separate interest or to the common area without a licensed pest control operator shall provide the owner and, if applicable, the tenant of an affected separate interest and, if making broadcast applications, or using total release foggers or aerosol sprays, the owner and, if applicable, the tenant in an adjacent separate interest that could reasonably be impacted by the pesticide use with written notice that contains the following statements and information using words with common and everyday meaning:

- (A) The pest or pests to be controlled.
- (B) The name and brand of the pesticide product proposed to be used.

(C) “State law requires that you be given the following information:

CAUTION – PESTICIDES ARE TOXIC CHEMICALS. The California Department of Pesticide Regulation and the United States Environmental Protection Agency allow the unlicensed use of certain pesticides based on existing scientific evidence that there are no appreciable risks if proper use conditions are followed or that the risks are outweighed by the benefits. The degree of risk depends upon the degree of exposure, so exposure should be minimized.

If within 24 hours following application of a pesticide, a person experiences symptoms similar to common seasonal illness comparable to influenza, the person should contact a physician, appropriate licensed health care provider, or the California Poison Control System (1-800-222-1222).

For further information, contact any of the following: for Health Questions – the County Health Department (telephone number) and for Regulatory Information – the Department of Pesticide Regulation (916-324-4100).”

(D) The approximate date, time, and frequency with which the pesticide will be applied.

(E) The following notification:

“The approximate date, time, and frequency of this pesticide application is subject to change.”

(2) At least 48 hours prior to application of the pesticide to a separate interest, the association or its authorized agent shall provide individual notice to the owner and, if applicable, the tenant of the separate interest and notice to an owner and, if applicable, the tenant occupying any adjacent separate interest that is required to be notified pursuant to paragraph (1).

(3) (A) At least 48 hours prior to application of the pesticide to a common area, the association or its authorized agent shall, if practicable, post the written notice described in paragraph (1) in a conspicuous place in or around the common area in which the pesticide is to be applied. Otherwise, if not practicable, the association or its authorized agent shall provide individual notice to the owner and, if applicable, the tenant of the separate interest that is adjacent to the common area.

(B) If the pest poses an immediate threat to health and safety, thereby making compliance with notification prior to the pesticide application unreasonable, the association or its authorized agent shall post the written notice as soon as practicable, but not later than one hour after the pesticide is applied.

- (4) Notice to tenants of separate interests shall be provided, in at least one of the following ways:
 - (A) First-class mail.
 - (B) Personal delivery to a tenant 18 years of age or older.
 - (C) Electronic delivery, if an electronic mailing address has been provided by the tenant.
- (5) (A) Upon receipt of written notification, the owner of the separate interest or the tenant may agree in writing or, if notification was delivered electronically, the tenant may agree through electronic delivery, to allow the association or authorized agent to apply a pesticide immediately or at an agreed upon time.
 - (B) (i) Prior to receipt of written notification, the association or authorized agent may agree orally to an immediate pesticide application if the owner or, if applicable, the tenant requests that the pesticide be applied before the 48-hour notice of the pesticide product proposed to be used.
 - (ii) With respect to an owner or, if applicable, a tenant entering into an oral agreement for immediate pesticide application, the association or authorized agent, no later than the time of pesticide application, shall leave the written notice specified in paragraph (1) in a conspicuous place in the separate interest or at the entrance of the separate interest in a manner in which a reasonable person would discover the notice.
 - (iii) If any owner or, if applicable, any tenant of a separate interest or an owner or, if applicable, a tenant of an adjacent separate interest is also required to be notified pursuant to this subparagraph, the association or authorized agent shall provide that person with this notice as soon as practicable after the oral agreement is made authorizing immediate pesticide application, but in no case later than commencement of application of the pesticide.
- (6) A copy of a written notice provided pursuant paragraph (1) shall be attached to the minutes of the board meeting immediately subsequent the application of the pesticide.

4780

- (a) In a community apartment project, condominium project, or stock cooperative, unless otherwise provided in the declaration, the association is responsible for the repair and maintenance of the common area occasioned by the presence of wood-destroying pests or organisms.

- (b) In a planned development, unless a different maintenance scheme is provided in the declaration, each owner of a separate interest is responsible for the repair and maintenance of that separate interest as may be occasioned by the presence of wood-destroying pests or organisms. Upon approval of the majority of all members of the association, pursuant to Section 4065, that responsibility may be delegated to the association, which shall be entitled to recover the cost thereof as a special assessment.

4785

- (a) The association may cause the temporary, summary removal of any occupant of a common interest development for such periods and at such times as may be necessary for prompt, effective treatment of wood-destroying pests or organisms.
- (b) The association shall give notice of the need to temporarily vacate a separate interest to the occupants and to the owners, not less than 15 days nor more than 30 days prior to the date of the temporary relocation. The notice shall state the reason for the temporary relocation, the date and time of the beginning of treatment, the anticipated date and time of termination of treatment, and that the occupants will be responsible for their own accommodations during the temporary relocation.
- (c) Notice by the association shall be deemed complete upon either:
 - (1) Personal delivery of a copy of the notice to the occupants, and if an occupant is not the owner, individual delivery pursuant to Section 4040, of a copy of the notice to the owner.
 - (2) Individual delivery pursuant to Section 4040 to the occupant at the address of the separate interest, and if the occupant is not the owner, individual delivery pursuant to Section 4040, of a copy of the notice to the owner.
- (d) For purposes of this section, "occupant" means an owner, resident, guest, invitee, tenant, lessee, sublessee, or other person in possession of the separate interest.

4790

Notwithstanding the provisions of the declaration, a member is entitled to reasonable access to the common area for the purpose of maintaining the internal and external telephone wiring made part of the exclusive use common area of the member's separate interest pursuant to subdivision (c) of Section 4145. The access shall be subject to the consent of the association, whose approval shall not be unreasonably withheld, and which may include the association's approval of telephone wiring upon the exterior of the common area, and other conditions as the association determines reasonable.

CHAPTER 6. ASSOCIATION GOVERNANCE

Article 1.

Association Existence and Powers

4800

A common interest development shall be managed by an association that may be incorporated or unincorporated. The association may be referred to as an owners' association or a community association.

4805

- (a) Unless the governing documents provide otherwise, and regardless of whether the association is incorporated or unincorporated, the association may exercise the powers granted to a nonprofit mutual benefit corporation, as enumerated in Section 7140 of the Corporations Code, except that an unincorporated association may not adopt or use a corporate seal or issue membership certificates in accordance with Section 7313 of the Corporations Code.
- (b) The association, whether incorporated or unincorporated, may exercise the powers granted to an association in this act.

4820

Whenever two or more associations have consolidated any of their functions under a joint neighborhood association or similar organization, members of each participating association shall be (a) entitled to attend all meetings of the joint association other than executive sessions, (b) given reasonable opportunity for participation in those meetings, and (c) entitled to the same access to the joint association's records as they are to the participating association's records.

**Article 2.
Board Meeting**

4900

This article shall be known and may be cited as the Common Interest Development Open Meeting Act.

4910

- (a) The board shall not take action on any item of business outside of a board meeting.

- (b) (1) Notwithstanding Section 7211 of the Corporations Code, the board shall not conduct a meeting via a series of electronic transmissions, including, but not limited to, electronic mail, except as specified in paragraph (2).
- (2) Electronic transmissions may be used as a method of conducting an emergency board meeting if all directors, individually or collectively, consent in writing to that action, and if the written consent or consents are filed with the minutes of the board meeting.

These written consents may be transmitted electronically.

4920

- (a) Except as provided in subdivision (b), the association shall give notice of the time and place of a board meeting at least four days before the meeting.
- (b) (1) If a board meeting is an emergency meeting held pursuant to Section 4923, the association is not required to give notice of the time and place of the meeting.
- (2) If a nonemergency board meeting is held solely in executive session, the association shall give notice of the time and place of the meeting at least two days prior to the meeting.
- (3) If the association's governing documents require a longer period of notice than is required by this section, the association shall comply with the period stated in its governing documents. For the purposes of this paragraph, a governing document provision does not apply to a notice of an emergency meeting or a meeting held solely in executive session unless it specifically states that it applies to those types of meetings.
- (c) Notice of a board meeting shall be given by general delivery pursuant to Section 4045.
- (d) Notice of a board meeting shall contain the agenda for the meeting.

4923

An emergency board meeting may be called by the president of the association, or by any two directors other than the president, if there are circumstances that could not have been reasonably foreseen which require immediate attention and possible action by the board, and which of necessity make it impracticable to provide notice as required by Section 4920.

4925

- (a) Any member may attend board meetings, except when the board adjourns to, or meets solely in, executive session. As specified in subdivision (b) of Section 4090, a member of

the association shall be entitled to attend a teleconference meeting or the portion of a teleconference meeting that is open to members, and that meeting or portion of the meeting shall be audible to the members in a location specified in the notice of the meeting.

- (b) The board shall permit any member to speak at any meeting of the association or the board, except for meetings of the board held in executive session. A reasonable time limit for all members of the association to speak to the board or before a meeting of the association shall be established by the board.

4926

- (a) Notwithstanding any other law or the association’s governing documents, a board meeting or meeting of the members may be conducted entirely by teleconference, without any physical location being held open for the attendance of any director or member, if all of the following conditions are satisfied:

- (1) The notice for each meeting conducted under this section includes, in addition to other required content for meeting notices, all of the following:
 - (A) Clear technical instructions on how to participate by teleconference.
 - (B) The telephone number and electronic mail address of a person who can provide technical assistance with the teleconference process, both before and during the meeting.
 - (C) A reminder that a member may request individual delivery of meeting notices, with instructions on how to do so.
- (2) Every director and member has the same ability to participate in the meeting that would exist if the meeting were held in person.
- (3) Any vote of the directors shall be conducted by a roll call vote.
- (4) Any person who is entitled to participate in the meeting shall be given the option of participating by telephone.

- (b) Subdivision (a) does not apply to a meeting at which ballots are counted and tabulated pursuant to Section 5120.

4930

- (a) Except as described in subdivisions (b) to (e), inclusive, the board may not discuss or take action on any item at a nonemergency meeting unless the item was placed on the agenda included in the notice that was distributed pursuant to subdivision (a) of Section 4920. This subdivision does not prohibit a member or resident who is not a director from speaking on issues not on the agenda.

- (b) Notwithstanding subdivision (a), a director, a managing agent or other agent of the board, or a member of the staff of the board, may do any of the following:
 - (1) Briefly respond to statements made or questions posed by a person speaking at a meeting as described in subdivision (b) of Section 4925.
 - (2) Ask a question for clarification, make a brief announcement, or make a brief report on the person’s own activities, whether in response to questions posed by a member or based upon the person’s own initiative.
- (c) Notwithstanding subdivision (a), the board or a director, subject to rules or procedures of the board, may do any of the following:
 - (1) Provide a reference to, or provide other resources for factual information to, its managing agent or other agents or staff.
 - (2) Request its managing agent or other agents or staff to report back to the board at a subsequent meeting concerning any matter, or take action to direct its managing agent or other agents or staff to place a matter of business on a future agenda.
 - (3) Direct its managing agent or other agents or staff to perform administrative tasks that are necessary to carry out this section.
- (d) Notwithstanding subdivision (a), the board may take action on any item of business not appearing on the agenda distributed pursuant to subdivision (a) of Section 4920 under any of the following conditions:
 - (1) Upon a determination made by a majority of the board present at the meeting that an emergency situation exists. An emergency situation exists if there are circumstances that could not have been reasonably foreseen by the board, that require immediate attention and possible action by the board, and that, of necessity, make it impracticable to provide notice.
 - (2) Upon a determination made by the board by a vote of two-thirds of the directors present at the meeting, or, if less than two-thirds of total membership of the board is present at the meeting, by a unanimous vote of the directors present, that there is a need to take immediate action and that the need for action came to the attention of the board after the agenda was distributed pursuant to subdivision (a) of Section 4920.
 - (3) The item appeared on an agenda that was distributed pursuant to subdivision (a) of Section 4920 for a prior meeting of the board that occurred not more than 30 calendar days before the date that action is taken on the item and, at the prior meeting, action on the item was continued to the meeting at which the action is taken.

- (e) Before discussing any item pursuant to subdivision (d), the board shall openly identify the item to the members in attendance at the meeting.

4935

- (a) The board may adjourn to, or meet solely in, executive session to consider litigation, matters relating to the formation of contracts with third parties, member discipline, personnel matters, or to meet with a member, upon the member's request, regarding the member's payment of assessments, as specified in Section 5665.
- (b) The board shall adjourn to, or meet solely in, executive session to discuss member discipline, if requested by the member who is the subject of the discussion. That member shall be entitled to attend the executive session.
- (c) The board shall adjourn to, or meet solely in, executive session to discuss a payment plan pursuant to Section 5665.
- (d) The board shall adjourn to, or meet solely in, executive session to decide whether to foreclose on a lien pursuant to subdivision (b) of Section 5705.
- (e) Any matter discussed in executive session shall be generally noted in the minutes of the immediately following meeting that is open to the entire membership.

4950

- (a) The minutes, minutes proposed for adoption that are marked to indicate draft status, or a summary of the minutes, of any board meeting, other than an executive session, shall be available to members within 30 days of the meeting. The minutes, proposed minutes, or summary minutes shall be distributed to any member upon request and upon reimbursement of the association's costs for making that distribution.
- (b) The annual policy statement, prepared pursuant to Section 5310, shall inform the members of their right to obtain copies of board meeting minutes and of how and where to do so.

4955

- (a) A member of an association may bring a civil action for declaratory or equitable relief for a violation of this article by the association, including, but not limited to, injunctive relief, restitution, or a combination thereof, within one year of the date the cause of action accrues.
- (b) A member who prevails in a civil action to enhance the member's rights pursuant to this article shall be entitled to reasonable attorney's fees and court costs, and the court may impose a civil penalty of up to \$500 for each violation, except that each identical violation shall be subject to only one penalty if the violation affects each member equally.

A prevailing association shall not recover any costs, unless the court finds the action to be frivolous, unreasonable, or without foundation.

Article 3.
Member Meeting

5000

- (a) Meetings of the membership of the association shall be conducted in accordance with a recognized system of parliamentary procedure or any parliamentary procedures the association may adopt.
- (b) The board shall permit any member to speak at any meeting of the membership of the association. A reasonable time limit for all members to speak at a meeting of the association shall be established by the board.

Article 4.
Member Election

5100

- (a) (1) Notwithstanding any other law or provision of the governing documents, elections regarding assessments legally requiring a vote, election and removal of directors, amendments to the governing documents, or the grant of exclusive use of common area pursuant to Section 4600 shall be held by secret ballot in accordance with the procedures set forth in this article.
- (2) An association shall hold an election for a seat on the board of directors in accordance with the procedures set forth in this article at the expiration of the corresponding director's term and at least once every four years.
- (b) This article also governs an election on any topic that is expressly identified in the operating rules as being governed by this article.
- (c) The provisions of this article apply to both incorporated and unincorporated associations, notwithstanding any contrary provision of the governing documents.
- (d) The procedures set forth in this article shall apply to votes cast directly by the membership, but do not apply to votes cast by delegates or other elected representatives.
- (e) In the event of a conflict between this article and the provisions of the Nonprofit Mutual Benefit Corporation Law (Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code) relating to elections, the provisions of this article shall prevail.
- (f) Directors shall not be required to be elected pursuant to this article if the governing documents provide that one member from each separate interest is a director.

5103

Notwithstanding the secret balloting requirement in Section 5100, or any contrary provision in the governing documents, when, as of the deadline for submitting nominations provided for in subdivision (a) of Section 5115, the number of qualified candidates is not more than the number of vacancies to be elected, as determined by the inspector or inspectors of the elections, the association may, but is not required to, consider the qualified candidates elected by acclamation if all of the following conditions have been met:

- (a) The association has held a regular election for the directors in the last three years. The three-year time period shall be calculated from the date ballots were due in the last full election to the start of voting for the proposed election.
- (b) The association provided individual notice of the election and the procedure for nominating candidates as follows:
 - (1) Initial notice at least 90 days before the deadline for submitting nominations provided for in subdivision (a) of Section 5115. The initial notice shall include all of the following:
 - (A) The number of board positions that will be filled at the election.
 - (B) The deadline for submitting nominations.
 - (C) The manner in which nominations can be submitted.
 - (D) A statement informing members that if, at the close of the time period for making nominations, there are the same number or fewer qualified candidates as there are board positions to be filled, then the board of directors may, after voting to do so, seat the qualified candidates by acclamation without balloting.
 - (2) A reminder notice between 7 and 30 days before the deadline for submitting nominations provided for in subdivision (a) of Section 5115. The reminder notice shall include all of the following:
 - (A) The number of board positions that will be filled at the election.
 - (B) The deadline for submitting nominations.
 - (C) The manner in which nominations can be submitted.
 - (D) A list of the names of all of the qualified candidates to fill the board positions as of the date of the reminder notice.
 - (E) A statement reminding members that if, at the close of the time period for making nominations, there are the same number or fewer qualified candidates as there are board positions to be filled, then the board of directors may, after

voting to do so, seat the qualified candidates by acclamation without balloting. This statement is not required if, at the time the reminder notice will be delivered, the number of qualified candidates already exceeds the number of board positions to be filled.

- (c) (1) The association provides, within seven business days of receiving a nomination, a written or electronic communication acknowledging the nomination to the member who submitted the nomination.
- (2) The association provides, within seven business days of receiving a nomination, a written or electronic communication to the nominee, indicating either of the following:
 - (A) The nominee is a qualified candidate for the board of directors.
 - (B) The nominee is not a qualified candidate for the board of directors, the basis for the disqualification, and the procedure, which shall comply with Article 2 (commencing with Section 5900) of Chapter 10, by which the nominee may appeal the disqualification.
- (3) The association may combine the written or electronic communication described in paragraphs (1) and (2) into a single written or electronic communication if the nominee and the nominator are the same person.
- (d) (1) The association permits all candidates to run if nominated, except for nominees disqualified for running as allowed or required pursuant to subdivisions (b) to (e), inclusive, of Section 5105.
- (2) If an association disqualifies a nominee pursuant to this subdivision, an association in its election rules shall also require a director to comply with the same requirements.
- (e) The association board votes to consider the qualified candidates elected by acclamation at a meeting pursuant to Article 2 (commencing with Section 4900) for which the agenda item reflects the name of each qualified candidate that will be seated by acclamation if the item is approved.

5105

- (a) An association shall adopt operating rules in accordance with the procedures prescribed by Article 5 (commencing with Section 4340) of Chapter 3, that do all of the following:
 - (1) Ensure that if any candidate or member advocating a point of view is provided access to association media, newsletters, or internet websites during a campaign, for purposes that are reasonably related to that election, equal access shall be provided to all candidates and members advocating a point of view, including those not endorsed by the board, for purposes that are reasonably related to the election. The association

shall not edit or redact any content from these communications, but may include a statement specifying that the candidate or member, and not the association, is responsible for that content.

- (2) Ensure access to the common area meeting space, if any exists, during a campaign, at no cost, to all candidates, including those who are not incumbents, and to all members advocating a point of view, including those not endorsed by the board, for purposes reasonably related to the election.
 - (3) Specify the qualifications for candidates for the board and any other elected position, subject to subdivision (b), and procedures for the nomination of candidates, consistent with the governing documents. A nomination or election procedure shall not be deemed reasonable if it disallows any member from nominating themselves for election to the board.
 - (4) Specify the voting power of each membership, the authenticity, validity, and effect of proxies, and the voting period for elections, including the times at which polls will open and close, consistent with the governing documents.
 - (5) Specify a method of selecting one or three independent third parties as inspector or inspectors of elections utilizing one of the following methods:
 - (A) Appointment of the inspector or inspectors by the board.
 - (B) Election of the inspector or inspectors by the members of the association.
 - (C) Any other method for selecting the inspector or inspectors.
 - (6) Allow the inspector or inspectors to appoint and oversee additional persons to verify signatures and to count and tabulate votes as the inspector or inspectors deem appropriate, provided that the persons are independent third parties who meet the requirements in subdivision (b) of Section 5110.
 - (7) Require retention of, as association election materials, both a candidate registration list and a voter list. The candidate list shall include names and addresses of individuals nominated as a candidate for election to the board of directors. The voter list shall include the name, voting power, and either the physical address of the voter's separate interest, the parcel number, or both. The mailing address for the ballot shall be listed on the voter list if it differs from the physical address of the voter's separate interest or if only the parcel number is used. The association shall permit members to verify the accuracy of their individual information on both lists at least 30 days before the ballots are distributed. The association or member shall report any errors or omissions to either list to the inspector or inspectors who shall make the corrections within two business days.
- (b) An association shall disqualify a person from a nomination as a candidate for not being a member of the association at the time of the nomination. An association shall disqualify a nominee if that person has served the maximum number of terms or sequential terms allowed by the association. A director who ceases to be a member shall be disqualified from continuing to serve as a director.
 - (1) This subdivision does not restrict a developer from making a nomination of a nonmember candidate consistent with the voting power of the developer as set forth in the regulations of the Department of Real Estate and the association's governing documents.
 - (2) If title to a separate interest parcel is held by a legal entity that is not a natural person, the governing authority of that legal entity shall have the power to appoint a natural person to be a member for purposes of this article.
 - (c) Through its bylaws or election operating rules adopted pursuant to subdivision (a) only, an association may disqualify a person from nomination as a candidate pursuant to any of the following:
 - (1) Subject to paragraph (2) of subdivision (d), an association may require a nominee for a board seat, and a director during their board tenure, to be current in the payment of regular and special assessments, which are consumer debts subject to validation. If an association requires a nominee to be current in the payment of regular and special assessments, it shall also require a director to be current in the payment of regular and special assessments.
 - (2) An association may disqualify a person from nomination as a candidate if the person, if elected, would be serving on the board at the same time as another person who holds a joint ownership interest in the same separate interest parcel as the person and the other person is either properly nominated for the current election or an incumbent director.
 - (3) An association may disqualify a nominee if that person has been a member of the association for less than one year.
 - (4) An association may disqualify a nominee if that person discloses, or if the association is aware or becomes aware of, a past criminal conviction that would, if the person was elected, either prevent the association from purchasing the insurance required by Section 5806 or terminate the association's existing insurance coverage required by Section 5806 as to that person should the person be elected.
 - (d) An association may disqualify a person from nomination for nonpayment of regular and special assessments, but may not disqualify a nominee for nonpayment of fines, fines renamed as assessments, collection charges, late charges, or costs levied by a third party. The person shall not be disqualified for failure to be current in payment of

regular and special assessments if either of the following circumstances is true:

- (1) The person has paid the regular or special assessment under protest pursuant to Section 5658.
 - (2) The person has entered into and is in compliance with a payment plan pursuant to Section 5665.
- (e) An association shall not disqualify a person from nomination if the person has not been provided the opportunity to engage in internal dispute resolution pursuant to Article 2 (commencing with Section 5900) of Chapter 10.
- (f) If an association disqualifies a nominee pursuant to this section, an association in its election rules shall also require a director to comply with the same requirements.
- (g) Except as provided in subdivision (i), notwithstanding any other law, the rules adopted pursuant to this section may provide for the nomination of candidates from the floor of membership meetings or nomination by any other manner. Those rules may permit write-in candidates for ballots.
- (h) Notwithstanding any other law, the rules adopted pursuant to this section shall do all of the following:
- (1) Prohibit the denial of a ballot to a member for any reason other than not being a member at the time when ballots are distributed.
 - (2) Prohibit the denial of a ballot to a person with general power of attorney for a member.
 - (3) Require the ballot of a person with general power of attorney for a member to be counted if returned in a timely manner.
 - (4) Require the inspector or inspectors of elections to deliver, or cause to be delivered, at least 30 days before an election, to each member both of the following documents:
 - (A) The ballot or ballots.
 - (B) A copy of the election operating rules. Delivery of the election operating rules may be accomplished by any of the following methods:
 - (i) Posting the election operating rules to an internet website and including the corresponding internet website address on the ballot together with the phrase, in at least 12-point type: "The rules governing this election may be found here:"
 - (ii) Individual delivery.
 - (iii) Election operating rules adopted pursuant to this section shall not be amended less than 90 days prior to an election.
- (i) Notwithstanding an association's governing documents, the association may adopt an election operating rule that

allows an association to utilize an inspector or inspectors of elections, as specified in Section 5110, to conduct an election by electronic secret ballot, except for an election regarding regular or special assessments, as provided for in Chapter 8 (commencing with Section 5600).

- (1) An election operating rule adopted pursuant to this subdivision shall include, but not be limited to, all of the following purposes:
 - (A) Permitting a member to change their preferred method of voting from electronic secret ballot to written ballot or written ballot to electronic secret ballot no later than 90 days before an election.
 - (B) Requiring an electronic secret ballot and a written ballot to contain the same list of items being voted on.
 - (C)
 - (i) For an election operating rule where a member is permitted to opt out of voting by electronic secret ballot to vote by written ballot, requiring the association to mail a written ballot only to a member who has opted out of voting by electronic secret ballot or for whom the association does not have an email address required to vote by electronic secret ballot.
 - (ii) For an election operating rule where a member who is permitted to opt into voting by electronic secret ballot, requiring the association to send an electronic secret ballot only to a member who has opted into voting by electronic secret ballot.
 - (D) Requiring the association to maintain a voting list identifying which members will vote by electronic secret ballot and which members will vote by written ballot, and include information on the procedures to either opt out of or opt into voting by electronic secret ballot, as applicable, in the annual statement prepared pursuant to Section 5310.
 - (E) Requiring a member who votes by electronic secret ballot to provide a valid email address to the association.
 - (F) Prohibiting nomination of candidates from the floor of membership meetings, notwithstanding subdivision (g).
- (2) An electronic secret ballot may be accompanied by or contained in an electronic individual notice in accordance with paragraph (2) of subdivision (a) of Section 4040.
- (3) (A) The association shall deliver individual notice of the electronic secret ballot to each member 30 days before the election and shall contain instructions on both of the following:

- (i) How to obtain access to that internet-based voting system.
 - (ii) How to vote by electronic secret ballot.
- (B) Delivery of the individual notice described in subparagraph (A) may be accomplished by electronic submission to an address, location, or system designated by the member.
- (4) For an election operating rule where members are permitted to opt out of voting by electronic secret ballot to vote by written ballot, the association shall provide individual notice, delivered pursuant to Section 4040, at least 30 days before the deadline to opt out of voting by electronic secret ballot, of all of the following:
- (A) The member's current voting method.
 - (B) If the member's voting method is by electronic secret ballot and the association has an email address for the member, the email address of the member that will be used for voting by electronic secret ballot.
 - (C) An explanation that the member is required to opt out of voting by electronic secret ballot if the member elects to vote by written secret ballot.
 - (D) An explanation of how a member may opt out of voting by electronic secret ballot.
 - (E) The deadline by which the member is required to opt out of voting by electronic secret ballot if the member elects to exercise that right.
- (5) A vote made by electronic secret ballot is effective when it is electronically transmitted to an address, location, or system designated by an inspector or inspectors of elections.
- (6) A vote made by electronic secret ballot shall not be revoked.
- (7) If the association does not have a member's email address required to vote by electronic secret ballot by the time at which ballots are to be distributed, the association shall send the member a written secret ballot.
- (8) For purposes of determining a quorum, a member voting electronically pursuant to this subdivision shall be counted as a member in attendance at the meeting. Once the quorum is established, a substantive vote of the members shall not be taken on any issue other than the issues specifically identified in the electronic vote.
- (9) As used in this subdivision, "electronic secret ballot" means a ballot conducted by an electronic voting system that ensures the secrecy and integrity of a ballot pursuant to the requirements of this article.

5110

- (a) The association shall select an independent third party or parties as an inspector of elections. The number of inspectors of elections shall be one or three.
- (b) For the purposes of this section, an independent third party includes, but is not limited to, a volunteer poll worker with the county registrar of voters, a licensee of the California Board of Accountancy, or a notary public. An independent third party may be a member, but may not be a director or a candidate for director or be related to a director or to a candidate for director. An independent third party may not be a person, business entity, or subdivision of a business entity who is currently employed or under contract to the association for any compensable services other than serving as an inspector of elections.
- (c) The inspector or inspectors of elections shall do all of the following:
 - (1) Determine the number of memberships entitled to vote and the voting power of each.
 - (2) Determine the authenticity, validity, and effect of proxies, if any.
 - (3) Receive ballots.
 - (4) Ensure compliance with all of the following, if the inspector or inspectors of elections conducts an election by electronic secret ballot pursuant to Section 5105:
 - (A) Each member voting by electronic secret ballot shall be provided with all of the following:
 - (i) A method to authenticate the member's identity to the internet-based voting system.
 - (ii) A method to transmit an electronic secret ballot to the internet-based voting system that ensures the secrecy and integrity of each ballot.
 - (iii) A method to confirm, at least 30 days before the voting deadline, that the member's electronic device can successfully communicate with the internet-based voting system.
 - (B) Any internet-based voting system that is utilized shall have the ability to accomplish all of the following:
 - (i) Authenticate the member's identity.
 - (ii) Authenticate the validity of each electronic secret ballot to ensure that the electronic secret ballot is not altered in transit.

- (iii) Transmit a receipt from the internet-based voting system to each member who casts an electronic secret ballot.
 - (iv) Permanently separate any authenticating or identifying information from the electronic secret ballot, rendering it impossible to connect an election ballot to a specific member.
 - (v) Store and keep electronic secret ballots accessible to elections officials or their authorized representatives for recount, inspection, and review purposes.
- (5) Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote.
 - (6) Count and tabulate all votes.
 - (7) Determine when the polls shall close, consistent with the governing documents.
 - (8) Determine the tabulated results of the election.
 - (9) Perform any acts as may be proper to conduct the election with fairness to all members in accordance with this article, the Corporations Code, and all applicable rules of the association regarding the conduct of the election that are not in conflict with this article.
- (d) An inspector or inspectors of elections shall perform all duties impartially, in good faith, to the best of the inspector or inspectors of elections' ability, as expeditiously as is practical, and in a manner that protects the interest of all members of the association. If there are three inspectors of elections, the decision or act of a majority shall be effective in all respects as the decision or act of all. Any report made by the inspector or inspectors of elections is prima facie evidence of the facts stated in the report.

5115

- (a) An association shall provide general notice of the procedure and deadline for submitting a nomination at least 30 days before any deadline for submitting a nomination. Individual notice shall be delivered pursuant to Section 4040 if individual notice is requested by a member. This subdivision shall only apply to elections of directors and to recall elections.
- (b) For elections of directors and for recall elections, an association shall provide general notice of all of the following at least 30 days before the ballots are distributed:
 - (1) The date and time by which, and the physical address where, ballots are to be returned by mail or handed to the inspector or inspectors of elections.
 - (2) If the association allows for voting in an election by electronic secret ballot as provided for in Section 5105,

- the date and time by which electronic secret ballots are to be transmitted to the internet-based voting system and preliminary instructions on how to vote by electronic secret ballot upon commencement of the voting period.
- (3) The date, time, and location of the meeting at which a quorum will be determined, if the association's governing documents require a quorum, and at which ballots will be counted.
 - (4) The list of all candidates' names that will appear on the ballot.
 - (5) Individual notice of the above paragraphs shall be delivered pursuant to Section 4040 if individual notice is requested by a member.
 - (6) (A) If the association's governing documents require a quorum for an election of directors, a statement that the association may call a reconvened meeting to be held at least 20 days after a scheduled election if the required quorum is not reached, at which time the quorum of the membership to elect directors will be 20 percent of the association's members, voting in person, by proxy, or by secret ballot.

(B) This paragraph shall not apply if the governing documents of the association provide for a quorum lower than 20 percent.
 - (c) Ballots and two preaddressed envelopes with instructions on how to return ballots shall be mailed by first-class mail or delivered by the association to every member not less than 30 days prior to the deadline for voting, unless an association conducts an election by electronic secret ballot as provided for in Section 5105, in which case only members who will vote by written secret ballot pursuant to Section 5105 shall be mailed or delivered the ballots and envelopes. In order to preserve confidentiality, a voter may not be identified by name, address, or lot, parcel, or unit number on the ballot. The association shall use as a model those procedures used by California counties for ensuring confidentiality of vote by mail ballots, including both of the following:
 - (1) The ballot itself is not signed by the voter, but is inserted into an envelope that is sealed. This envelope is inserted into a second envelope that is sealed. In the upper left-hand corner of the second envelope, the voter shall sign the voter's name, indicate the voter's name, and indicate the address or separate interest identifier that entitles the voter to vote.
 - (2) The second envelope is addressed to the inspector or inspectors of elections, who will be tallying the votes. The envelope may be mailed or delivered by hand to a location specified by the inspector or inspectors of elections. The member may request a receipt for delivery.

- (d) (1) A quorum shall be required only if so stated in the governing documents or other provisions of law. If a quorum is required by the governing documents, each ballot received by the inspector or inspectors of elections shall be treated as a member present at a meeting for purposes of establishing a quorum.
- (2) For an election of directors of an association, and in the absence of meeting a quorum as required by the association's governing documents or Section 7512 of the Corporations Code, unless a lower quorum for a reconvened meeting is authorized by the association's governing documents, the association may adjourn the meeting to a date at least 20 days after the adjourned meeting, at which time the quorum required for purposes of a reconvened meeting to elect directors shall be 20 percent of the association's members, voting in person, by proxy, or by secret ballot.
- (3) No less than 15 days prior to the date of the reconvened meeting described in paragraph (2), the association shall provide general notice of the reconvened meeting, which shall include:
- (A) The date, time, and location of the meeting.
- (B) The list of all candidates.
- (C) Unless the association's governing documents provide for a lower quorum, a statement that 20 percent of the association's members, voting in person, by proxy, or secret ballot will satisfy the quorum requirements for the election of directors at that reconvened meeting and that the ballots will be counted if a quorum is reached, if the association's governing documents require a quorum.
- (e) An association shall allow for cumulative voting using the secret ballot procedures provided in this section, if cumulative voting is provided for in the governing documents.
- (f) Notwithstanding any contrary provision in the governing documents, except for the meeting to count the votes required in subdivision (a) of Section 5120, an election may be conducted entirely by mail, electronic secret ballot, or a combination of mail and electronic secret ballot, pursuant to Section 5105.
- (g) (1) Except as provided in paragraph (2), in an election to approve an amendment of the governing documents, the text of the proposed amendment shall be delivered to the members with the ballot.
- (2) Notwithstanding paragraph (1), if an association conducts an election to approve an amendment of governing documents by electronic secret ballot, the association may deliver, by electronic means, the text of the proposed amendment to those members who vote by electronic secret ballot, pursuant to Section 5105. The association shall also deliver a written copy of the text of the proposed amendment to those members upon request and without charge.

If a member votes by written secret ballot, pursuant to Section 5105, the association shall deliver a written copy of the text of the proposed amendment to the member with the ballot.

5120

- (a) All votes shall be counted and tabulated by the inspector or inspectors of elections, or the designee of the inspector of elections, in public at a properly noticed open meeting of the board or members. Any candidate or other member of the association may witness the counting and tabulation of the votes. A person, including a member of the association or an employee of the management company, shall not open or otherwise review any ballot before the time and place at which the ballots are counted and tabulated. The inspector or inspectors of elections, or the designee of the inspector or inspectors of elections, may verify the member's information and signature on the outer envelope prior to the meeting at which ballots are tabulated. Once a secret ballot is received by the inspector or inspectors of elections, it shall be irrevocable.
- (b) The tabulated results of the election shall be promptly reported to the board and shall be recorded in the minutes of the next meeting of the board and shall be available for review by members of the association. Within 15 days of the election, the board shall give general notice pursuant to Section 4045 of the tabulated results of the election.
- (c) A person, including a member of the association or an employee of the management company, shall not open or otherwise review any tally sheet of votes cast by electronic secret ballots before the time and place at which the ballots are counted and tabulated.

5125

The sealed ballots, signed voter envelopes, voter list, proxies, candidate registration list, and tally sheet of votes cast by electronic secret ballot shall at all times be in the custody of the inspector or inspectors of elections or at a location designated by the inspector or inspectors until after the tabulation of the vote, and until the time allowed by Section 5145 for challenging the election has expired, at which time custody shall be transferred to the association. If there is a recount or other challenge to the election process, the inspector or inspectors of elections shall, upon written request, make the ballots and the tally sheet of votes cast by electronic secret ballot available for inspection and review by an association member or the member's authorized representative. Any recount shall be conducted in a manner that preserves the confidentiality of the vote.

5130

- (a) For purposes of this article, the following definitions shall apply:
 - (1) "Proxy" means a written authorization signed by a member or the authorized representative of the member that gives another member or members the power to vote on behalf of that member.
 - (2) "Signed" means the placing of the member's name on the proxy (whether by manual signature, typewriting, telegraphic transmission, or otherwise) by the member or authorized representative of the member.
- (b) Proxies shall not be construed or used in lieu of a ballot. An association may use proxies if permitted or required by the bylaws of the association and if those proxies meet the requirements of this article, other laws, and the governing documents, but the association shall not be required to prepare or distribute proxies pursuant to this article.
- (c) Any instruction given in a proxy issued for an election that directs the manner in which the proxyholder is to cast the vote shall be set forth on a separate page of the proxy that can be detached and given to the proxyholder to retain. The proxyholder shall cast the member's vote by secret ballot. The proxy may be revoked by the member prior to the receipt of the ballot by the inspector of elections as described in Section 7613 of the Corporations Code.

5135

- (a) Association funds shall not be used for campaign purposes in connection with any association board election. Funds of the association shall not be used for campaign purposes in connection with any other association election except to the extent necessary to comply with duties of the association imposed by law.
- (b) For the purposes of this section, "campaign purposes" includes, but is not limited to, the following:
 - (1) Expressly advocating the election or defeat of any candidate that is on the association election ballot.
 - (2) Including the photograph or prominently featuring the name of any candidate on a communication from the association or its board, excepting the ballot, ballot materials, or a communication that is legally required, within 30 days of an election. This is not a campaign purpose if the communication is one for which subdivision (a) of Section 5105 requires that equal access be provided to another candidate or advocate.

5145

- (a) A member of an association may bring a civil action for declaratory or equitable relief for a violation of this article by the association, including, but not limited to, injunctive

relief, restitution, or a combination thereof, within one year of the date that the inspector or inspectors of elections notifies the board and membership of the election results or the cause of action accrues, whichever is later. If a member establishes, by a preponderance of the evidence, that the election procedures of this article, or the adoption of and adherence to rules provided by Article 5 (commencing with Section 4340) of Chapter 3, were not followed, a court shall void any results of the election unless the association establishes by a preponderance of the evidence, that the association's noncompliance with this article or the election operating rules did not affect the results of the election. The findings of the court shall be stated in writing as part of the record.

- (b) A member who prevails in a civil action to enforce the member's rights pursuant to this article shall be entitled to reasonable attorney's fees and court costs, and the court may impose a civil penalty of up to \$500 for each violation, except that each identical violation shall be subject to only one penalty if the violation affects each member of the association equally. A prevailing association shall not recover any costs, unless the court finds the action to be frivolous, unreasonable, or without foundation. If a member prevails in a civil action brought in small claims court, the member shall be awarded court costs and reasonable attorney's fees incurred for consulting an attorney in connection with this civil action.
- (c) A cause of action under subdivision (a) may be brought in either the superior court or, if the amount of the demand does not exceed the jurisdictional amount of the small claims court, in small claims court.

Article 5. Record Inspection

5200

For the purposes of this article, the following definitions shall apply:

- (a) "Association records" means all of the following:
 - (1) Any financial document required to be provided to a member in Article 7 (commencing with Section 5300) or in Sections 5565 and 5810.
 - (2) Any financial document or statement required to be provided in Article 2 (commencing with Section 4525) of Chapter 4.
 - (3) Interim financial statements, periodic or as compiled, containing any of the following:
 - (A) Balance sheet.
 - (B) Income and expense statement.
 - (C) Budget comparison.

- (D) General ledger. A “general ledger” is a report that shows all transactions that occurred in an association account over a specified period of time.

The records described in this paragraph shall be prepared in accordance with an accrual or modified accrual basis of accounting.

- (4) Executed contracts not otherwise privileged under law.
- (5) Written board approval of vendor or contractor proposals or invoices.
- (6) State and federal tax returns.
- (7) Reserve account balances and records of payments made from reserve accounts.
- (8) Agendas and minutes of meetings of the members, the board, and any committees appointed by the board pursuant to Section 7212 of the Corporations Code; excluding, however, minutes and other information from executive sessions of the board as described in Article 2 (commencing with Section 4900).
- (9) Membership lists, including name, property address, mailing address, email address, as collected by the association in accordance with Section 4041 where applicable, but not including information for members who have opted out pursuant to Section 5220.
- (10) Check registers.
- (11) The governing documents.
- (12) An accounting prepared pursuant to subdivision (b) of Section 5520.
- (13) An “enhanced association record” as defined in subdivision (b).
- (14) “Association election materials” as defined in subdivision (c).
- (15) All inspector’s reports compiled pursuant to Section 5551.**
- (b) “Enhanced association records” means invoices, receipts and canceled checks for payments made by the association, purchase orders approved by the association, bank account statements for bank accounts in which assessments are deposited or withdrawn, credit card statements for credit cards issued in the name of the association, statements for services rendered, and reimbursement requests submitted to the association.
- (c) “Association election materials” means returned ballots, signed voter envelopes, the voter list of names, parcel numbers, and voters to whom ballots were to be sent, proxies, the candidate registration list, and the tally sheet of votes cast by electronic secret ballot. Signed voter envelopes may be inspected but may not be copied. An association shall maintain association election materials for one year after the date of the election.

5205

- (a) The association shall make available association records for the time periods and within the timeframes provided in Section 5210 for inspection and copying by a member of the association, or the member’s designated representative.
- (b) A member of the association may designate another person to inspect and copy the specified association records on the member’s behalf. The member shall make this designation in writing.
- (c) The association shall make the specified association records available for inspection and copying in the association’s business office within the common interest development.
- (d) If the association does not have a business office within the development, the association shall make the specified association records available for inspection and copying at a place agreed to by the requesting member and the association.
- (e) If the association and the requesting member cannot agree upon a place for inspection and copying pursuant to subdivision (d) or if the requesting member submits a written request directly to the association for copies of specifically identified records, the association may satisfy the requirement to make the association records available for inspection and copying by delivering copies of the specifically identified records to the member by individual delivery pursuant to Section 4040 within the timeframes set forth in subdivision (b) of Section 5210.
- (f) The association may bill the requesting member for the direct and actual cost of copying and mailing requested documents. The association shall inform the member of the amount of the copying and mailing costs, and the member shall agree to pay those costs, before copying and sending the requested documents.
- (g) In addition to the direct and actual costs of copying and mailing, the association may bill the requesting member an amount not in excess of \$10 per hour, and not to exceed \$200 total per written request, for the time actually and reasonably involved in redacting an enhanced association record. If the enhanced association record includes a reimbursement request, the person submitting the reimbursement request shall be solely responsible for removing all personal identification information from the request. The association shall inform the member of the estimated costs, and the member shall agree to pay those costs, before retrieving the requested documents.
- (h) Requesting parties shall have the option of receiving specifically identified records by electronic transmission or machine-readable storage media as long as those records can be transmitted in a redacted format that does not allow the records to be altered. The cost of duplication shall be limited to the direct cost of producing the copy of a record in that electronic format. The association may deliver specifically identified records by electronic transmission or machine-readable storage media as long as those records

can be transmitted in a redacted format that prevents the records from being altered.

5210

- (a) Association records are subject to member inspection for the following time periods:
 - (1) For the current fiscal year and for each of the previous two fiscal years.
 - (2) Notwithstanding paragraph (1), minutes of member and board meetings are subject to inspection permanently. If a committee has decisionmaking authority, minutes of the meetings of that committee shall be made available commencing January 1, 2007, and shall thereafter be permanently subject to inspection.
 - (3) Notwithstanding paragraph (1), all inspector’s reports compiled pursuant to Section 5551 shall be subject to inspection for the time period required by subdivision (i) of Section 5551.**
- (b) When a member properly requests access to association records, access to the requested records shall be granted within the following time periods:
 - (1) Association records prepared during the current fiscal year, within 10 business days following the association’s receipt of the request.
 - (2) Association records prepared during the previous two fiscal years, within 30 calendar days following the association’s receipt of the request.
 - (3) Any record or statement available pursuant to Article 2 (commencing with Section 4525) of Chapter 4, Article 7 (commencing with Section 5300), Section 5565, or Section 5810, within the timeframe specified therein.
 - (4) Minutes of member and board meetings, within the timeframe specified in subdivision (a) of Section 4950.
 - (5) Minutes of meetings of committees with decision making authority for meetings commencing on or after January 1, 2007, within 15 calendar days following approval.
 - (6) Membership list, within the timeframe specified in Section 8330 of the Corporations Code.
- (c) There shall be no liability pursuant to this article for an association that fails to retain records for the periods specified in subdivision (a) that were created prior to January 1, 2006.

5215

- (a) Except as provided in subdivision (b), the association may withhold or redact information from the association records if any of the following are true:

- (1) The release of the information is reasonably likely to lead to identity theft. For the purposes of this section, “identity theft” means the unauthorized use of another person’s personal identifying information to obtain credit, goods, services, money, or property. Examples of information that may be withheld or redacted pursuant to this paragraph include bank account numbers of members or vendors, social security or tax identification numbers, and check, stock, and credit card numbers.
- (2) The release of the information is reasonably likely to lead to fraud in connection with the association.
- (3) The information is privileged under law. Examples include documents subject to attorney-client privilege or relating to litigation in which the association is or may become involved, and confidential settlement agreements.
- (4) The release of the information is reasonably likely to compromise the privacy of an individual member of the association.
- (5) The information contains any of the following:
 - (A) Records of goods or services provided a la carte to individual members of the association for which the association received monetary consideration other than assessments.
 - (B) Records of disciplinary actions, collection activities, or payment plans of members other than the member requesting the records.
 - (C) Any person’s personal identification information, including, without limitation, social security number, tax identification number, driver’s license number, credit card account numbers, bank account number, and bank routing number.
 - (D) Minutes and other information from executive sessions of the board as described in Article 2 (commencing with Section 4900), except for executed contracts not otherwise privileged. Privileged contracts shall not include contracts for maintenance, management, or legal services.
 - (E) Personnel records other than the payroll records required to be provided under subdivision (b).
 - (F) Interior architectural plans, including security features, for individual homes.
- (b) Except as provided by the attorney-client privilege, the association may not withhold or redact information concerning the compensation paid to employees, vendors, or contractors. Compensation information for individual employees shall be set forth by job classification or title, not by the employee’s name, social security number, or other personal information.
- (c) No association, officer, director, employee, agent, or volunteer of an association shall be liable for damages to a

member of the association or any third party as the result of identity theft or other breach of privacy because of the failure to withhold or redact that member’s information under this section unless the failure to withhold or redact the information was intentional, willful, or negligent.

- (d) If requested by the requesting member, an association that denies or redacts records shall provide a written explanation specifying the legal basis for withholding or redacting the requested records.

5216

- (a) Notwithstanding any other law, upon request of a member of an association who is an active participant in the Safe at Home program, the association shall do both of the following:

- (1) Accept and use the address designated by the Secretary of State as the Safe at Home participant’s substitute address under the Safe at Home program for all association communications.
- (2) Withhold or redact information that would reveal the name, community property address, or email address of the Safe at Home participant from both of the following:
 - (A) All resident community membership lists, including mailbox bank listings, resident directories, electronic keypads, unit property numbers, and internet web portal accounts.
 - (B) Any membership list that will be shared with other members of the association.

- (b) An association shall keep member participation in the Safe at Home program confidential.

- (c) For purposes of this section:

- (1) “Community property address” means the address of the member’s property within the community governed by the association.
- (2) “Safe at Home participant” means a person certified as a program participant in the Safe at Home program.
- (3) “Safe at Home program” means the address confidentiality program established pursuant to Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code.

5220

A member of the association may opt out of the sharing of that member’s name, property address, email address, and mailing address by notifying the association in writing that the member prefers to be contacted via the alternative process described in subdivision (c) of Section 8330 of the Corporations Code. This opt-out shall remain in effect until changed by the member.

5225

A member requesting the membership list shall state the purpose for which the list is requested which purpose shall be reasonably related to the requester’s interest as a member. If the association reasonably believes that the information in the list will be used for another purpose, it may deny the member access to the list. If the request is denied, in any subsequent action brought by the member under Section 5235, the association shall have the burden to prove that the member would have allowed use of the information for purposes unrelated to the member’s interest as a member.

5230

- (a) The association records, and any information from them, may not be sold, used for a commercial purpose, or used for any other purpose not reasonably related to a member’s interest as a member. An association may bring an action against any person who violates this article for injunctive relief and for actual damages to the association caused by the violation.
- (b) This article may not be construed to limit the right of an association to damages for misuse of information obtained from the association records pursuant to this article or to limit the right of an association to injunctive relief to stop the misuse of this information.
- (c) (1) An association or its managing agent shall not do either of the following:
 - (A) Sell a member’s personal information for any purpose without the consent of the member.
 - (B) Transmit a member’s personal information to a third party without the consent of the member unless required to do so by law, including, but not limited to, Article 5 (commencing with Section 5200).
- (2) A member may bring an action against an association that violates this subdivision for injunctive relief and actual damages caused by the violation. A member shall be entitled to recover reasonable costs and expenses, including reasonable attorney’s fees, in a successful action to enforce the member’s rights under this subdivision.
- (d) An association shall be entitled to recover reasonable costs and expenses, including reasonable attorney’s fees, in a successful action to enforce its rights under this article.

5235

- (a) A member may bring an action to enforce that member’s right to inspect and copy the association records. If a court finds that the association unreasonably withheld access to the association records, the court shall award the member reasonable costs and expenses, including reasonable

attorney’s fees, and may assess a civil penalty of up to \$500 for the denial of each separate written request.

- (b) A cause of action under this section may be brought in small claims court if the amount of the demand does not exceed the jurisdiction of that court.
- (c) A prevailing association may recover any costs if the court finds the action to be frivolous, unreasonable, or without foundation.

5240

- (a) As applied to an association and its members, the provisions of this article are intended to supersede the provisions of Sections 8330 and 8333 of the Corporations Code to the extent those sections are inconsistent.
- (b) Except as provided in subdivision (a), members of the association shall have access to association records, including accounting books and records and membership lists, in accordance with Article 3 (commencing with Section 8330) of Chapter 13 of Part 3 of Division 2 of Title 1 of the Corporations Code.
- (c) The provisions of this article apply to any community service organization or similar entity that is related to the association, and to any nonprofit entity that provides services to a common interest development under a declaration of trust. This article shall operate to give a member of the organization or entity a right to inspect and copy the records of that organization or entity equivalent to that granted to association members by this article.
- (d) The provisions of this article shall not apply to any common interest development in which separate interests are being offered for sale by a subdivider under the authority of a public report issued by the Department of Real Estate so long as the subdivider or all subdividers offering those separate interests for sale, or any employees of those subdividers or any other person who receives direct or indirect compensation from any of those subdividers, comprise a majority of the directors. Notwithstanding the foregoing, this article shall apply to that common interest development no later than 10 years after the close of escrow for the first sale of a separate interest to a member of the general public pursuant to the public report issued for the first phase of the development.

Article 6. Recordkeeping

5260

To be effective, any of the following requests shall be delivered in writing to the association, pursuant to Section 4035:

- (a) A request to change the member’s information in the association membership list.

- (b) A request to add or remove a second email or mailing address for delivery of individual notices to the member, pursuant to Section 4040.
- (c) A request for individual delivery of general notices to the member, pursuant to subdivision (b) of Section 4045, or a request to cancel a prior request for individual delivery of general notices.
- (d) A request to opt out of the membership list pursuant to Section 5220, or a request to cancel a prior request to opt out of the membership list.
- (e) A request to receive a full copy of a specified annual budget report or annual policy statement pursuant to Section 5320.
- (f) A request to receive all reports in full, pursuant to subdivision (b) of Section 5320, or a request to cancel a prior request to receive all reports in full.
- (g) A request to opt out of or opt into electronically voting by electronic secret ballot, pursuant to Section 5105.

Article 7. Annual Reports

5300

- (a) Notwithstanding a contrary provision in the governing documents, an association shall distribute an annual budget report 30 to 90 days before the end of its fiscal year.
- (b) Unless the governing documents impose more stringent standards, the annual budget report shall include all of the following information:
 - (1) A pro forma operating budget, showing the estimated revenue and expenses on an accrual basis.
 - (2) A summary of the association’s reserves, prepared pursuant to Section 5565.
 - (3) A summary of the reserve funding plan adopted by the board, as specified in paragraph (5) of subdivision (b) of Section 5550. The summary shall include notice to members that the full reserve study plan is available upon request, and the association shall provide the full reserve plan to any member upon request.
 - (4) A statement as to whether the board has determined to defer or not undertake repairs or replacement of any major component with a remaining life of 30 years or less, including a justification for the deferral or decision not to undertake the repairs or replacement.
 - (5) A statement as to whether the board, consistent with the reserve funding plan adopted pursuant to Section 5560, has determined or anticipates that the levy of one or more special assessments will be required to repair, replace, or restore any major component or to provide adequate reserves therefor. If so, the

statement shall also set out the estimated amount, commencement date, and duration of the assessment.

- (6) A statement as to the mechanism or mechanisms by which the board will fund reserves to repair or replace major components, including assessments, borrowing, use of other assets, deferral of selected replacements or repairs, or alternative mechanisms.
- (7) A general statement addressing the procedures used for the calculation and establishment of those reserves to defray the future repair, replacement, or additions to those major components that the association is obligated to maintain. The statement shall include, but need not be limited to, reserve calculations made using the formula described in paragraph (4) of subdivision (b) of Section 5570, and may not assume a rate of return on cash reserves in excess of 2 percent above the discount rate published by the Federal Reserve Bank of San Francisco at the time the calculation was made.
- (8) A statement as to whether the association has any outstanding loans with an original term of more than one year, including the payee, interest rate, amount outstanding, annual payment, and when the loan is scheduled to be retired.
- (9) A summary of the association's property, general liability, earthquake, flood, and fidelity insurance policies. For each policy, the summary shall include the name of the insurer, the type of insurance, the policy limit, and the amount of the deductible, if any. To the extent that any of the required information is specified in the insurance policy declaration page, the association may meet its obligation to disclose that information by making copies of that page and distributing it with the annual budget report. The summary distributed pursuant to this paragraph shall contain, in at least 10-point boldface type, the following statement:

"This summary of the association's policies of insurance provides only certain information, as required by Section 5300 of the Civil Code, and should not be considered a substitute for the complete policy terms and conditions contained in the actual policies of insurance. Any association member may, upon request and provision of reasonable notice, review the association's insurance policies and, upon request and payment of reasonable duplication charges, obtain copies of those policies. Although the association maintains the policies of insurance specified in this summary, the association's policies of insurance may not cover your property, including personal property or real property improvements to or around your dwelling, or personal injuries or other losses that occur within or around your dwelling. Even if a loss is covered, you may nevertheless be responsible for paying all or a portion of any deductible that applies. Association members should consult with their individual insurance broker or agent for appropriate additional coverage."

- (10) When the common interest development is a condominium project, a statement describing the status of the common interest development as a Federal Housing Administration (FHA)-approved condominium project pursuant to FHA guidelines, including whether the common interest development is an FHA-approved condominium project. The statement shall be in at least 10-point font on a separate piece of paper and in the following form:

"Certification by the Federal Housing Administration may provide benefits to members of an association, including an improvement in an owner's ability to refinance a mortgage or obtain secondary financing and an increase in the pool of potential buyers of the separate interest.

This common interest development [is/is not (circle one)] a condominium project. The association of this common interest development [is/is not (circle one)] certified by the Federal Housing Administration."

- (11) When the common interest development is a condominium project, a statement describing the status of the common interest development as a federal Department of Veterans Affairs (VA)-approved condominium project pursuant to VA guidelines, including whether the common interest development is a VA-approved condominium project. The statement shall be in at least 10-point font on a separate piece of paper and in the following form:

"Certification by the federal Department of Veterans Affairs may provide benefits to members of an association, including an improvement in an owner's ability to refinance a mortgage or obtain secondary financing and an increase in the pool of potential buyers of the separate interest.

This common interest development [is/is not (circle one)] a condominium project. The association of this common interest development [is/is not (circle one)] certified by the federal Department of Veterans Affairs."

- (12) A copy of the completed "Charges For Documents Provided" disclosure identified in Section 4528. For purposes of this section, "completed" means that the "Fee for Document" section of the form individually identifies the costs associated with providing each document listed on the form.
- (c) The annual budget report shall be made available to the members pursuant to Section 5320.
- (d) The summary of the association's reserves disclosed pursuant to paragraph (2) of subdivision (b) shall not be admissible in evidence to show improper financial management of an association, provided that other relevant and competent evidence of the financial condition of the association is not made inadmissible by this provision.

- (e) The Assessment and Reserve Funding Disclosure Summary form, prepared pursuant to Section 5570, shall accompany each annual budget report or summary of the annual budget report that is delivered pursuant to this article.

5305

Unless the governing documents impose more stringent standards, a review of the financial statement of the association shall be prepared in accordance with generally accepted accounting principles by a licensee of the California Board of Accountancy for any fiscal year in which the gross income to the association exceeds \$75,000. A copy of the review of the financial statement shall be distributed to the members within 120 days after the close of each fiscal year, by individual delivery pursuant to Section 4040.

5310

- (a) Within 30 to 90 days before the end of its fiscal year, the board shall distribute an annual policy statement that provides the members with information about association policies. The annual policy statement shall include all of the following information:
 - (1) The name and address of the person designated to receive official communications to the association, pursuant to Section 4035.
 - (2) A statement explaining that a member may submit a request to have notices sent to up to two different specified addresses, pursuant to Section 4040.
 - (3) The location, if any, designated for posting of a general notice, pursuant to subdivision (a) of Section 4045.
 - (4) Notice of a member’s option to receive general notices by individual delivery, pursuant to subdivision (b) of Section 4045.
 - (5) Notice of a member’s right to receive copies of meeting minutes, pursuant to subdivision (b) of Section 4950.
 - (6) The statement of assessment collection policies required by Section 5730.
 - (7) A statement describing the association’s policies and practices in enforcing lien rights or other legal remedies for default in the payment of assessments.
 - (8) A statement describing the association’s discipline policy, if any, including any schedule of penalties for violations of the governing documents pursuant to Section 5850.
 - (9) A summary of dispute resolution procedures, pursuant to Sections 5920 and 5965.
 - (10) A summary of any requirements for association approval of a physical change to property, pursuant to Section 4765.

- (11) The mailing address for overnight payment of assessments, pursuant to Section 5655.
- (12) Any other information that is required by law or the governing documents or that the board determines to be appropriate for inclusion.
- (b) The annual policy statement shall be made available to the members pursuant to Section 5320.

5320

- (a) When a report is prepared pursuant to Section 5300 or 5310, the association shall deliver one of the following documents to all members, by individual delivery pursuant to Section 4040:
 - (1) The full report.
 - (2) A summary of the report that includes, on the first page, a general description of the content of the report and instructions, printed in at least 10-point boldface type, regarding how to request a complete copy of the report at no cost to the member.
- (b) Notwithstanding subdivision (a), if a member has requested to receive all reports in full, the association shall deliver the full report to that member, rather than a summary of the report.

**Article 8.
Conflict of Interest**

5350

- (a) Notwithstanding any other law, and regardless of whether an association is incorporated or unincorporated, the provisions of Sections 7233 and 7234 of the Corporations Code shall apply to any contract or other transaction authorized, approved, or ratified by the board or a committee of the board.
- (b) A director or member of a committee shall not vote on any of the following matters:
 - (1) Discipline of the director or committee member.
 - (2) An assessment against the director or committee member for damage to the common area or facilities.
 - (3) A request, by the director or committee member, for a payment plan for overdue assessments.
 - (4) A decision whether to foreclose on a lien on the separate interest of the director or committee member.
 - (5) Review of a proposed physical change to the separate interest of the director or committee member.
 - (6) A grant of exclusive use common area to the director or committee member.

- (c) Nothing in this section limits any other provision of law or the governing documents that govern a decision in which a director may have an interest.

**Article 9.
Managing Agent**

5375

A prospective managing agent of a common interest development shall provide a written statement to the board as soon as practicable, but in no event more than 90 days, before entering into a management agreement which shall contain all of the following information concerning the managing agent:

- (a) The names and business addresses of the owners or general partners of the managing agent. If the managing agent is a corporation, the written statement shall include the names and business addresses of the directors and officers and shareholders holding greater than 10 percent of the shares of the corporation.
- (b) Whether or not any relevant licenses such as architectural design, construction, engineering, real estate, or accounting have been issued by this state and are currently held by the persons specified in subdivision (a). If a license is currently held by any of those persons, the statement shall contain the following information:
 - (1) What license is held.
 - (2) The dates the license is valid.
 - (3) The name of the licensee appearing on that license.
- (c) Whether or not any relevant professional certifications or designations such as architectural design, construction, engineering, real property management, or accounting are currently held by any of the persons specified in subdivision (a), including, but not limited to, a professional common interest development manager. If any certification or designation is held, the statement shall include the following information:
 - (1) What the certification or designation is and what entity issued it.
 - (2) The dates the certification or designation is valid.
 - (3) The names in which the certification or designation is held.
- (d) Disclose any business or company in which the common interest development manager or common interest development management firm has any ownership interests, profit-sharing arrangements, or other monetary incentives provided to the management firm or managing agent.
- (e) Whether or not the common interest development manager or common interest development management

firm receives a referral fee or other monetary benefit from a third-party provider distributing documents pursuant to Sections 4528 and 4530.

5375.5

A common interest development manager or common interest development management firm shall disclose, in writing, any potential conflict of interest when presenting a bid for service to an association’s board of directors. “Conflict of interest,” for purposes of this section, means:

- (a) Any referral fee or other monetary benefit that could be derived from a business or company providing products or services to the association.
- (b) Any ownership interests or profit-sharing arrangements with service providers recommended to, or used by, the association.

5376

The common interest development manager, common interest development management firm, or its contracted third-party agent shall facilitate the delivery of disclosures required pursuant to paragraph (1) of subdivision (a), paragraph (2) of subdivision (b), and subdivision (d), of Section 4530 if the common interest development manager, or common interest development management firm, is contractually responsible for delivering those documents.

5380

- (a) A managing agent of a common interest development who accepts or receives funds belonging to the association shall deposit those funds that are not placed into an escrow account with a bank, savings association, or credit union or into an account under the control of the association, into a trust fund account maintained by the managing agent in a bank, savings association, or credit union in this state. All funds deposited by the managing agent in the trust fund account shall be kept in this state in a financial institution, as defined in Section 31041 of the Financial Code, which is insured by the federal government, or is a guaranty corporation subject to Section 14858 of the Financial Code, and shall be maintained there until disbursed in accordance with written instructions from the association entitled to the funds.
- (b) At the written request of the board, the funds the managing agent accepts or receives on behalf of the association shall be deposited into an account in a bank, savings association, or credit union in this state, that is insured by the Federal Deposit Insurance Corporation, National Credit Union Administration Insurance Fund, or a guaranty corporation subject to Section 14858 of the Financial Code, provided all of the following requirements are met:

- (1) The account is in the name of the managing agent as trustee for the association or in the name of the association.
- (2) All of the funds in the account are covered by insurance provided by an agency of the federal government or a guaranty corporation subject to Section 14858 of the Financial Code. Those funds may only be deposited in accounts that protect the principal. In no event may those funds be invested in stocks or high-risk investment options.
- (3) The funds in the account are kept separate, distinct, and apart from the funds belonging to the managing agent or to any other person for whom the managing agent holds funds in trust.
- (4) The managing agent discloses to the board the nature of the account, how interest will be calculated and paid, whether service charges will be paid to the depository and by whom, and any notice requirements or penalties for withdrawal of funds from the account.
- (5) No interest earned on funds in the account shall inure directly or indirectly to the benefit of the managing agent or the managing agent's employees.
- (6) Transfers of funds out of the association's reserve or operating accounts shall not be authorized without prior written approval from the board of the association unless the amount of the transfer is less than the following:
 - (A) The lesser of five thousand dollars (\$5,000) or 5 percent of the estimated income in the annual operating budget, for associations with 50 or less separate interests.
 - (B) The lesser of ten thousand dollars (\$10,000) or 5 percent of estimated income in the annual operating budget, for associations with 51 or more separate interests.
- (c) The managing agent shall maintain a separate record of the receipt and disposition of all funds described in this section, including any interest earned on the funds.
- (d) The managing agent shall not commingle the funds of the association with the managing agent's own money or with the money of others that the managing agent receives or accepts.
- (e) The prevailing party in an action to enforce this section shall be entitled to recover reasonable legal fees and court costs.
- (f) As used in this section, "completed payment" means funds received that clearly identify the account to which the funds are to be credited.

5385

For the purposes of this article, "managing agent" does not include a full-time employee of the association.

Article 10. Government Assistance

5400

To the extent existing funds are available, the Department of Consumer Affairs and the Department of Real Estate shall develop an online education course for the board regarding the role, duties, laws, and responsibilities of directors and prospective directors, and the nonjudicial foreclosure process.

5405

- (a) To assist with the identification of common interest developments, each association, whether incorporated or unincorporated, shall submit to the Secretary of State, on a form and for a fee not to exceed \$30 that the Secretary of State shall prescribe, the following information concerning the association and the development that it manages:
 - (1) A statement that the association is formed to manage a common interest development under the Davis-Stirling Common Interest Development Act.
 - (2) The name of the association.
 - (3) The street address of the business or corporate office of the association, if any.
 - (4) The street address of the association's onsite office, if different from the street address of the business or corporate office, or if there is no onsite office, the street address of the responsible officer or managing agent of the association.
 - (5) The name, address, and either the daytime telephone number or e-mail address of the president of the association, other than the address, telephone number, or e-mail address of the association's onsite office or managing agent.
 - (6) The name, street address, and daytime telephone number of the association's managing agent, if any.
 - (7) The county, and, if in an incorporated area, the city in which the development is physically located. If the boundaries of the development are physically located in more than one county, each of the counties in which it is located.
 - (8) If the development is in an unincorporated area, the city closest in proximity to the development.

- (9) The front street and nearest cross street of the physical location of the development.
- (10) The type of common interest development managed by the association.
- (11) The number of separate interests in the development.
- (b) The association shall submit the information required by this section as follows:
 - (1) By incorporated associations, within 90 days after the filing of its original articles of incorporation, and thereafter at the time the association files its statement of principal business activity with the Secretary of State pursuant to Section 8210 of the Corporations Code.
 - (2) By unincorporated associations, in July 2003, and in that same month biennially thereafter. Upon changing its status to that of a corporation, the association shall comply with the filing deadlines in paragraph (1).
- (c) The association shall notify the Secretary of State of any change in the street address of the association's onsite office or of the responsible officer or managing agent of the association in the form and for a fee prescribed by the Secretary of State, within 60 days of the change.
- (d) The penalty for an incorporated association's noncompliance with the initial or biennial filing requirements of this section shall be suspension of the association's rights, privileges, and powers as a corporation and monetary penalties, to the same extent and in the same manner as suspension and monetary penalties imposed pursuant to Section 8810 of the Corporations Code.
- (e) The statement required by this section may be filed, notwithstanding suspension of the corporate powers, rights, and privileges under this section or under provisions of the Revenue and Taxation Code. Upon the filing of a statement under this section by a corporation that has suffered suspension under this section, the Secretary of State shall certify that fact to the Franchise Tax Board and the corporation may thereupon be relieved from suspension, unless the corporation is held in suspension by the Franchise Tax Board by reason of Section 23301, 23301.5, or 23775 of the Revenue and Taxation Code.
- (f) The Secretary of State shall make the information submitted pursuant to paragraph (5) of subdivision (a) available only for governmental purposes and only to Members of the Legislature and the *****Business and Consumer Services** Agency, upon written request. All other information submitted pursuant to this section shall be subject to public inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). The information submitted pursuant to this section shall be made available for governmental or public inspection.

- (g) Whenever any form is filed pursuant to this section, it supersedes any previously filed form.
- (h) The Secretary of State may destroy or otherwise dispose of any form filed pursuant to this section after it has been superseded by the filing of a new form.
- (i) ***The amendments made to this section by the act adding this subdivision shall become operative on July 1, 2026.***

Article 11. Emergency Powers and Procedures

5450

- (a) This section only applies to a common interest development if gathering in person is unsafe or impossible because the common interest development is in an area affected by one or more of the following conditions:
 - (1) A state of disaster or emergency declared by the federal government.
 - (2) A state of emergency proclaimed by the Governor under Section 8625 of the Government Code.
 - (3) A local emergency proclaimed by a local governing body or official under Section 8630 of the Government Code.
- (b) Notwithstanding any other law or the association's governing documents, and except as provided in subdivision (d), a board meeting or meeting of the members may be conducted entirely by teleconference, without any physical location being held open for the attendance of any director or member, if all of the following conditions are satisfied:
 - (1) Notice of the first meeting that is conducted under this section for a particular disaster or emergency affecting the association is delivered to members by individual delivery.
 - (2) The notice for each meeting conducted under this section includes, in addition to other required content for meeting notices, all of the following:
 - (A) Clear technical instructions on how to participate by teleconference.
 - (B) The telephone number and electronic mail address of a person who can provide technical assistance with the teleconference process, both before and during the meeting.
 - (C) A reminder that a member may request individual delivery of meeting notices, with instructions on how to do so.

- (3) Every director and member has the same ability to participate in the meeting that would exist if the meeting were held in person.
 - (4) Any vote of the directors shall be conducted by a roll call vote.
 - (5) Any person who is entitled to participate in the meeting shall be given the option of participating by telephone.
- (c) If, as a result of the disaster or emergency, mail delivery or retrieval is not possible at any association onsite address and the address on file with the association for that member is the same association onsite address, then the association shall send the notice of the first meeting referred in paragraph (1) of subdivision (b) to any email address provided to the association by that member, in writing, pursuant to paragraph (2) of subdivision (a) of Section 4040 or subdivision (b) of Section 4041.
- (d) Subdivision (b) does not apply to a meeting at which ballots are counted and tabulated pursuant to Section 5120, unless both of the following conditions are met:
- (1) The meeting at which ballots are to be counted and tabulated is conducted by video conference.
 - (2) The camera is placed in a location such that members can witness the inspector of elections counting and tabulating the votes.
- (e) The remedies available pursuant to Section 4955 shall also be available to address violations of this section.

CHAPTER 7. FINANCES

**Article 1.
Accounting**

5500

Unless the governing documents impose more stringent standards, the board shall do all of the following:

- (a) Review, on a monthly basis, a current reconciliation of the association’s operating accounts.
- (b) Review, on a monthly basis, a current reconciliation of the association’s reserve accounts.
- (c) Review, on a monthly basis, the current year’s actual operating revenues and expenses compared to the current year’s budget.
- (d) Review, on a monthly basis, the latest account statements prepared by the financial institutions where the association has its operating and reserve accounts.

- (e) Review, on a monthly basis, an income and expense statement for the association’s operating and reserve accounts.
- (f) Review, on a monthly basis, the check register, monthly general ledger, and delinquent assessment receivable reports.

5501

The review requirements of Section 5500 may be met when every individual member of the board, or a subcommittee of the board consisting of the treasurer and at least one other board member, reviews the documents and statements described in Section 5500 independent of a board meeting, so long as the review is ratified at the board meeting subsequent to the review and that ratification is reflected in the minutes of that meeting.

5502

- (a) Notwithstanding any other law, transfers shall not be authorized from the association’s reserve or operating accounts without prior written approval from the board of the association unless the amount of the transfer is less than the following:
- (1) The lesser of five thousand dollars (\$5,000) or 5 percent of the estimated income in the annual operating budget, for associations with 50 or less separate interests.
 - (2) The lesser of ten thousand dollars (\$10,000) or 5 percent of the estimated income in the annual operating budget, for associations with 51 or more separate interests.
- (b) This section applies in addition to any other applicable requirements of this part.

**Article 2.
Use of Reserve Funds**

5510

- (a) The signatures of at least two persons, who shall be directors, or one officer who is not a director and one who is a director, shall be required for the withdrawal of moneys from the association’s reserve accounts.
- (b) The board shall not expend funds designated as reserve funds for any purpose other than the repair, restoration, replacement, or maintenance of, or litigation involving the repair, restoration, replacement, or maintenance of, major components that the association is obligated to repair, restore, replace, or maintain and for which the reserve fund was established.

5515

- (a) Notwithstanding Section 5510, the board may authorize the temporary transfer of moneys from a reserve fund to the association's general operating fund to meet short-term cashflow requirements or other expenses, if the board has provided notice of the intent to consider the transfer in a board meeting notice provided pursuant to Section 4920.
- (b) The notice shall include the reasons the transfer is needed, some of the options for repayment, and whether a special assessment may be considered.
- (c) If the board authorizes the transfer, the board shall issue a written finding, recorded in the board's minutes, explaining the reasons that the transfer is needed, and describing when and how the moneys will be repaid to the reserve fund.
- (d) The transferred funds shall be restored to the reserve fund within one year of the date of the initial transfer, except that the board may, after giving the same notice required for considering a transfer, and, upon making a finding supported by documentation that a temporary delay would be in the best interests of the common interest development, temporarily delay the restoration.
- (e) The board shall exercise prudent fiscal management in maintaining the integrity of the reserve account, and shall, if necessary, levy a special assessment to recover the full amount of the expended funds within the time limits required by this section. This special assessment is subject to the limitation imposed by Section 5605. The board may, at its discretion, extend the date the payment on the special assessment is due. Any extension shall not prevent the board from pursuing any legal remedy to enforce the collection of an unpaid special assessment.

5520

- (a) When the decision is made to use reserve funds or to temporarily transfer moneys from the reserve fund to pay for litigation pursuant to subdivision (b) of Section 5510, the association shall provide general notice pursuant to Section 4045 of that decision, and of the availability of an accounting of those expenses.
- (b) Unless the governing documents impose more stringent standards, the association shall make an accounting of expenses related to the litigation on at least a quarterly basis. The accounting shall be made available for inspection by members of the association at the association's office.

Article 3.
Reserve Planning

5550

- (a) At least once every three years, the board shall cause to be conducted a reasonably competent and diligent visual inspection of the accessible areas of the major components that the association is obligated to repair, replace, restore, or maintain as part of a study of the reserve account requirements of the common interest development, if the current replacement value of the major components is equal to or greater than one-half of the gross budget of the association, excluding the association's reserve account for that period. The board shall review this study, or cause it to be reviewed, annually and shall consider and implement necessary adjustments to the board's analysis of the reserve account requirements as a result of that review.
- (b) The study required by this section shall at a minimum include:
 - (1) Identification of the major components that the association is obligated to repair, replace, restore, or maintain that, as of the date of the study, have a remaining useful life of less than 30 years.
 - (2) Identification of the probable remaining useful life of the components identified in paragraph (1) as of the date of the study.
 - (3) An estimate of the cost of repair, replacement, restoration, or maintenance of the components identified in paragraph (1).
 - (4) An estimate of the total annual contribution necessary to defray the cost to repair, replace, restore, or maintain the components identified in paragraph (1) during and at the end of their useful life, after subtracting total reserve funds as of the date of the study.
 - (5) A reserve funding plan that indicates how the association plans to fund the contribution identified in paragraph (4) to meet the association's obligation for the repair and replacement of all major components with an expected remaining life of 30 years or less, not including those components that the board has determined will not be replaced or repaired.
- (c) For purposes of this section, "major components" includes gas, water, and electrical service to the extent that the association is responsible for repair or replacement of those lines pursuant to Section 4775.

5551

- (a) For purposes of this section, the following definitions apply:
 - (1) "Associated waterproofing systems" include flashings, membranes, coatings, and sealants that protect the

load-bearing components of exterior elevated elements from exposure to water.

- (2) “Exterior elevated elements” mean the load-bearing components together with their associated waterproofing system.
 - (3) “Load-bearing components” means those components that extend beyond the exterior walls of the building to deliver structural loads to the building from decks, balconies, stairways, walkways, and their railings, that have a walking surface elevated more than six feet above ground level, that are designed for human occupancy or use, and that are supported in whole or in substantial part by wood or wood-based products.
 - (4) “Statistically significant sample” means a sufficient number of units inspected to provide 95 percent confidence that the results from the sample are reflective of the whole, with a margin of error of no greater than plus or minus 5 percent.
 - (5) “Visual inspection” means inspection through the least intrusive method necessary to inspect load-bearing components, including visual observation only or visual observation in conjunction with, for example, the use of moisture meters, borescopes, or infrared technology.
- (b) (1) At least once every nine years, the board of an association of a condominium project shall cause a reasonably competent and diligent visual inspection to be conducted by a licensed structural or civil engineer or architect of a random and statistically significant sample of exterior elevated elements for which the association has maintenance or repair responsibility.
- (2) The inspection shall determine whether the exterior elevated elements are in a generally safe condition and performing in accordance with applicable standards.
- (c) Prior to conducting the first visual inspection, the inspector shall generate a random list of the locations of each type of exterior elevated element. The list shall include all exterior elevated elements for which the association has maintenance or repair responsibility. The list shall be provided to the association for future use.
- (d) The inspector shall perform the visual inspections in accordance with the random list generated pursuant to subdivision (c). If during the visual inspection the inspector observes building conditions indicating that unintended water or water vapor has passed into the associated waterproofing system, thereby creating the potential for damage to the load-bearing components, then the inspector may conduct a further inspection. The inspector shall exercise their best professional judgment in determining the necessity, scope, and breadth of any further inspection.
- (e) Based upon the inspector’s visual inspections, further inspection, and construction and materials expertise, the inspector shall issue a written report containing the following ***:

- (1) The identification of the building components comprising the load-bearing components and associated waterproofing system.
 - (2) The current physical condition of the load-bearing components and associated waterproofing system, including whether the condition presents an immediate threat to the health and safety of the residents.
 - (3) The expected future performance and remaining useful life of the load-bearing components and associated waterproofing system.
 - (4) Recommendations for any necessary repair or replacement of the load-bearing components and associated waterproofing system.
- (5) On the first page of the report, all of the following:**
- (A) The date of inspection.**
 - (B) The total number of units in the condominium project.**
 - (C) The total number of units in the condominium project with exterior elevated elements.**
 - (D) The total number of exterior elevated elements in the condominium project.**
 - (E) The total number of exterior elevated elements inspected pursuant to subdivision (b).**
 - (F) As of the date of inspection in subparagraph (A), the total number of inspected exterior elevated elements identified as posing an immediate threat to the safety of the occupants, pursuant to subdivision (g), and the number of units impacted.**
 - (G) A certification that the inspector has conducted a visual inspection and evaluated a statistically significant sample of the exterior elevated elements within the condominium project, as required by subdivision (b).**
- (f) The report issued pursuant to subdivision (e) shall be stamped or signed by the inspector, presented to the board, and incorporated into the study required by Section 5550.
- (g) (1) If, after inspection of any exterior elevated element, the inspector advises that the exterior elevated element poses an immediate threat to the safety of the occupants, the inspector shall provide a copy of the inspection report to the association immediately upon completion of the report, and to the local code enforcement agency within 15 days of completion of the report. Upon receiving the report, the association shall take preventive measures immediately, including preventing occupant access to the exterior elevated element until repairs have been inspected and approved by the local enforcement agency.

- (2) Local enforcement agencies shall have the ability to recover enforcement costs associated with the requirements of this section from the association.
- (h) Each subsequent visual inspection conducted under this section shall commence with the next exterior elevated element identified on the random list and shall proceed in order through the list.
- (i) The first inspection shall be completed by January 1, 2025, and then every nine years thereafter in coordination with the reserve study inspection pursuant to Section 5550. All written reports shall be maintained for two inspection cycles as records of the association.
- (j) (1) The association shall be responsible for complying with the requirements of this section.

(2) The continued and ongoing maintenance and repair of the load-bearing components and associated waterproofing systems in a safe, functional, and sanitary condition shall be the responsibility of the association as required by the association’s governing documents.
- (k) The inspection of buildings for which a building permit application has been submitted on or after January 1, 2020, shall occur no later than six years following the issuance of a certificate of occupancy. The inspection shall otherwise comply with the provisions of this section.
- (l) This section shall only apply to buildings containing three or more **attached** multifamily dwelling units.
- (m) The association board may enact rules or bylaws imposing requirements greater than those imposed by this section.
- (n) A local government or local enforcement agency may enact an ordinance or other rule imposing requirements greater than those imposed by this section.

5560

- (a) The reserve funding plan required by Section 5550 shall include a schedule of the date and amount of any change in regular or special assessments that would be needed to sufficiently fund the reserve funding plan.
- (b) The plan shall be adopted by the board at an open meeting before the membership of the association as described in Article 2 (commencing with Section 4900) of Chapter 6.
- (c) If the board determines that an assessment increase is necessary to fund the reserve funding plan, any increase shall be approved in a separate action of the board that is consistent with the procedure described in Section 5605.

5565

The summary of the association’s reserves required by paragraph (2) of subdivision (b) of Section 5300 shall be based on the most

recent review or study conducted pursuant to Section 5550, shall be based only on assets held in cash or cash equivalents, shall be printed in boldface type, and shall include all of the following:

- (a) The current estimated replacement cost, estimated remaining life, and estimated useful life of each major component.
- (b) As of the end of the fiscal year for which the study is prepared:
 - (1) The current estimate of the amount of cash reserves necessary to repair, replace, restore, or maintain the major components.
 - (2) The current amount of accumulated cash reserves actually set aside to repair, replace, restore, or maintain major components.
 - (3) If applicable, the amount of funds received from either a compensatory damage award or settlement to an association from any person for injuries to property, real or personal, arising out of any construction or design defects, and the expenditure or disposition of funds, including the amounts expended for the direct and indirect costs of repair of construction or design defects. These amounts shall be reported at the end of the fiscal year for which the study is prepared as separate line items under cash reserves pursuant to paragraph (2). Instead of complying with the requirements set forth in this paragraph, an association that is obligated to issue a review of its financial statement pursuant to Section 5305 may include in the review a statement containing all of the information required by this paragraph.
- (c) The percentage that the amount determined for purposes of paragraph (2) of subdivision (b) equals the amount determined for purposes of paragraph (1) of subdivision (b).
- (d) The current deficiency in reserve funding expressed on a per unit basis. The figure shall be calculated by subtracting the amount determined for purposes of paragraph (2) of subdivision (b) from the amount determined for purposes of paragraph (1) of subdivision (b) and then dividing the result by the number of separate interests within the association, except that if assessments vary by the size or type of ownership interest, then the association shall calculate the current deficiency in a manner that reflects the variation.

5570

- (a) The disclosures required by this article with regard to an association or a property shall be summarized on the following form:

Assessment and Reserve Funding Disclosure Summary For the Fiscal Year Ending _____

- (1) The regular assessment per ownership interest is \$ _____ per _____. Note: If assessments vary by the

size or type of ownership interest, the assessment applicable to this ownership interest may be found on page ____ of the attached summary.

- (2) Additional regular or special assessments that have already been scheduled to be imposed or charged, regardless of the purpose, if they have been approved by the board and/or members:

Date assessment will be due:	Amount per ownership interest per month or year (If assessments are variable, see note immediately below):	Purpose of the assessment:
	Total:	

Note: If assessments vary by the size or type of ownership interest, the assessment applicable to this ownership interest may be found on page ____ of the attached report.

- (3) Based upon the most recent reserve study and other information available to the board of directors, will currently projected reserve account balances be sufficient at the end of each year to meet the association's obligation for repair and/or replacement of major components during the next 30 years?

Yes ____ No ____

- (4) If the answer to (3) is no, what additional assessments or other contributions to reserves would be necessary to ensure that sufficient reserve funds will be available each year during the next 30 years that have not yet been approved by the board or the members?

Approximate date assessment will be due:	Amount per ownership interest per month or year:
	Total:

- (5) All major components are included in the reserve study and are included in its calculations.
- (6) Based on the method of calculation in paragraph (4) of subdivision (b) of Section 5570, the estimated amount required in the reserve fund at the end of the current fiscal year is \$____, based in whole or in part on the last reserve study or update prepared by ____ as of ____ (month), ____ (year). The projected reserve fund cash balance at the end of the current fiscal year is \$____, resulting in reserves being ____ percent funded at this date.

If an alternate, but generally accepted, method of

calculation is also used, the required reserve amount is \$____. (See attached explanation)

- (7) Based on the method of calculation in paragraph (4) of subdivision (b) of Section 5570 of the Civil Code, the estimated amount required in the reserve fund at the end of each of the next five budget years is \$____, and the projected reserve fund cash balance in each of those years, taking into account only assessments already approved and other known revenues, is \$____, leaving the reserve at ____ percent funded. If the reserve funding plan approved by the association is implemented, the projected reserve fund cash balance in each of those years will be \$____, leaving the reserve at ____ percent funded.

Note: The financial representations set forth in this summary are based on the best estimates of the preparer at that time. The estimates are subject to change. At the time this summary was prepared, the assumed long-term before-tax interest rate earned on reserve funds was ____ percent per year, and the assumed long-term inflation rate to be applied to major component repair and replacement costs was ____ percent per year.

- (b) For the purposes of preparing a summary pursuant to this section:
 - (1) "Estimated remaining useful life" means the time reasonably calculated to remain before a major component will require replacement.
 - (2) "Major component" has the meaning used in Section 5550. Components with an estimated remaining useful life of more than 30 years may be included in a study as a capital asset or disregarded from the reserve calculation, so long as the decision is revealed in the reserve study report and reported in the Assessment and Reserve Funding Disclosure Summary.
 - (3) The form set out in subdivision (a) shall accompany each annual budget report or summary thereof that is delivered pursuant to Section 5300. The form may be supplemented or modified to clarify the information delivered, so long as the minimum information set out in subdivision (a) is provided.
 - (4) For the purpose of the report and summary, the amount of reserves needed to be accumulated for a component at a given time shall be computed as the current cost of replacement or repair multiplied by the number of years the component has been in service divided by the useful life of the component. This shall not be construed to require the board to fund reserves in accordance with this calculation.

5580

- (a) Unless the governing documents impose more stringent standards, any community service organization whose funding from the association or its members exceeds 10 percent of the organization's annual budget shall prepare and distribute to the association a report that meets the

requirements of Section 5012 of the Corporations Code, and that describes in detail administrative costs and identifies the payees of those costs in a manner consistent with the provisions of Article 5 (commencing with Section 5200) of Chapter 6.

- (b) If the community service organization does not comply with the standards, the report shall disclose the noncompliance in detail. If a community service organization is responsible for the maintenance of major components for which an association would otherwise be responsible, the community service organization shall supply to the association the information regarding those components that the association would use to complete disclosures and reserve reports required under this article and Section 5300. An association may rely upon information received from a community service organization, and shall provide access to the information pursuant to the provisions of Article 5 (commencing with Section 5200) of Chapter 6.

CHAPTER 8. ASSESSMENTS AND ASSESSMENT COLLECTION

Article 1. Establishment and Imposition of Assessments

5600

- (a) Except as provided in Section 5605, the association shall levy regular and special assessments sufficient to perform its obligations under the governing documents and this act.
- (b) An association shall not impose or collect an assessment or fee that exceeds the amount necessary to defray the costs for which it is levied.

5605

- (a) Annual increases in regular assessments for any fiscal year shall not be imposed unless the board has complied with paragraphs (1), (2), (4), (5), (6), (7), and (8) of subdivision (b) of Section 5300 with respect to that fiscal year, or has obtained the approval of a majority of a quorum of members, pursuant to Section 4070, at a member meeting or election.
- (b) Notwithstanding more restrictive limitations placed on the board by the governing documents, the board may not impose a regular assessment that is more than 20 percent greater than the regular assessment for the association's preceding fiscal year or impose special assessments which in the aggregate exceed 5 percent of the budgeted gross expenses of the association for that fiscal year without the approval of a majority of a quorum of members, pursuant to Section 4070, at a member meeting or election.

- (c) (1) (A) For an association that records its original declaration on or after January 1, 2025, notwithstanding more restrictive limitations placed on the board by the governing documents, except as provided in paragraph (3), the board shall not impose a regular assessment against an owner of a deed-restricted affordable housing unit that is more than 5 percent plus the percentage change in the cost of living, not to exceed 10 percent greater than the preceding regular assessment.
- (B) For purposes of this paragraph, "percentage change in the cost of living" means the percentage change from April 1 of the prior year to April 1 of the current year in the regional Consumer Price Index for the region where the residential real property is located, as published by the United States Bureau of Labor Statistics. If a regional index is not available, the California Consumer Price Index for All Urban Consumers for all items, as determined by the Department of Industrial Relations, shall apply.
- (2) For an association that records its original declaration on or after January 1, 2025, notwithstanding any other law, except as provided in paragraph (3), the board may impose an assessment against an owner of a deed-restricted affordable housing unit that is lower than the assessment imposed against other owners according to the proportional ownership of total subdivision interests subject to assessments.
- (3) This subdivision does not apply to any of the following:
 - (A) A development where the percentage of the units, exclusive of a manager's unit or units, that are deed-restricted affordable housing units exceeds the percentage required by an applicable zoning ordinance in effect at the time the development received final approval.
 - (B) A development that is located within a city, county, or city and county that does not have an applicable zoning ordinance requiring a percentage of deed-restricted affordable housing units and meet either of the following conditions:
 - (i) The percentage of the units, exclusive of a manager's unit or units, that are deed-restricted affordable housing exceeds 10 percent of the total number of units in the development at the time the development received final approval.
 - (ii) If the development met the requirements described in subparagraph (B) of paragraph (1) of subdivision (b) of Section 65912.122 of the Government Code and was approved pursuant to Section 65912.124 of the Government Code, the percentage of the units, exclusive of a manager's unit or units, that are deed-restricted affordable housing

exceeds 15 percent of the total number of units in the development at the time the development received final approval.

- (C) A development of 20 units or fewer.
- (d) For the purposes of this section, all of the following definitions apply:
 - (1) "Affordable housing unit" means a unit occupied by, or available at affordable housing cost to, lower income and moderate-income households, as defined by Sections 50079.5 and 50052.5, respectively, of the Health and Safety Code.
 - (2) "Final approval" has the same meaning as defined in clause (ii) of subparagraph (D) of paragraph (2) of subdivision (o) of Section 65589.5 of the Government Code.
 - (3) "Quorum" means more than 50 percent of the members.

5610

Section 5605 does not limit assessment increases necessary for emergency situations. For purposes of this section, an emergency situation is any one of the following:

- (a) An extraordinary expense required by an order of a court.
- (b) An extraordinary expense necessary to operate, repair, or maintain the common interest development or any part of it for which the association is responsible where a threat to personal health or safety or another hazardous condition or circumstance on the property is discovered.
- (c) An extraordinary expense necessary to repair or maintain the common interest development or any part of it for which the association is responsible that could not have been reasonably foreseen by the board in preparing and distributing the annual budget report under Section 5300. However, before the imposition or collection of an assessment under this subdivision, the board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process, and the resolution shall be distributed to the members with the notice of assessment.

5615

The association shall provide individual notice pursuant to Section 4040 to the members of any increase in the regular or special assessments of the association, not less than 30 nor more than 60 days prior to the increased assessment becoming due.

5620

- (a) Regular assessments imposed or collected to perform the obligations of an association under the governing documents or this act shall be exempt from execution by a judgment creditor of the association only to the extent necessary for the association to perform essential services, such as paying for utilities and insurance. In determining the appropriateness of an exemption, a court shall ensure that only essential services are protected under this subdivision.
- (b) This exemption shall not apply to any consensual pledges, liens, or encumbrances that have been approved by a majority of a quorum of members, pursuant to Section 4070, at a member meeting or election, or to any state tax lien, or to any lien for labor or materials supplied to the common area.

5625

- (a) Except as provided in subdivision (b), notwithstanding any provision of this act or the governing documents to the contrary, an association shall not levy assessments on separate interests within the common interest development based on the taxable value of the separate interests unless the association, on or before December 31, 2009, in accordance with its governing documents, levied assessments on those separate interests based on their taxable value, as determined by the tax assessor of the county in which the separate interests are located.
- (b) An association that is responsible for paying taxes on the separate interests within the common interest development may levy that portion of assessments on separate interests that is related to the payment of taxes based on the taxable value of the separate interest, as determined by the tax assessor.

Article 2. Assessment Payment and Delinquency

5650

- (a) A regular or special assessment and any late charges, reasonable fees and costs of collection, reasonable attorney's fees, if any, and interest, if any, as determined in accordance with subdivision (b), shall be a debt of the owner of the separate interest at the time the assessment or other sums are levied.
- (b) Regular and special assessments levied pursuant to the governing documents are delinquent 15 days after they become due, unless the declaration provides a longer time period, in which case the longer time period shall apply. If an assessment is delinquent, the association may recover all of the following:

- (1) Reasonable costs incurred in collecting the delinquent assessment, including reasonable attorney's fees.
 - (2) A late charge not exceeding 10 percent of the delinquent assessment or \$10, whichever is greater, unless the declaration specifies a late charge in a smaller amount, in which case any late charge imposed shall not exceed the amount specified in the declaration.
 - (3) Interest on all sums imposed in accordance with this section, including the delinquent assessments, reasonable fees and costs of collection, and reasonable attorney's fees, at an annual interest rate not to exceed 12 percent, commencing 30 days after the assessment becomes due, unless the declaration specifies the recovery of interest at a rate of a lesser amount, in which case the lesser rate of interest shall apply.
- (c) Associations are hereby exempted from interest-rate limitations imposed by Article XV of the California Constitution, subject to the limitations of this section.

5655

- (a) Any payments made by the owner of a separate interest toward a debt described in subdivision (a) of Section 5650 shall first be applied to the assessments owed, and, only after the assessments owed are paid in full shall the payments be applied to the fees and costs of collection, attorney's fees, late charges, or interest.
- (b) When an owner makes a payment, the owner may request a receipt and the association shall provide it. The receipt shall indicate the date of payment and the person who received it.
- (c) The association shall provide a mailing address for overnight payment of assessments. The address shall be provided in the annual policy statement.

5658

- (a) If a dispute exists between the owner of a separate interest and the association regarding any disputed charge or sum levied by the association, including, but not limited to, an assessment, fine, penalty, late fee, collection cost, or monetary penalty imposed as a disciplinary measure, and the amount in dispute does not exceed the jurisdictional limits of the small claims court stated in Sections 116.220 and 116.221 of the Code of Civil Procedure, the owner of the separate interest may, in addition to pursuing dispute resolution pursuant to Article 3 (commencing with Section 5925) of Chapter 10, pay under protest the disputed amount and all other amounts levied, including any fees and reasonable costs of collection, reasonable attorney's fees, late charges, and interest, if any, pursuant to subdivision (b) of Section 5650, and commence an action in small claims court pursuant to Chapter 5.5 (commencing with Section 116.110) of Title 1 of the Code of Civil Procedure.

- (b) Nothing in this section shall impede an association's ability to collect delinquent assessments as provided in this article or Article 3 (commencing with Section 5700).

5660

At least 30 days prior to recording a lien upon the separate interest of the owner of record to collect a debt that is past due under Section 5650, the association shall notify the owner of record in writing by certified mail of the following:

- (a) A general description of the collection and lien enforcement procedures of the association and the method of calculation of the amount, a statement that the owner of the separate interest has the right to inspect the association records pursuant to Section 5205, and the following statement in 14-point boldface type, if printed, or in capital letters, if typed:

"IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION."

- (b) An itemized statement of the charges owed by the owner, including items on the statement which indicate the amount of any delinquent assessments, the fees and reasonable costs of collection, reasonable attorney's fees, any late charges, and interest, if any.
- (c) A statement that the owner shall not be liable to pay the charges, interest, and costs of collection, if it is determined the assessment was paid on time to the association.
- (d) The right to request a meeting with the board as provided in Section 5665.
- (e) The right to dispute the assessment debt by submitting a written request for dispute resolution to the association pursuant to the association's "meet and confer" program required in Article 2 (commencing with Section 5900) of Chapter 10.
- (f) The right to request alternative dispute resolution with a neutral third party pursuant to Article 3 (commencing with Section 5925) of Chapter 10 before the association may initiate foreclosure against the owner's separate interest, except that binding arbitration shall not be available if the association intends to initiate a judicial foreclosure.

5665

- (a) An owner, other than an owner of any interest that is described in Section 11212 of the Business and Professions Code that is not otherwise exempt from this section pursuant to subdivision (a) of Section 11211.7 of the Business and Professions Code, may submit a written request to meet with the board to discuss a payment plan for the debt noticed pursuant to Section 5660. The association shall provide the owners the standards for payment plans, if any exists.

- (b) The board shall meet with the owner in executive session within 45 days of the postmark of the request, if the request is mailed within 15 days of the date of the postmark of the notice, unless there is no regularly scheduled board meeting within that period, in which case the board may designate a committee of one or more directors to meet with the owner.
- (c) Payment plans may incorporate any assessments that accrue during the payment plan period. Additional late fees shall not accrue during the payment plan period if the owner is in compliance with the terms of the payment plan.
- (d) Payment plans shall not impede an association’s ability to record a lien on the owner’s separate interest to secure payment of delinquent assessments.
- (e) In the event of a default on any payment plan, the association may resume its efforts to collect the delinquent assessments from the time prior to entering into the payment plan.

5670

Prior to recording a lien for delinquent assessments, an association shall offer the owner and, if so requested by the owner, participate in dispute resolution pursuant to the association’s “meet and confer” program required in Article 2 (commencing with Section 5900) of Chapter 10.

5673

For liens recorded on or after January 1, 2006, the decision to record a lien for delinquent assessments shall be made only by the board and may not be delegated to an agent of the association. The board shall approve the decision by a majority vote of the directors in an open meeting. The board shall record the vote in the minutes of that meeting.

5675

- (a) The amount of the assessment, plus any costs of collection, late charges, and interest assessed in accordance with subdivision (b) of Section 5650, shall be a lien on the owner’s separate interest in the common interest development from and after the time the association causes to be recorded with the county recorder of the county in which the separate interest is located, a notice of delinquent assessment, which shall state the amount of the assessment and other sums imposed in accordance with subdivision (b) of Section 5650, a legal description of the owner’s separate interest in the common interest development against which the assessment and other sums are levied, and the name of the record owner of the separate interest in the common interest development against which the lien is imposed.
- (b) The itemized statement of the charges owed by the owner described in subdivision (b) of Section 5660 shall be recorded together with the notice of delinquent assessment.

- (c) In order for the lien to be enforced by nonjudicial foreclosure as provided in Sections 5700 to 5710, inclusive, the notice of delinquent assessment shall state the name and address of the trustee authorized by the association to enforce the lien by sale.
- (d) The notice of delinquent assessment shall be signed by the person designated in the declaration or by the association for that purpose, or if no one is designated, by the president of the association.
- (e) A copy of the recorded notice of delinquent assessment shall be mailed by certified mail to every person whose name is shown as an owner of the separate interest in the association’s records, and the notice shall be mailed no later than 10 calendar days after recordation.

5680

A lien created pursuant to Section 5675 shall be prior to all other liens recorded subsequent to the notice of delinquent assessment, except that the declaration may provide for the subordination thereof to any other liens and encumbrances.

5685

- (a) Within 21 days of the payment of the sums specified in the notice of delinquent assessment, the association shall record or cause to be recorded in the office of the county recorder in which the notice of delinquent assessment is recorded a lien release or notice of rescission and provide the owner of the separate interest a copy of the lien release or notice that the delinquent assessment has been satisfied.
- (b) If it is determined that a lien previously recorded against the separate interest was recorded in error, the party who recorded the lien shall, within 21 calendar days, record or cause to be recorded in the office of the county recorder in which the notice of delinquent assessment is recorded a lien release or notice of rescission and provide the owner of the separate interest with a declaration that the lien filing or recording was in error and a copy of the lien release or notice of rescission.
- (c) If it is determined that an association has recorded a lien for a delinquent assessment in error, the association shall promptly reverse all late charges, fees, interest, attorney’s fees, costs of collection, costs imposed for the notice prescribed in Section 5660, and costs of recordation and release of the lien authorized under subdivision (b) of Section 5720, and pay all costs related to any related dispute resolution or alternative dispute resolution.

5690

An association that fails to comply with the procedures set forth in this article shall, prior to recording a lien, recommence the required notice process. Any costs associated with

recommencing the notice process shall be borne by the association and not by the owner of a separate interest.

Article 3. Assessment Collection

5700

- (a) Except as otherwise provided in this article, after the expiration of 30 days following the recording of a lien created pursuant to Section 5675, the lien may be enforced in any manner permitted by law, including sale by the court, sale by the trustee designated in the notice of delinquent assessment, or sale by a trustee substituted pursuant to Section 2934a.
- (b) Nothing in Article 2 (commencing with Section 5650) or in subdivision (a) of Section 726 of the Code of Civil Procedure prohibits actions against the owner of a separate interest to recover sums for which a lien is created pursuant to Article 2 (commencing with Section 5650) or prohibits an association from taking a deed in lieu of foreclosure.

5705

- (a) Notwithstanding any law or any provisions of the governing documents to the contrary, this section shall apply to debts for assessments that arise on and after January 1, 2006.
- (b) Prior to initiating a foreclosure on an owner's separate interest, the association shall offer the owner and, if so requested by the owner, participate in dispute resolution pursuant to the association's "meet and confer" program required in Article 2 (commencing with Section 5900) of Chapter 10 or alternative dispute resolution as set forth in Article 3 (commencing with Section 5925) of Chapter 10. The decision to pursue dispute resolution or a particular type of alternative dispute resolution shall be the choice of the owner, except that binding arbitration shall not be available if the association intends to initiate a judicial foreclosure.
- (c) The decision to initiate foreclosure of a lien for delinquent assessments that has been validly recorded shall be made only by the board and may not be delegated to an agent of the association. The board shall approve the decision by a majority vote of the directors in an executive session. The board shall record the vote in the minutes of the next meeting of the board open to all members. The board shall maintain the confidentiality of the owner or owners of the separate interest by identifying the matter in the minutes by the parcel number of the property, rather than the name of the owner or owners. A board vote to approve foreclosure of a lien shall take place at least 30 days prior to any public sale.
- (d) The board shall provide notice by personal service in accordance with the manner of service of summons in

Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure to an owner of a separate interest who occupies the separate interest or to the owner's legal representative, if the board votes to foreclose upon the separate interest. The board shall provide written notice to an owner of a separate interest who does not occupy the separate interest by first-class mail, postage prepaid, at the most current address shown on the books of the association. In the absence of written notification by the owner to the association, the address of the owner's separate interest may be treated as the owner's mailing address.

5710

- (a) Any sale by the trustee shall be conducted in accordance with Sections 2924, 2924b, and 2924c applicable to the exercise of powers of sale in mortgages and deeds of trust.
- (b) In addition to the requirements of Section 2924, the association shall serve a notice of default on the person named as the owner of the separate interest in the association's records or, if that person has designated a legal representative pursuant to this subdivision, on that legal representative. Service shall be in accordance with the manner of service of summons in Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure. An owner may designate a legal representative in a writing that is mailed to the association in a manner that indicates that the association has received it.
- (c) The fees of a trustee may not exceed the amounts prescribed in Sections 2924c and 2924d, plus the cost of service for either of the following:
 - (1) The notice of default pursuant to subdivision (b).
 - (2) The decision of the board to foreclose upon the separate interest of an owner as described in subdivision (d) of Section 5705.

5715

- (a) Notwithstanding any law or any provisions of the governing documents to the contrary, this section shall apply to debts for assessments that arise on and after January 1, 2006.
- (b) A nonjudicial foreclosure by an association to collect upon a debt for delinquent assessments shall be subject to a right of redemption. The redemption period within which the separate interest may be redeemed from a foreclosure sale under this paragraph ends 90 days after the sale. In addition to the requirements of Section 2924f, a notice of sale in connection with an association's foreclosure of a separate interest in a common interest development shall include a statement that the property is being sold subject to the right of redemption created in this section.

5720

- (a) Notwithstanding any law or any provisions of the governing documents to the contrary, this section shall apply to debts for assessments that arise on and after January 1, 2006.
- (b) An association that seeks to collect delinquent regular or special assessments of an amount less than \$1,800, not including any accelerated assessments, late charges, fees and costs of collection, attorney’s fees, or interest, may not collect that debt through judicial or nonjudicial foreclosure, but may attempt to collect or secure that debt in any of the following ways:
 - (1) By a civil action in small claims court, pursuant to Chapter 5.5 (commencing with Section 116.110) of Title 1 of Part 1 of the Code of Civil Procedure. An association that chooses to proceed by an action in small claims court, and prevails, may enforce the judgment as permitted under Article 8 (commencing with Section 116.810) of Chapter 5.5 of Title 1 of Part 1 of the Code of Civil Procedure. The amount that may be recovered in small claims court to collect upon a debt for delinquent assessments may not exceed the jurisdictional limits of the small claims court and shall be the sum of the following:
 - (A) The amount owed as of the date of filing the complaint in the small claims court proceeding.
 - (B) In the discretion of the court, an additional amount to that described in subparagraph (A) equal to the amount owed for the period from the date the complaint is filed until satisfaction of the judgment, which total amount may include accruing unpaid assessments and any reasonable late charges, fees and costs of collection, attorney’s fees, and interest, up to the jurisdictional limits of the small claims court.
 - (2) By recording a lien on the owner’s separate interest upon which the association may not foreclose until the amount of the delinquent assessments secured by the lien, exclusive of any accelerated assessments, late charges, fees and costs of collection, attorney’s fees, or interest, equals or exceeds \$1,800 or the assessments secured by the lien are more than 12 months delinquent. An association that chooses to record a lien under these provisions, prior to recording the lien, shall offer the owner and, if so requested by the owner, participate in dispute resolution as set forth in Article 2 (commencing with Section 5900) of Chapter 10.
 - (3) Any other manner provided by law, except for judicial or nonjudicial foreclosure.
- (c) The limitation on foreclosure of assessment liens for amounts under the stated minimum in this section does not apply to any of the following:
 - (1) Assessments secured by a lien that are more than 12 months delinquent.

- (2) Assessments owed by owners of separate interests in time-share estates, as defined in subdivision (x) of Section 11212 of the Business and Professions Code.
- (3) Assessments owed by the developer.

5725

- (a) A monetary charge imposed by the association as a means of reimbursing the association for costs incurred by the association in the repair of damage to common area and facilities caused by a member or the member’s guest or tenant may become a lien against the member’s separate interest enforceable by the sale of the interest under Sections 2924, 2924b, and 2924c, provided the authority to impose a lien is set forth in the governing documents. It is the intent of the Legislature not to contravene Section 2792.26 of Title 10 of the California Code of Regulations, as that section appeared on January 1, 1996, for associations of subdivisions that are being sold under authority of a subdivision public report, pursuant to Part 2 (commencing with Section 11000) of Division 4 of the Business and Professions Code.
- (b) A monetary penalty imposed by the association as a disciplinary measure for failure of a member to comply with the governing documents, except for the late payments, may not be characterized nor treated in the governing documents as an assessment that may become a lien against the member’s separate interest enforceable by the sale of the interest under Sections 2924, 2924b, and 2924c.

5730

- (a) The annual policy statement, prepared pursuant to Section 5310, shall include the following notice, in at least 12-point type:

“NOTICE ASSESSMENTS AND FORECLOSURE”

This notice outlines some of the rights and responsibilities of owners of property in common interest developments and the associations that manage them. Please refer to the sections of the Civil Code indicated for further information. A portion of the information in this notice applies only to liens recorded on or after January 1, 2003. You may wish to consult a lawyer if you dispute an assessment.

ASSESSMENTS AND FORECLOSURE

Assessments become delinquent 15 days after they are due, unless the governing documents provide for a longer time. The failure to pay association assessments may result in the loss of an owner’s property through foreclosure. Foreclosure may occur either as a result of a court action, known as judicial foreclosure, or without court action, often referred to as nonjudicial foreclosure. For liens recorded on and after January 1, 2006, an association may not use judicial or nonjudicial foreclosure to enforce that lien if the amount of the delinquent assessments or dues, exclusive of

any accelerated assessments, late charges, fees, attorney's fees, interest, and costs of collection, is less than \$1,800. For delinquent assessments or dues in excess of \$1,800 or more than 12 months delinquent, an association may use judicial or nonjudicial foreclosure subject to the conditions set forth in Article 3 (commencing with Section 5700) of Chapter 8 of Part 5 of Division 4 of the Civil Code. When using judicial or nonjudicial foreclosure, the association records a lien on the owner's property. The owner's property may be sold to satisfy the lien if the amounts secured by the lien are not paid. (Sections 5700 through 5720 of the Civil Code, inclusive) In a judicial or nonjudicial foreclosure, the association may recover assessments, reasonable costs of collection, reasonable attorney's fees, late charges, and interest. The association may not use nonjudicial foreclosure to collect fines or penalties, except for costs to repair common area damaged by a member or a member's guests, if the governing documents provide for this. (Section 5725 of the Civil Code)

The association must comply with the requirements of Article 2 (commencing with Section 5650) of Chapter 8 of Part 5 of Division 4 of the Civil Code when collecting delinquent assessments. If the association fails to follow these requirements, it may not record a lien on the owner's property until it has satisfied those requirements. Any additional costs that result from satisfying the requirements are the responsibility of the association. (Section 5675 of the Civil Code) At least 30 days prior to recording a lien on an owner's separate interest, the association must provide the owner of record with certain documents by certified mail, including a description of its collection and lien enforcement procedures and the method of calculating the amount. It must also provide an itemized statement of the charges owed by the owner. An owner has a right to review the association's records to verify the debt. (Section 5660 of the Civil Code) If a lien is recorded against an owner's property in error, the person who recorded the lien is required to record a lien release within 21 days, and to provide an owner certain documents in this regard. (Section 5685 of the Civil Code) The collection practices of the association may be governed by state and federal laws regarding fair debt collection. Penalties can be imposed for debt collection practices that violate these laws.

PAYMENTS

When an owner makes a payment, the owner may request a receipt, and the association is required to provide it. On the receipt, the association must indicate the date of payment and the person who received it. The association must inform owners of a mailing address for overnight payments. (Section 5655 of the Civil Code) An owner may, but is not obligated to, pay under protest any disputed charge or sum levied by the association, including, but not limited to, an assessment, fine, penalty, late fee, collection cost, or monetary penalty imposed as a disciplinary measure, and by so doing, specifically reserve the right to contest the disputed charge or sum in court or otherwise.

An owner may dispute an assessment debt by submitting a written request for dispute resolution to the association

as set forth in Article 2 (commencing with Section 5900) of Chapter 10 of Part 5 of Division 4 of the Civil Code. In addition, an association may not initiate a foreclosure without participating in alternative dispute resolution with a neutral third party as set forth in Article 3 (commencing with Section 5925) of Chapter 10 of Part 5 of Division 4 of the Civil Code, if so requested by the owner. Binding arbitration shall not be available if the association intends to initiate a judicial foreclosure.

An owner is not liable for charges, interest, and costs of collection, if it is established that the assessment was paid properly on time. (Section 5685 of the Civil Code)

MEETINGS AND PAYMENT PLANS

An owner of a separate interest that is not a time-share interest may request the association to consider a payment plan to satisfy a delinquent assessment. The association must inform owners of the standards for payment plans, if any exists. (Section 5665 of the Civil Code)

The board must meet with an owner who makes a proper written request for a meeting to discuss a payment plan when the owner has received a notice of a delinquent assessment. These payment plans must conform with the payment plan standards of the association, if they exist. (Section 5665 of the Civil Code)"

- (b) An association distributing the notice required by this section to an owner of an interest that is described in Section 11212 of the Business and Professions Code that is not otherwise exempt from this section pursuant to subdivision (a) of Section 11211.7 of the Business and Professions Code may delete from the notice described in subdivision (a) the portion regarding meetings and payment plans.

5735

- (a) An association may not voluntarily assign or pledge the association's right to collect payments or assessments, or to enforce or foreclose a lien to a third party, except when the assignment or pledge is made to a financial institution or lender chartered or licensed under federal or state law, when acting within the scope of that charter or license, as security for a loan obtained by the association.
- (b) Nothing in subdivision (a) restricts the right or ability of an association to assign any unpaid obligations of a former member to a third party for purposes of collection.

5740

- (a) Except as otherwise provided, this article applies to a lien created on or after January 1, 2003.
- (b) A lien created before January 1, 2003, is governed by the law in existence at the time the lien was created.

CHAPTER 9. INSURANCE AND LIABILITY

5800

- (a) A volunteer officer or volunteer director described in subdivision (e) of an association that manages a common interest development that is residential or mixed use, shall not be personally liable in excess of the coverage of insurance specified in paragraph (4) to any person who suffers injury, including, but not limited to, bodily injury, emotional distress, wrongful death, or property damage or loss as a result of the tortious act or omission of the volunteer officer or volunteer director if all of the following criteria are met:
 - (1) The act or omission was performed within the scope of the officer's or director's association duties.
 - (2) The act or omission was performed in good faith.
 - (3) The act or omission was not willful, wanton, or grossly negligent.
 - (4) The association maintained and had in effect at the time the act or omission occurred and at the time a claim is made one or more policies of insurance that shall include coverage for (A) general liability of the association and (B) individual liability of officers and directors of the association for negligent acts or omissions in that capacity; provided that both types of coverage are in the following minimum amounts:
 - (A) At least \$500,000 if the common interest development consists of 100 or fewer separate interests.
 - (B) At least \$1,000,000 if the common interest development consists of more than 100 separate interests.
- (b) The payment of actual expenses incurred by a director or officer in the execution of the duties of that position does not affect the director's or officer's status as a volunteer within the meaning of this section.
- (c) An officer or director who at the time of the act or omission was a declarant, or who received either direct or indirect compensation as an employee from the declarant, or from a financial institution that purchased a separate interest at a judicial or nonjudicial foreclosure of a mortgage or deed of trust on real property, is not a volunteer for the purposes of this section.
- (d) Nothing in this section shall be construed to limit the liability of the association for its negligent act or omission or for any negligent act or omission of an officer or director of the association.
- (e) This section shall only apply to a volunteer officer or director who is a tenant of a residential separate interest in the common interest development or is an owner of no

more than two separate interests and whose ownership in the common interest development consists exclusively of residential separate interests.

- (f) (1) For purposes of paragraph (1) of subdivision (a), the scope of the officer's or director's association duties shall include, but shall not be limited to, both of the following decisions:
 - (A) Whether to conduct an investigation of the common interest development for latent deficiencies prior to the expiration of the applicable statute of limitations.
 - (B) Whether to commence a civil action against the builder for defects in design or construction.
- (2) It is the intent of the Legislature that this section clarify the scope of association duties to which the protections against personal liability in this section apply. It is not the intent of the Legislature that these clarifications be construed to expand, or limit, the fiduciary duties owed by the directors or officers.

5805

- (a) It is the intent of the Legislature to offer civil liability protection to owners of the separate interests in a common interest development that have common area owned in tenancy-in-common if the association carries a certain level of prescribed insurance that covers a cause of action in tort.
- (b) Any cause of action in tort against any owner of a separate interest arising solely by reason of an ownership interest as a tenant-in-common in the common area of a common interest development shall be brought only against the association and not against the individual owners of the separate interests, if both of the insurance requirements in paragraphs (1) and (2) are met:
 - (1) The association maintained and has in effect for this cause of action, one or more policies of insurance that include coverage for general liability of the association.
 - (2) The coverage described in paragraph (1) is in the following minimum amounts:
 - (A) At least \$2,000,000 if the common interest development consists of 100 or fewer separate interests.
 - (B) At least \$3,000,000 if the common interest development consists of more than 100 separate interests.

5806

Unless the governing documents require greater coverage amounts, the association shall maintain crime insurance, employee dishonesty coverage, fidelity bond coverage, or their equivalent, for its directors, officers, and employees in an

amount that is equal to or more than the combined amount of the reserves of the association and total assessments for three months. The coverage maintained by the association shall also include protection in an equal amount against computer fraud and funds transfer fraud. If the association uses a managing agent or management company, the association's crime insurance, employee dishonesty coverage, fidelity bond coverage, or their equivalent, shall additionally include coverage for, or otherwise be endorsed to provide coverage for, dishonest acts by that person or entity and its employees. Self-insurance does not meet the requirements of this section.

5810

The association shall, as soon as reasonably practicable, provide individual notice pursuant to Section 4040 to all members if any of the policies described in the annual budget report pursuant to Section 5300 have lapsed, been canceled, and are not immediately renewed, restored, or replaced, or if there is a significant change, such as a reduction in coverage or limits or an increase in the deductible, as to any of those policies. If the association receives any notice of nonrenewal of a policy described in the annual budget report pursuant to Section 5300, the association shall immediately notify its members if replacement coverage will not be in effect by the date the existing coverage will lapse.

CHAPTER 10. DISPUTE RESOLUTION AND ENFORCEMENT

Article 1.

Discipline and Cost Reimbursement

5850

- (a) If an association adopts or has adopted a policy imposing any monetary penalty, including any fee, on any association member for a violation of the governing documents, including any monetary penalty relating to the activities of a guest or tenant of the member, the board shall adopt and distribute to each member, in the annual policy statement prepared pursuant to Section 5310, a schedule of the monetary penalties that may be assessed for those violations, which shall be in accordance with authorization for member discipline contained in the governing documents. **Monetary penalties shall be reasonable.**
- (b) Any new or revised monetary penalty that is adopted after complying with subdivision (a) may be included in a supplement that is delivered to the members individually, pursuant to Section 4040.
- (c) A monetary penalty for a violation of the governing documents shall not exceed the **lesser of the following:**

(1) **The monetary penalty stated in the schedule of monetary penalties or supplement that is in effect at the time of the violation.**

(2) **One hundred dollars (\$100) per violation.**

d) (1) **Notwithstanding subdivision (c), the board may impose a penalty stated in the schedule of monetary penalties or supplement that is in effect at the time of the violation that is greater than one hundred dollars (\$100) per violation, if the violation may result in an adverse health or safety impact on the common area or another association member's property.**

(2) **Before imposing a penalty on a violation pursuant to this subdivision, the board shall make a written finding specifying the adverse health or safety impact in a board meeting open to the members.**

(e) **A late charge or interest shall not be charged to a member for a monetary penalty.**

(f) An association shall provide a copy of the most recently distributed schedule of monetary penalties, along with any applicable supplements to that schedule, to any member upon request.

5855

(a) When the board is to meet to consider or impose discipline upon a member, or to impose a monetary charge as a means of reimbursing the association for costs incurred by the association in the repair of damage to **the** common area and facilities caused by a member or the member's guest or tenant, the board shall notify the member in writing, by either personal delivery or individual delivery pursuant to Section 4040, at least 10 days prior to the meeting.

(b) The notification shall contain, at a minimum, the date, time, and place of the meeting, the nature of the alleged violation for which a member may be disciplined or the nature of the damage to the common area and facilities for which a monetary charge may be imposed, and a statement that the member has a right to attend and may address the board at the meeting. The board shall meet in executive session if requested by the member.

(c) **A member shall have the opportunity to cure the violation prior to the meeting. The board shall not impose discipline in either of the following circumstances:**

(1) **The member cures the violation prior to the meeting.**

(2) **If curing the violation would take longer than the time between the notice provided pursuant to subdivision (a) and the meeting, the member provides financial commitment to cure the violation.**

(d) If the board and the member are not in agreement after the meeting, a member shall have the opportunity to request internal dispute resolution pursuant to Section 5910.

(e) If the board and the member are in agreement after the meeting, the board shall draft a written resolution. The written resolution, signed by the board and the member of the dispute pursuant to procedures not in conflict with the law or governing documents, binds the association and is judicially enforceable.

(f) If the board imposes discipline on a member or imposes a monetary charge on the member for damage to the common area and facilities, the board shall provide the member **with** a written notification of the decision, by either personal delivery or individual delivery pursuant to Section 4040, within *****14** days following the action.

(g) A disciplinary action or the imposition of a monetary charge for damage to the common area shall not be effective against a member unless the board fulfills the requirements of this section.

5865

Nothing in Section 5850 or 5855 shall be construed to create, expand, or reduce the authority of the board to impose monetary penalties on a member for a violation of the governing documents.

5875

An association shall not pursue any enforcement actions for a violation of the governing documents, except those actions relating to the homeowner’s nonpayment of assessments, during a declared state or local emergency if the nature of the emergency giving rise to the declaration makes it unsafe or impossible for the homeowner to either prevent or fix the violation.

Article 2.
Internal Dispute Resolution

5900

(a) This article applies to a dispute between an association and a member involving their rights, duties, or liabilities under this act, under the Nonprofit Mutual Benefit Corporation Law (Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code), or under the governing documents of the common interest development or association.

(b) This article supplements, and does not replace, Article 3 (commencing with Section 5925), relating to alternative

dispute resolution as a prerequisite to an enforcement action.

5905

- (a) An association shall provide a fair, reasonable, and expeditious procedure for resolving a dispute within the scope of this article.
- (b) In developing a procedure pursuant to this article, an association shall make maximum, reasonable use of available local dispute resolution programs involving a neutral third party, including low-cost mediation programs such as those listed on the Internet Web sites of the Department of Consumer Affairs and the United States Department of Housing and Urban Development.
- (c) If an association does not provide a fair, reasonable, and expeditious procedure for resolving a dispute within the scope of this article, the procedure provided in Section 5915 applies and satisfies the requirement of subdivision (a).

5910

A fair, reasonable, and expeditious dispute resolution procedure shall at a minimum satisfy all of the following requirements:

- (a) The procedure may be invoked by either party to the dispute. A request invoking the procedure shall be in writing.
- (b) The procedure shall provide for prompt deadlines. The procedure shall state the maximum time for the association to act on a request invoking the procedure.
- (c) If the procedure is invoked by a member, the association shall participate in the procedure.
- (d) If the procedure is invoked by the association, the member may elect not to participate in the procedure. If the member participates but the dispute is resolved other than by agreement of the member, the member shall have a right of appeal to the board.
- (e) A written resolution, signed by both parties, of a dispute pursuant to the procedure that is not in conflict with the law or the governing documents binds the association and is judicially enforceable. A written agreement, signed by both parties, reached pursuant to the procedure that is not in conflict with the law or the governing documents binds the parties and is judicially enforceable.
- (f) The procedure shall provide a means by which the member and the association may explain their positions. The member and association may be assisted by an attorney or another person in explaining their positions at their own cost.
- (g) A member of the association shall not be charged a fee to participate in the process.

5910.1

An association may not file a civil action regarding a dispute in which the member has requested dispute resolution unless the association has complied with Section 5910 by engaging in good faith in the internal dispute resolution procedures after a member invokes those procedures.

5915

- (a) This section applies to an association that does not otherwise provide a fair, reasonable, and expeditious dispute resolution procedure. The procedure provided in this section is fair, reasonable, and expeditious, within the meaning of this article.
- (b) Either party to a dispute within the scope of this article may invoke the following procedure:
 - (1) The party may request the other party to meet and confer in an effort to resolve the dispute. The request shall be in writing.
 - (2) A member of an association may refuse a request to meet and confer. The association may not refuse a request to meet and confer.
 - (3) The board shall designate a director to meet and confer.
 - (4) The parties shall meet promptly at a mutually convenient time and place, explain their positions to each other, and confer in good faith in an effort to resolve the dispute. The parties may be assisted by an attorney or another person at their own cost when conferring.
 - (5) A resolution of the dispute agreed to by the parties shall be memorialized in writing and signed by the parties, including the board designee on behalf of the association.
- (c) A written agreement reached under this section binds the parties and is judicially enforceable if it is signed by both parties and both of the following conditions are satisfied:
 - (1) The agreement is not in conflict with law or the governing documents of the common interest development or association.
 - (2) The agreement is either consistent with the authority granted by the board to its designee or the agreement is ratified by the board.
- (d) A member shall not be charged a fee to participate in the process.

5920

The annual policy statement prepared pursuant to Section 5310

shall include a description of the internal dispute resolution process provided pursuant to this article.

Article 3.
Alternative Dispute Resolution Prerequisite to Civil Action

5925

As used in this article:

- (a) "Alternative dispute resolution" means mediation, arbitration, conciliation, or other nonjudicial procedure that involves a neutral party in the decision making process. The form of alternative dispute resolution chosen pursuant to this article may be binding or nonbinding, with the voluntary consent of the parties.
- (b) "Enforcement action" means a civil action or proceeding, other than a cross-complaint, for any of the following purposes:
 - (1) Enforcement of this act.
 - (2) Enforcement of the Nonprofit Mutual Benefit Corporation Law (Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code).
 - (3) Enforcement of the governing documents.

5930

- (a) An association or a member may not file an enforcement action in the superior court unless the parties have endeavored to submit their dispute to alternative dispute resolution pursuant to this article.
- (b) This section applies only to an enforcement action that is solely for declaratory, injunctive, or writ relief, or for that relief in conjunction with a claim for monetary damages not in excess of the jurisdictional limits stated in Sections 116.220 and 116.221 of the Code of Civil Procedure.
- (c) This section does not apply to a small claims action.
- (d) Except as otherwise provided by law, this section does not apply to an assessment dispute.

5935

- (a) Any party to a dispute may initiate the process required by Section 5930 by serving on all other parties to the dispute a Request for Resolution. The Request for Resolution shall include all of the following:
 - (1) A brief description of the dispute between the parties.

- (2) A request for alternative dispute resolution.
 - (3) A notice that the party receiving the Request for Resolution is required to respond within 30 days of receipt or the request will be deemed rejected.
 - (4) If the party on whom the request is served is the member, a copy of this article.
- (b) Service of the Request for Resolution shall be by personal delivery, first-class mail, express mail, facsimile transmission, or other means reasonably calculated to provide the party on whom the request is served actual notice of the request.
- (c) A party on whom a Request for Resolution is served has 30 days following service to accept or reject the request. If a party does not accept the request within that period, the request is deemed rejected by the party.

5940

- (a) If the party on whom a Request for Resolution is served accepts the request, the parties shall complete the alternative dispute resolution within 90 days after the party initiating the request receives the acceptance, unless this period is extended by written stipulation signed by both parties.
- (b) Chapter 2 (commencing with Section 1115) of Division 9 of the Evidence Code applies to any form of alternative dispute resolution initiated by a Request for Resolution under this article, other than arbitration.
- (c) The costs of the alternative dispute resolution shall be borne by the parties.

5945

If a Request for Resolution is served before the end of the applicable time limitation for commencing an enforcement action, the time limitation is tolled during the following periods:

- (a) The period provided in Section 5935 for response to a Request for Resolution.
- (b) If the Request for Resolution is accepted, the period provided by Section 5940 for completion of alternative dispute resolution, including any extension of time stipulated to by the parties pursuant to Section 5940.

5950

- (a) At the time of commencement of an enforcement action, the party commencing the action shall file with the initial

pleading a certificate stating that one or more of the following conditions are satisfied:

- (1) Alternative dispute resolution has been completed in compliance with this article.
 - (2) One of the other parties to the dispute did not accept the terms offered for alternative dispute resolution.
 - (3) Preliminary or temporary injunctive relief is necessary.
- (b) Failure to file a certificate pursuant to subdivision (a) is grounds for a demurrer or a motion to strike unless the court finds that dismissal of the action for failure to comply with this article would result in substantial prejudice to one of the parties.

5955

- (a) After an enforcement action is commenced, on written stipulation of the parties, the matter may be referred to alternative dispute resolution. The referred action is stayed. During the stay, the action is not subject to the rules implementing subdivision (c) of Section 68603 of the Government Code.
- (b) The costs of the alternative dispute resolution shall be borne by the parties.

5960

In an enforcement action in which attorney’s fees and costs may be awarded, the court, in determining the amount of the award, may consider whether a party’s refusal to participate in alternative dispute resolution before commencement of the action was reasonable.

5965

- (a) An association shall annually provide its members a summary of the provisions of this article that specifically references this article. The summary shall include the following language:

“Failure of a member of the association to comply with the alternative dispute resolution requirements of Section 5930 of the Civil Code may result in the loss of the member’s right to sue the association or another member of the association regarding enforcement of the governing documents or the applicable law.”

- (b) The summary shall be included in the annual policy statement prepared pursuant to Section 5310.

Article 4.
Civil Action

5975

- (a) The covenants and restrictions in the declaration shall be enforceable equitable servitudes, unless unreasonable, and shall inure to the benefit of and bind all owners of separate interests in the development. Unless the declaration states otherwise, these servitudes may be enforced by any owner of a separate interest or by the association, or by both.
(b) A governing document other than the declaration may be enforced by the association against an owner of a separate interest or by an owner of a separate interest against the association.
(c) In an action to enforce the governing documents, the prevailing party shall be awarded reasonable attorney's fees and costs.

5980

An association has standing to institute, defend, settle, or intervene in litigation, arbitration, mediation, or administrative proceedings in its own name as the real party in interest and without joining with it the members, in matters pertaining to the following:

- (a) Enforcement of the governing documents.
(b) Damage to the common area.
(c) Damage to a separate interest that the association is obligated to maintain or repair.
(d) Damage to a separate interest that arises out of, or is integrally related to, damage to the common area or a separate interest that the association is obligated to maintain or repair.

5985

- (a) In an action maintained by an association pursuant to subdivision (b), (c), or (d) of Section 5980, the amount of damages recovered by the association shall be reduced by the amount of damages allocated to the association or its managing agents in direct proportion to their percentage of fault based upon principles of comparative fault. The comparative fault of the association or its managing agents may be raised by way of defense, but shall not be the basis for a cross-action or separate action against the association or its managing agents for contribution or implied indemnity, where the only damage was sustained by the association or its members. It is the intent of the Legislature in enacting this subdivision to require that comparative fault be pleaded as an affirmative defense,

rather than a separate cause of action, where the only damage was sustained by the association or its members.

- (b) In an action involving damages described in subdivision (b), (c), or (d) of Section 5980, the defendant or cross-defendant may allege and prove the comparative fault of the association or its managing agents as a setoff to the liability of the defendant or cross-defendant even if the association is not a party to the litigation or is no longer a party whether by reason of settlement, dismissal, or otherwise.
(c) Subdivisions (a) and (b) apply to actions commenced on or after January 1, 1993.
(d) Nothing in this section affects a person's liability under Section 1431, or the liability of the association or its managing agent for an act or omission that causes damages to another.

5986

- (a) Subject to compliance with Section 6150, which requires the board to provide notice of a meeting with the members to discuss, among other things, problems that may lead to the filing of a civil action, before the board files a civil action against a declarant or other developer, or within 30 days after it files the action, if the association has reason to believe that the applicable statute of limitations will expire, and notwithstanding any provision to the contrary in the governing documents, the board shall have the authority to commence and pursue a claim, civil action, arbitration, prelitigation process pursuant to Section 6000 or Title 7 (commencing with Section 895) of Part 2 of Division 2, or other legal proceeding against a declarant, developer, or builder of a common interest development. If the board includes members appointed by, or affiliated with, the declarant, developer, or builder, the decision and authority to commence and pursue legal proceedings shall be vested solely in the nonaffiliated board members.
(b) The governing documents shall not impose any preconditions or limitations on the board's authority to commence and pursue any claim, civil action, arbitration, prelitigation process pursuant to Section 6000 or Title 7 (commencing with Section 895) of Part 2 of Division 2, or other legal proceeding against a declarant, developer, or builder of a common interest development. Any limitation or precondition, including, but not limited to, requiring a membership vote as a prerequisite to, or otherwise providing the declarant, developer, or builder with veto authority over, the board's commencement and pursuit of a claim, civil action, arbitration, prelitigation process, or legal proceeding against the declarant, developer, or builder, or any incidental decision of the board, including, but not limited to, retaining legal counsel or incurring costs or expenses, is unenforceable, null, and void. The failure to comply with those limitations or preconditions, if only, shall not be asserted as a defense to any claim or action described in this section.

- (c) Notwithstanding subdivision (a) or (b), any provision in the governing documents imposing limitations or preconditions on the board's authority to commence and pursue claims shall be valid and enforceable if the provision is adopted solely by the nondeclarant affiliated members of the association and the provision is adopted in accordance with the requirements necessary to amend the governing documents of the association.
- (d) This section applies to all governing documents, whether recorded before or after the effective date of this section, and applies retroactively to claims initiated before the effective date of this section, except if those claims have been resolved through an executed settlement, a final arbitration decision, or a final judicial decision on the merits.
- (e) Nothing in this section extends any applicable statute of limitation or repose to file or initiate any claim, civil action, arbitration, prelitigation process, or other legal proceeding. Nothing in this section shall affect any other obligations of an association contained in Title 7 (commencing with Section 895) of Part 2 of Division 2, or any other provision in the covenants, conditions, and restrictions of the association related to arbitration or other alternative dispute resolution procedures.

CHAPTER 11. CONSTRUCTION DEFECT LITIGATION

6000

- (a) Before an association files a complaint for damages against a builder, developer, or general contractor (respondent) of a common interest development based upon a claim for defects in the design or construction of the common interest development, all of the requirements of this section shall be satisfied with respect to the builder, developer, or general contractor.
- (b) The association shall serve upon the respondent a "Notice of Commencement of Legal Proceedings." The notice shall be served by certified mail to the registered agent of the respondent, or if there is no registered agent, then to any officer of the respondent. If there are no current officers of the respondent, service shall be upon the person or entity otherwise authorized by law to receive service of process. Service upon the general contractor shall be sufficient to initiate the process set forth in this section with regard to any builder or developer, if the builder or developer is not amenable to service of process by the foregoing methods. This notice shall toll all applicable statutes of limitation and repose, whether contractual or statutory, by and against all potentially responsible parties, regardless of whether they were named in the notice, including claims for indemnity applicable to the claim for the period set forth in subdivision (c). The notice shall include all of the following:
 - (1) The name and location of the project.

- (2) An initial list of defects sufficient to apprise the respondent of the general nature of the defects at issue.
 - (3) A description of the results of the defects, if known.
 - (4) A summary of the results of a survey or questionnaire distributed to homeowners to determine the nature and extent of defects, if a survey has been conducted or a questionnaire has been distributed.
 - (5) Either a summary of the results of testing conducted to determine the nature and extent of defects or the actual test results, if that testing has been conducted.
- (c) Service of the notice shall commence a period, not to exceed 180 days, during which the association, the respondent, and all other participating parties shall try to resolve the dispute through the processes set forth in this section. This 180-day period may be extended for one additional period, not to exceed 180 days, only upon the mutual agreement of the association, the respondent, and any parties not deemed peripheral pursuant to paragraph (3) of subdivision (e). Any extensions beyond the first extension shall require the agreement of all participating parties. Unless extended, the dispute resolution process prescribed by this section shall be deemed completed. All extensions shall continue the tolling period described in subdivision (b).
 - (d) Within 25 days of the date the association serves the Notice of Commencement of Legal Proceedings, the respondent may request in writing to meet and confer with the board. Unless the respondent and the association otherwise agree, there shall be not more than one meeting, which shall take place no later than 10 days from the date of the respondent's written request, at a mutually agreeable time and place. The meeting shall be subject to subdivision (a) of Section 4925 and subdivisions (a) and (b) of Section 4935. The discussions at the meeting are privileged communications and are not admissible in evidence in any civil action, unless the association and the respondent consent in writing to their admission.
 - (e) Upon receipt of the notice, the respondent shall, within 60 days, comply with the following:
 - (1) The respondent shall provide the association with access to, for inspection and copying of, all plans and specifications, subcontracts, and other construction files for the project that are reasonably calculated to lead to the discovery of admissible evidence regarding the defects claimed. The association shall provide the respondent with access to, for inspection and copying of, all files reasonably calculated to lead to the discovery of admissible evidence regarding the defects claimed, including all reserve studies, maintenance records and any survey questionnaires, or results of testing to determine the nature and extent of defects. To the extent any of the above documents are withheld based on privilege, a privilege log shall be prepared and submitted to all other parties. All other potentially responsible parties shall have the same rights as the

respondent regarding the production of documents upon receipt of written notice of the claim, and shall produce all relevant documents within 60 days of receipt of the notice of the claim.

- (2) The respondent shall provide written notice by certified mail to all subcontractors, design professionals, their insurers, and the insurers of any additional insured whose identities are known to the respondent or readily ascertainable by review of the project files or other similar sources and whose potential responsibility appears on the face of the notice. This notice to subcontractors, design professionals, and insurers shall include a copy of the Notice of Commencement of Legal Proceedings, and shall specify the date and manner by which the parties shall meet and confer to select a dispute resolution facilitator pursuant to paragraph (1) of subdivision (f), advise the recipient of its obligation to participate in the meet and confer or serve a written acknowledgment of receipt regarding this notice, advise the recipient that it will waive any challenge to selection of the dispute resolution facilitator if it elects not to participate in the meet and confer, advise the recipient that it may seek the assistance of an attorney, and advise the recipient that it should contact its insurer, if any. Any subcontractor or design professional, or insurer for that subcontractor, design professional, or additional insured, who receives written notice from the respondent regarding the meet and confer shall, prior to the meet and confer, serve on the respondent a written acknowledgment of receipt. That subcontractor or design professional shall, within 10 days of service of the written acknowledgment of receipt, provide to the association and the respondent a Statement of Insurance that includes both of the following:
- (A) The names, addresses, and contact persons, if known, of all insurance carriers, whether primary or excess and regardless of whether a deductible or self-insured retention applies, whose policies were in effect from the commencement of construction of the subject project to the present and which potentially cover the subject claims.
- (B) The applicable policy numbers for each policy of insurance provided.
- (3) Any subcontractor or design professional, or insurer for that subcontractor, design professional, or additional insured, who so chooses, may, at any time, make a written request to the dispute resolution facilitator for designation as a peripheral party. That request shall be served contemporaneously on the association and the respondent. If no objection to that designation is received within 15 days, or upon rejection of that objection, the dispute resolution facilitator shall designate that subcontractor or design professional as a peripheral party, and shall thereafter seek to limit the attendance of that subcontractor or design professional only to those dispute resolution sessions deemed peripheral party sessions or to those

sessions during which the dispute resolution facilitator believes settlement as to peripheral parties may be finalized. Nothing in this subdivision shall preclude a party who has been designated a peripheral party from being reclassified as a nonperipheral party, nor shall this subdivision preclude a party designated as a nonperipheral party from being reclassified as a peripheral party after notice to all parties and an opportunity to object. For purposes of this subdivision, a peripheral party is a party having total claimed exposure of less than \$25,000.

- (f) (1) Within 20 days of sending the notice set forth in paragraph (2) of subdivision (e), the association, respondent, subcontractors, design professionals, and their insurers who have been sent a notice as described in paragraph (2) of subdivision (e) shall meet and confer in an effort to select a dispute resolution facilitator to preside over the mandatory dispute resolution process prescribed by this section. Any subcontractor or design professional who has been given timely notice of this meeting but who does not participate, waives any challenge he or she may have as to the selection of the dispute resolution facilitator. The role of the dispute resolution facilitator is to attempt to resolve the conflict in a fair manner. The dispute resolution facilitator shall be sufficiently knowledgeable in the subject matter and be able to devote sufficient time to the case. The dispute resolution facilitator shall not be required to reside in or have an office in the county in which the project is located. The dispute resolution facilitator and the participating parties shall agree to a date, time, and location to hold a case management meeting of all parties and the dispute resolution facilitator, to discuss the claims being asserted and the scheduling of events under this section. The case management meeting with the dispute resolution facilitator shall be held within 100 days of service of the Notice of Commencement of Legal Proceedings at a location in the county where the project is located. Written notice of the case management meeting with the dispute resolution facilitator shall be sent by the respondent to the association, subcontractors and design professionals, and their insurers who are known to the respondent to be on notice of the claim, no later than 10 days prior to the case management meeting, and shall specify its date, time, and location. The dispute resolution facilitator in consultation with the respondent shall maintain a contact list of the participating parties.
- (2) No later than 10 days prior to the case management meeting, the dispute resolution facilitator shall disclose to the parties all matters that could cause a person aware of the facts to reasonably entertain a doubt that the proposed dispute resolution facilitator would be able to resolve the conflict in a fair manner. The facilitator's disclosure shall include the existence of any ground specified in Section 170.1 of the Code of Civil Procedure for disqualification of a judge, any attorney-client relationship the facilitator has

- or had with any party or lawyer for a party to the dispute resolution process, and any professional or significant personal relationship the facilitator or his or her spouse or minor child living in the household has or had with any party to the dispute resolution process. The disclosure shall also be provided to any subsequently noticed subcontractor or design professional within 10 days of the notice.
- (3) A dispute resolution facilitator shall be disqualified by the court if he or she fails to comply with this subdivision and any party to the dispute resolution process serves a notice of disqualification prior to the case management meeting. If the dispute resolution facilitator complies with this subdivision, he or she shall be disqualified by the court on the basis of the disclosure if any party to the dispute resolution process serves a notice of disqualification prior to the case management meeting.
- (4) If the parties cannot mutually agree to a dispute resolution facilitator, then each party shall submit a list of three dispute resolution facilitators. Each party may then strike one nominee from the other parties' list, and petition the court, pursuant to the procedure described in subdivisions (n) and (o), for final selection of the dispute resolution facilitator. The court may issue an order for final selection of the dispute resolution facilitator pursuant to this paragraph.
- (5) Any subcontractor or design professional who receives notice of the association's claim without having previously received timely notice of the meet and confer to select the dispute resolution facilitator shall be notified by the respondent regarding the name, address, and telephone number of the dispute resolution facilitator. Any such subcontractor or design professional may serve upon the parties and the dispute resolution facilitator a written objection to the dispute resolution facilitator within 15 days of receiving notice of the claim. Within seven days after service of this objection, the subcontractor or design professional may petition the superior court to replace the dispute resolution facilitator. The court may replace the dispute resolution facilitator only upon a showing of good cause, liberally construed. Failure to satisfy the deadlines set forth in this subdivision shall constitute a waiver of the right to challenge the dispute resolution facilitator.
- (6) The costs of the dispute resolution facilitator shall be apportioned in the following manner: one-third to be paid by the association; one-third to be paid by the respondent; and one-third to be paid by the subcontractors and design professionals, as allocated among them by the dispute resolution facilitator. The costs of the dispute resolution facilitator shall be recoverable by the prevailing party in any subsequent litigation pursuant to Section 1032 of the Code of Civil Procedure, provided however that any nonsettling party may, prior to the filing of the complaint, petition the facilitator to reallocate the costs of the dispute resolution facilitator as they apply to any nonsettling party. The determination of the dispute resolution facilitator with respect to the allocation of these costs shall be binding in any subsequent litigation. The dispute resolution facilitator shall take into account all relevant factors and equities between all parties in the dispute resolution process when reallocating costs.
- (7) In the event the dispute resolution facilitator is replaced at any time, the case management statement created pursuant to subdivision (h) shall remain in full force and effect.
- (8) The dispute resolution facilitator shall be empowered to enforce all provisions of this section.
- (g) (1) No later than the case management meeting, the parties shall begin to generate a data compilation showing the following information regarding the alleged defects at issue:
- (A) The scope of the work performed by each potentially responsible subcontractor.
- (B) The tract or phase number in which each subcontractor provided goods or services, or both.
- (C) The units, either by address, unit number, or lot number, at which each subcontractor provided goods or services, or both.
- (2) This data compilation shall be updated as needed to reflect additional information. Each party attending the case management meeting, and any subsequent meeting pursuant to this section, shall provide all information available to that party relevant to this data compilation.
- (h) At the case management meeting, the parties shall, with the assistance of the dispute resolution facilitator, reach agreement on a case management statement, which shall set forth all of the elements set forth in paragraphs (1) to (8), inclusive, except that the parties may dispense with one or more of these elements if they agree that it is appropriate to do so. The case management statement shall provide that the following elements shall take place in the following order:
- (1) Establishment of a document depository, located in the county where the project is located, for deposit of documents, defect lists, demands, and other information provided for under this section. All documents exchanged by the parties and all documents created pursuant to this subdivision shall be deposited in the document depository, which shall be available to all parties throughout the prefiling dispute resolution process and in any subsequent litigation. When any document is deposited in the document depository, the party depositing the document shall provide written notice identifying the document to all other parties. The costs of maintaining the document depository shall be apportioned among the parties in the same manner as the costs of the dispute resolution facilitator.

- (2) Provision of a more detailed list of defects by the association to the respondent after the association completes a visual inspection of the project. This list of defects shall provide sufficient detail for the respondent to ensure that all potentially responsible subcontractors and design professionals are provided with notice of the dispute resolution process. If not already completed prior to the case management meeting, the Notice of Commencement of Legal Proceedings shall be served by the respondent on all additional subcontractors and design professionals whose potential responsibility appears on the face of the more detailed list of defects within seven days of receipt of the more detailed list. The respondent shall serve a copy of the case management statement, including the name, address, and telephone number of the dispute resolution facilitator, to all the potentially responsible subcontractors and design professionals at the same time.
- (3) Nonintrusive visual inspection of the project by the respondent, subcontractors, and design professionals.
- (4) Invasive testing conducted by the association, if the association deems appropriate. All parties may observe and photograph any testing conducted by the association pursuant to this paragraph, but may not take samples or direct testing unless, by mutual agreement, costs of testing are shared by the parties.
- (5) Provision by the association of a comprehensive demand which provides sufficient detail for the parties to engage in meaningful dispute resolution as contemplated under this section.
- (6) Invasive testing conducted by the respondent, subcontractors, and design professionals, if they deem appropriate.
- (7) Allowance for modification of the demand by the association if new issues arise during the testing conducted by the respondent, subcontractor, or design professionals.
- (8) Facilitated dispute resolution of the claim, with all parties, including peripheral parties, as appropriate, and insurers, if any, present and having settlement authority. The dispute resolution facilitators shall endeavor to set specific times for the attendance of specific parties at dispute resolution sessions. If the dispute resolution facilitator does not set specific times for the attendance of parties at dispute resolution sessions, the dispute resolution facilitator shall permit those parties to participate in dispute resolution sessions by telephone.
- (i) In addition to the foregoing elements of the case management statement described in subdivision (h), upon mutual agreement of the parties, the dispute resolution facilitator may include any or all of the following elements in a case management statement: the exchange of consultant or expert photographs; expert presentations; expert meetings; or any other mechanism deemed appropriate by the parties in the interest of resolving the dispute.
- (j) The dispute resolution facilitator, with the guidance of the parties, shall at the time the case management statement is established, set deadlines for the occurrence of each event set forth in the case management statement, taking into account such factors as the size and complexity of the case, and the requirement of this section that this dispute resolution process not exceed 180 days absent agreement of the parties to an extension of time.
- (k) (1) At a time to be determined by the dispute resolution facilitator, the respondent may submit to the association all of the following:
- (A) A request to meet with the board to discuss a written settlement offer.
- (B) A written settlement offer, and a concise explanation of the reasons for the terms of the offer.
- (C) A statement that the respondent has access to sufficient funds to satisfy the conditions of the settlement offer.
- (D) A summary of the results of testing conducted for the purposes of determining the nature and extent of defects, if this testing has been conducted, unless the association provided the respondent with actual test results.
- (2) If the respondent does not timely submit the items required by this subdivision, the association shall be relieved of any further obligation to satisfy the requirements of this subdivision only.
- (3) No less than 10 days after the respondent submits the items required by this paragraph, the respondent and the board shall meet and confer about the respondent's settlement offer.
- (4) If the board rejects a settlement offer presented at the meeting held pursuant to this subdivision, the board shall hold a meeting open to each member of the association. The meeting shall be held no less than 15 days before the association commences an action for damages against the respondent.
- (5) No less than 15 days before this meeting is held, a written notice shall be sent to each member of the association specifying all of the following:
- (A) That a meeting will take place to discuss problems that may lead to the filing of a civil action, and the time and place of this meeting.
- (B) The options that are available to address the problems, including the filing of a civil action and a statement of the various alternatives that are reasonably foreseeable by the association to pay for those options and whether these payments are expected to be made from the use of reserve account funds or the imposition of regular or

special assessments, or emergency assessment increases.

- (C) The complete text of any written settlement offer, and a concise explanation of the specific reasons for the terms of the offer submitted to the board at the meeting held pursuant to subdivision (d) that was received from the respondent.
- (6) The respondent shall pay all expenses attributable to sending the settlement offer to all members of the association. The respondent shall also pay the expense of holding the meeting, not to exceed \$3 per association member.
- (7) The discussions at the meeting and the contents of the notice and the items required to be specified in the notice pursuant to subparagraph (E) are privileged communications and are not admissible in evidence in any civil action, unless the association consents to their admission.
- (8) No more than one request to meet and discuss a written settlement offer may be made by the respondent pursuant to this subdivision.
- (l) All defect lists and demands, communications, negotiations, and settlement offers made in the course of the prelitigation dispute resolution process provided by this section shall be inadmissible pursuant to Sections 1119 to 1124, inclusive, of the Evidence Code and all applicable decisional law. This inadmissibility shall not be extended to any other documents or communications which would not otherwise be deemed inadmissible.
- (m) Any subcontractor or design professional may, at any time, petition the dispute resolution facilitator to release that party from the dispute resolution process upon a showing that the subcontractor or design professional is not potentially responsible for the defect claims at issue. The petition shall be served contemporaneously on all other parties, who shall have 15 days from the date of service to object. If a subcontractor or design professional is released, and it later appears to the dispute resolution facilitator that it may be a responsible party in light of the current defect list or demand, the respondent shall renounce the party as provided by paragraph (2) of subdivision (e), provide a copy of the current defect list or demand, and direct the party to attend a dispute resolution session at a stated time and location. A party who subsequently appears after having been released by the dispute resolution facilitator shall not be prejudiced by its absence from the dispute resolution process as the result of having been previously released by the dispute resolution facilitator.
- (n) Any party may, at any time, petition the superior court in the county where the project is located, upon a showing of good cause, and the court may issue an order, for any of the following, or for appointment of a referee to resolve a dispute regarding any of the following:
 - (1) To take a deposition of any party to the process, or subpoena a third party for deposition or production of

documents, which is necessary to further prelitigation resolution of the dispute.

- (2) To resolve any disputes concerning inspection, testing, production of documents, or exchange of information provided for under this section.
- (3) To resolve any disagreements relative to the timing or contents of the case management statement.
- (4) To authorize internal extensions of timeframes set forth in the case management statement.
- (5) To seek a determination that a settlement is a good faith settlement pursuant to Section 877.6 of the Code of Civil Procedure and all related authorities. The page limitations and meet and confer requirements specified in this section shall not apply to these motions, which may be made on shortened notice. Instead, these motions shall be subject to other applicable state law, rules of court, and local rules. A determination made by the court pursuant to this motion shall have the same force and effect as the determination of a postfiling application or motion for good faith settlement.
- (6) To ensure compliance, on shortened notice, with the obligation to provide a Statement of Insurance pursuant to paragraph (2) of subdivision (e).
- (7) For any other relief appropriate to the enforcement of the provisions of this section, including the ordering of parties, and insurers, if any, to the dispute resolution process with settlement authority.
- (o) (1) A petition filed pursuant to subdivision (n) shall be filed in the superior court in the county in which the project is located. The court shall hear and decide the petition within 10 days after filing. The petitioning party shall serve the petition on all parties, including the date, time, and location of the hearing no later than five business days prior to the hearing. Any responsive papers shall be filed and served no later than three business days prior to the hearing. Any petition or response filed under this section shall be no more than three pages in length.
 - (2) All parties shall meet with the dispute resolution facilitator, if one has been appointed and confer in person or by telephone prior to the filing of that petition to attempt to resolve the matter without requiring court intervention.
- (p) As used in this section:
 - (1) "Association" shall have the same meaning as defined in Section 4080.
 - (2) "Builder" means the declarant, as defined in Section 4130.
 - (3) "Common interest development" shall have the same meaning as in Section 4100, except that it shall not include developments or projects with less than 20 units.

- (q) The alternative dispute resolution process and procedures described in this section shall have no application or legal effect other than as described in this section.
- (r) This section shall become operative on July 1, 2002, however it shall not apply to any pending suit or claim for which notice has previously been given.
- (s) This section shall become inoperative on July 1, 2024, and, as of January 1, 2025, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2025, deletes or extends the dates on which it becomes inoperative and is repealed.

6100

- (a) As soon as is reasonably practicable after the association and the builder have entered into a settlement agreement or the matter has otherwise been resolved regarding alleged defects in the common areas, alleged defects in the separate interests that the association is obligated to maintain or repair, or alleged defects in the separate interests that arise out of, or are integrally related to, defects in the common areas or separate interests that the association is obligated to maintain or repair, where the defects giving rise to the dispute have not been corrected, the association shall, in writing, inform only the members of the association whose names appear on the records of the association that the matter has been resolved, by settlement agreement or other means, and disclose all of the following:
 - (1) A general description of the defects that the association reasonably believes, as of the date of the disclosure, will be corrected or replaced.
 - (2) A good faith estimate, as of the date of the disclosure, of when the association believes that the defects identified in paragraph (1) will be corrected or replaced. The association may state that the estimate may be modified.
 - (3) The status of the claims for defects in the design or construction of the common interest development that were not identified in paragraph (1) whether expressed in a preliminary list of defects sent to each member of the association or otherwise claimed and disclosed to the members of the association.
- (b) Nothing in this section shall preclude an association from amending the disclosures required pursuant to subdivision (a), and any amendments shall supersede any prior conflicting information disclosed to the members of the association and shall retain any privilege attached to the original disclosures.
- (c) Disclosure of the information required pursuant to subdivision (a) or authorized by subdivision (b) shall not waive any privilege attached to the information.

- (d) For the purposes of the disclosures required pursuant to this section, the term “defects” shall be defined to include any damage resulting from defects.

6150

- (a) Not later than 30 days before filing of any civil action by the association against the declarant or other developer of a common interest development for alleged damage to the common areas, alleged damage to the separate interests that the association is obligated to maintain or repair, or alleged damage to the separate interests that arises out of, or is integrally related to, damage to the common areas or separate interests that the association is obligated to maintain or repair, the board shall provide a written notice to each member of the association who appears on the records of the association when the notice is provided. This notice shall specify all of the following:
 - (1) That a meeting will take place to discuss problems that may lead to the filing of a civil action, in addition to the potential impacts thereof to the association and its members, including any financial impacts.
 - (2) The options, including civil actions, that are available to address the problems.
 - (3) The time and place of the meeting.
- (b) Notwithstanding subdivision (a), if the association has reason to believe that the applicable statute of limitations will expire before the association files the civil action, the association may give the notice, as described above, within 30 days after the filing of the action.

SELECTED PROVISIONS FROM CALIFORNIA LAW CODES AFFECTING COMMON INTEREST DEVELOPMENTS

SELECTED BUSINESS AND PROFESSIONS CODE PROVISIONS

Certified Common Interest Development Managers

11500

Definitions

For purposes of this chapter, the following definitions apply:

- (a) "Common interest development" means a residential development identified in Section 4100 of the Civil Code.
- (b) "Association" has the same meaning as defined in Section 4080 of the Civil Code.
- (c) "Financial services" means acts performed or offered to be performed, for compensation, for an association, including, but not limited to, the preparation of internal unaudited financial statements, internal accounting and bookkeeping functions, billing of assessments, and related services.
- (d) "Management services" means acts performed or offered to be performed in an advisory capacity for an association including, but not limited to, the following:
 - (1) Administering or supervising the collection, reporting, and archiving of the financial or common area assets of an association or common interest development, at the direction of the association's board of directors.
 - (2) Implementing resolutions and directives of the board of directors of the association elected to oversee the operation of a common interest development.
 - (3) Implementing provisions of governing documents, as defined in Section 4150 of the Civil Code, that govern the operation of the common interest development.
 - (4) Administering association contracts, including insurance contracts, within the scope of the association's duties or with other common interest development managers, vendors, contractors, and other third-party providers of goods and services to an association or common interest development.

- (e) "Professional association for common interest development managers" means an organization that meets all of the following:
 - (1) Has at least 200 members or certificants who are common interest development managers in California.
 - (2) Has been in existence for at least five years.
 - (3) Operates pursuant to Section 501(c) of the Internal Revenue Code.
 - (4) Certifies that a common interest development manager has met the criteria set forth in Section 11502 without requiring membership in the association.
 - (5) Requires adherence to a code of professional ethics and standards of practice for certified common interest development managers.

11501

"Common Interest Development Manager"

- (a) "Common interest development manager" means an individual who for compensation, or in expectation of compensation, provides or contracts to provide management or financial services, or represents himself or herself to act in the capacity of providing management or financial services to an association. Notwithstanding any other provision of law, an individual may not be required to obtain a real estate or broker's license in order to perform the services of a common interest development manager to an association.
- (b) "Common interest development manager" also means any of the following:
 - (1) An individual who is a partner in a partnership, a shareholder or officer in a corporation, or who, in any other business entity acts in a capacity to advise, supervise, and direct the activity of a registrant or provisional registrant, or who acts as a principal on behalf of a company that provides the services of a common interest development manager.
 - (2) An individual operating under a fictitious business name who provides the services of a common interest development manager.

This section may not be construed to require an association to hire for compensation a common interest development manager, unless required to do so by its governing documents. Nothing in this part shall be construed to supersede any law that requires a license, permit, or any other form of registration, to provide management or financial services. Nothing in this section shall preclude a licensee of the California Board of Accountancy from providing financial services to an association within the scope of his or her

license in addition to the preparation of reviewed and audited financial statements and the preparation of the association's tax returns.

11502

Certified Common Interest Development Manager; Criteria

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

- (a) Prior to July 1, 2003, has passed a knowledge, skills, and aptitude examination as specified in Section 11502.5 or has been granted a certification or a designation by a professional association for common interest development managers, and who has, within five years prior to July 1, 2004, received instruction in California law pursuant to paragraph (1) of subdivision (b).
- (b) On or after July 1, 2003, has successfully completed an educational curriculum that shall be no less than a combined 30 hours in coursework described in this subdivision and passed an examination or examinations that test competence in common interest development management in the following areas:
 - (1) The law that relates to the management of common interest developments, including, but not limited to, the following courses of study:
 - (A) Topics covered by the Davis-Stirling Common Interest Development Act, contained in Part 5 (commencing with Section 4000) of Division 4 of the Civil Code, including, but not limited to, the types of California common interest developments, disclosure requirements pertaining to common interest developments, meeting requirements, financial reporting requirements, and member access to association records.
 - (B) Personnel issues, including, but not limited to, general matters related to independent contractor or employee status, the laws on harassment, the Unruh Civil Rights Act, the California Fair Employment and Housing Act, and the Americans with Disabilities Act.
 - (C) Risk management, including, but not limited to, insurance coverage, maintenance, operations, and emergency preparedness.
 - (D) Property protection for associations, including, but not limited to, pertinent matters relating to environmental hazards such as asbestos, radon gas, and lead-based paint, the Vehicle Code, local and municipal regulations, family day care facilities, energy conservation, Federal Communications Commission rules and regulations, and solar energy systems.
 - (E) Business affairs of associations, including, but not limited to, necessary compliance with federal, state, and local law.
 - (F) Basic understanding of governing documents, codes, and regulations relating to the activities and affairs of associations and common interest developments.
- (2) Instruction in general management that is related to the managerial and business skills needed for management of a common interest development, including, but not limited to, the following:
 - (A) Finance issues, including, but not limited to, budget preparation; management; administration or supervision of the collection, reporting, and archiving of the financial or common area assets of an association or common interest development; bankruptcy laws; and assessment collection.
 - (B) Contract negotiation and administration.
 - (C) Supervision of employees and staff.
 - (D) Management of maintenance programs.
 - (E) Management and administration of rules, regulations, and parliamentary procedures.
 - (F) Management and administration of architectural standards.
 - (G) Management and administration of the association's recreational programs and facilities.
 - (H) Management and administration of owner and resident communications.
 - (I) Training and strategic planning for the association's board of directors and its committees.
 - (J) Implementation of association policies and procedures.
 - (K) Ethics, professional conduct, and standards of practice for common interest development managers.
 - (L) Current issues relating to common interest developments.
 - (M) Conflict avoidance and resolution mechanisms.

11502.5

Standards for Education and Examinations

The course related competency examination or examinations and education provided to a certified common interest development manager pursuant to Section 11502 by any

professional association for common interest development managers, or any postsecondary educational institution, shall be developed and administered in a manner consistent with standards and requirements set forth by the American Educational Research Association's "Standards for Educational and Psychological Testing," and the Equal Employment Opportunity Commission's "Uniform Guidelines for Employee Selection Procedures," the Unruh Civil Rights Act, the California Fair Employment and Housing Act, and the Americans with Disabilities Act of 1990, or the course or courses that have been approved as a continuing education course or an equivalent course of study pursuant to the regulations of the Real Estate Commissioner.

11503

Exception

A "certified common interest development manager" does not include a common interest development management firm.

11504

Disclosures

On or before September 1, 2003, and annually thereafter, a person who either provides or contemplates providing the services of a common interest development manager to an association shall disclose to the board of directors of the association the following information:

- (a) Whether or not the common interest development manager has met the requirements of Section 11502 so he or she may be called a certified common interest development manager.
- (b) The name, address, and telephone number of the professional association that certified the common interest development manager, the date the manager was certified, and the status of the certification.
- (c) The location of his or her primary office.
- (d) Prior to entering into or renewing a contract with an association, the common interest development manager shall disclose to the board of directors of the association or common interest development whether the fidelity insurance of the common interest development manager or his or her employer covers the current year's operating and reserve funds of the association. This requirement shall not be construed to compel an association to require a common interest development manager to obtain or maintain fidelity insurance.
- (e) Whether the common interest development manager possesses an active real estate license.

- (f) A common interest development manager or common interest development management firm shall disclose information required in Section 5375 of the Civil Code.
- (g) Whether or not the common interest development manager receives a referral fee or other monetary benefit from a third-party provider distributing documents pursuant to Section 5300 of the Civil Code.
- (h) An affirmative written acknowledgment that the disclosure provided to a member or potential member pursuant to Sections 4528 and 5300 of the Civil Code, and all documents provided thereunder, are the property of the association and not its managing agent or the agent's managing firm.

11505

Unfair Business Practices

It is an unfair business practice for a common interest development manager, a company that employs the common interest development manager, or a company that is controlled by a company that also has a financial interest in a company employing that manager, to do any of the following:

- (a) On or after July 1, 2003, to hold oneself out or use the title of "certified common interest development manager" or any other term that implies or suggests that the person is certified as a common interest development manager without meeting the requirements of Section 11502.
- (b) To state or advertise that he or she is certified, registered, or licensed by a governmental agency to perform the functions of a certified common interest development manager.
- (c) To state or advertise a registration or license number, unless the license or registration is specified by a statute, regulation, or ordinance.
- (d) To fail to comply with any item to be disclosed in Section 11504 of this code, or Section 5375 of the Civil Code.

11506

Sunset Review

This part shall be subject to review by the appropriate policy committees of the Legislature.

SELECTED CIVIL CODE PROVISIONS AFFECTING COMMON INTEREST DEVELOPMENTS

The Civil Rights Act of 2005

51.2

Housing Discrimination Prohibited Based Upon Age; Application of Section — Housing Specifications to Meet Needs of Senior Citizens

- (a) Section 51 shall be construed to prohibit a business establishment from discriminating in the sale or rental of housing based upon age. Where accommodations are designed to meet the physical and social needs of senior citizens, a business establishment may establish and preserve that housing for senior citizens, pursuant to Section 51.3, except housing as to which Section 51.3 is preempted by the prohibition in the federal Fair Housing Amendments Act of 1988 (Public Law 100-430) and implementing regulations against discrimination on the basis of familial status. For accommodations constructed before February 8, 1982, that meet all the criteria for senior citizen housing specified in Section 51.3, a business establishment may establish and preserve that housing development for senior citizens without the housing development being designed to meet physical and social needs of senior citizens.
- (b) This section is intended to clarify the holdings in *Marina Point, Ltd. v. Wolfson* (1982) 30 Cal.3d 72 and *O'Connor v. Village Green Owners Association* (1983) 33 Cal.3d 790.
- (c) This section shall not apply to the County of Riverside.
- (d) A housing development for senior citizens constructed on or after January 1, 2001, shall be presumed to be designed to meet the physical and social needs of senior citizens if it includes all of the following elements:
- (1) Entryways, walkways, and hallways in the common areas of the development, and doorways and paths of access to and within the housing units, shall be as wide as required by current laws applicable to new multifamily housing construction for provision of access to persons using a standard-width wheelchair.
 - (2) Walkways and hallways in the common areas of the development shall be equipped with standard height railings or grab bars to assist persons who have difficulty with walking.
 - (3) Walkways and hallways in the common areas shall have lighting conditions which are of sufficient brightness to assist persons who have difficulty seeing.

- (4) Access to all common areas and housing units within the development shall be provided without use of stairs, either by means of an elevator or sloped walking ramps.
 - (5) The development shall be designed to encourage social contact by providing at least one common room and at least some common open space.
 - (6) Refuse collection shall be provided in a manner that requires a minimum of physical exertion by residents.
 - (7) The development shall comply with all other applicable requirements for access and design imposed by law, including, but not limited to, the Fair Housing Act (42 U.S.C. Sec. 3601 et seq.), the Americans with Disabilities Act (42 U.S.C. Sec. 12101 et seq.), and the regulations promulgated at Title 24 of the California Code of Regulations that relate to access for persons with disabilities or handicaps. Nothing in this section shall be construed to limit or reduce any right or obligation applicable under those laws.
- (e) Selection preferences based on age, imposed in connection with a federally approved housing program, do not constitute age discrimination in housing.

51.3

Establishing and Preserving Accessible Housing for Senior Citizens

- (a) The Legislature finds and declares that this section is essential to establish and preserve specially designed accessible housing for senior citizens. There are senior citizens who need special living environments and services, and find that there is an inadequate supply of this type of housing in the state.
- (b) For the purposes of this section, the following definitions apply:
- (1) "Qualifying resident" or "senior citizen" means a person 62 years of age or older, or 55 years of age or older in a senior citizen housing development.
 - (2) "Qualified permanent resident" means a person who meets both of the following requirements:
 - (A) Was residing with the qualifying resident or senior citizen prior to the death, hospitalization, or other prolonged absence of, or the dissolution of marriage with, the qualifying resident or senior citizen.
 - (B) Was 45 years of age or older, or was a spouse, cohabitant, or person providing primary physical or economic support to the qualifying resident or senior citizen.

- (3) “Qualified permanent resident” also means a disabled person or person with a disabling illness or injury who is a child or grandchild of the senior citizen or a qualified permanent resident as defined in paragraph (2) who needs to live with the senior citizen or qualified permanent resident because of the disabling condition, illness, or injury. For purposes of this section, “disabled” means a person who has a disability as defined in subdivision (b) of Section 54. A “disabling injury or illness” means an illness or injury which results in a condition meeting the definition of disability set forth in subdivision (b) of Section 54.
- (A) For any person who is a qualified permanent resident under this paragraph whose disabling condition ends, the owner, board of directors, or other governing body may require the formerly disabled resident to cease residing in the development upon receipt of six months’ written notice; provided, however, that the owner, board of directors, or other governing body may allow the person to remain a resident for up to one year after the disabling condition ends.
- (B) The owner, board of directors, or other governing body of the senior citizen housing development may take action to prohibit or terminate occupancy by a person who is a qualified permanent resident under this paragraph if the owner, board of directors, or other governing body finds, based on credible and objective evidence, that the person is likely to pose a significant threat to the health or safety of others that cannot be ameliorated by means of a reasonable accommodation; provided, however, that the action to prohibit or terminate the occupancy may be taken only after doing both of the following:
- (i) Providing reasonable notice to and an opportunity to be heard for the disabled person whose occupancy is being challenged, and reasonable notice to the coresident parent or grandparent of that person.
 - (ii) Giving due consideration to the relevant, credible, and objective information provided in the hearing. The evidence shall be taken and held in a confidential manner, pursuant to a closed session, by the owner, board of directors, or other governing body in order to preserve the privacy of the affected persons. The affected persons shall be entitled to have present at the hearing an attorney or any other person authorized by them to speak on their behalf or to assist them in the matter.
- (4) “Senior citizen housing development” means a residential development developed, substantially rehabilitated, or substantially renovated for, senior citizens that has at least 35 dwelling units. Any senior citizen housing development which is required to obtain a public report under Section 11010 of the Business and Professions Code and which submits its application for a public report after July 1, 2001, shall be required to have been issued a public report as a senior citizen housing development under Section 11010.05 of the Business and Professions Code. No housing development constructed prior to January 1, 1985, shall fail to qualify as a senior citizen housing development because it was not originally developed or put to use for occupancy by senior citizens.
- (5) “Dwelling unit” or “housing” means any residential accommodation other than a mobilehome.
- (6) “Cohabitant” refers to persons who live together as spouses or persons who are domestic partners within the meaning of Section 297 of the Family Code.
- (7) “Permitted health care resident” means a person hired to provide live-in, long-term, or terminal health care to a qualifying resident, or a family member of the qualifying resident providing that care. For the purposes of this section, the care provided by a permitted health care resident must be substantial in nature and must provide either assistance with necessary daily activities or medical treatment, or both.
- A permitted health care resident shall be entitled to continue his or her occupancy, residency, or use of the dwelling unit as a permitted resident in the absence of the senior citizen from the dwelling unit only if both of the following are applicable:
- (A) The senior citizen became absent from the dwelling unit due to hospitalization or other necessary medical treatment and expects to return to his or her residence within 90 days from the date the absence began.
 - (B) The absent senior citizen or an authorized person acting for the senior citizen submits a written request to the owner, board of directors, or governing board stating that the senior citizen desires that the permitted health care resident be allowed to remain in order to be present when the senior citizen returns to reside in the development. Upon written request by the senior citizen or an authorized person acting for the senior citizen, the owner, board of directors, or governing board shall have the discretion to allow a permitted health care resident to remain for a time period longer than 90 days from the date that the senior citizen’s absence began, if it appears that the senior citizen will return within a period of time not to exceed an additional 90 days.
 - (C) The covenants, conditions, and restrictions and other documents or written policy shall set forth the limitations on occupancy, residency, or use on the basis of age. Any such limitation shall not be more exclusive than to require

that one person in residence in each dwelling unit may be required to be a senior citizen and that each other resident in the same dwelling unit may be required to be a qualified permanent resident, a permitted health care resident, or a person under 55 years of age whose occupancy is permitted under subdivision (h) of this section or under subdivision (b) of Section 51.4. That limitation may be less exclusive, but shall at least require that the persons commencing any occupancy of a dwelling unit include a senior citizen who intends to reside in the unit as his or her primary residence on a permanent basis. The application of the rules set forth in this subdivision regarding limitations on occupancy may result in less than all of the dwellings being actually occupied by a senior citizen.

- (d) The covenants, conditions, and restrictions or other documents or written policy shall permit temporary residency, as a guest of a senior citizen or qualified permanent resident, by a person of less than 55 years of age for periods of time, not less than 60 days in any year, that are specified in the covenants, conditions, and restrictions or other documents or written policy.
- (e) Upon the death or dissolution of marriage, or upon hospitalization, or other prolonged absence of the qualifying resident, any qualified permanent resident shall be entitled to continue his or her occupancy, residency, or use of the dwelling unit as a permitted resident. This subdivision shall not apply to a permitted health care resident.
- (f) The condominium, stock cooperative, limited-equity housing cooperative, planned development, or multiple-family residential rental property shall have been developed for, and initially been put to use as, housing for senior citizens, or shall have been substantially rehabilitated or renovated for, and immediately afterward put to use as, housing for senior citizens, as provided in this section; provided, however, that no housing development constructed prior to January 1, 1985, shall fail to qualify as a senior citizen housing development because it was not originally developed for or originally put to use for occupancy by senior citizens.
- (g) The covenants, conditions, and restrictions or other documents or written policies applicable to any condominium, stock cooperative, limited-equity housing cooperative, planned development, or multiple-family residential property that contained age restrictions on January 1, 1984, shall be enforceable only to the extent permitted by this section, notwithstanding lower age restrictions contained in those documents or policies.
- (h) Any person who has the right to reside in, occupy, or use the housing or an unimproved lot subject to this section on January 1, 1985, shall not be deprived of the right to continue that residency, occupancy, or use as the result of the enactment of this section.
- (i) The covenants, conditions, and restrictions or other documents or written policy of the senior citizen housing development shall permit the occupancy of a dwelling unit by a permitted health care resident during any

period that the person is actually providing live-in, long-term, or hospice health care to a qualifying resident for compensation. For purposes of this subdivision, the term “for compensation” shall include provisions of lodging and food in exchange for care.

- (j) Notwithstanding any other provision of this section, this section shall not apply to the County of Riverside.

51.4

Limited Exemption for Senior Establishing and Preserving Accessible Housing for Senior Citizens

- (a) The Legislature finds and declares that the requirements for senior housing under Sections 51.2 and 51.3 are more stringent than the requirements for that housing under the federal Fair Housing Amendments Act of 1988 (P.L. 100-430) in recognition of the acute shortage of housing for families with children in California. The Legislature further finds and declares that the special design requirements for senior housing under Sections 51.2 and 51.3 may pose a hardship to some housing developments that were constructed before the decision in *Marina Point, Ltd. v. Wolfson* (1982) 30 Cal.3d 721. The Legislature further finds and declares that the requirement for specially designed accommodations in senior housing under Sections 51.2 and 51.3 provides important benefits to senior citizens and also ensures that housing exempt from the prohibition of age discrimination is carefully tailored to meet the compelling societal interest in providing senior housing.
- (b) Any person who resided in, occupied, or used, prior to January 1, 1990, a dwelling in a senior citizen housing development that relied on the exemption to the special design requirement provided by this section prior to January 1, 2001, shall not be deprived of the right to continue that residency, occupancy, or use as the result of the changes made to this section by the enactment of Chapter 1004 of the Statutes of 2000.
- (c) This section shall not apply to the County of Riverside.

Signs Advertising Property For Sale

712

Conditions Restraining Right to Display Sign Advertising Property for Sale

- (a) Every provision contained in or otherwise affecting a grant of a fee interest in, or purchase money security instrument upon, real property in this state heretofore or hereafter made, which purports to prohibit or restrict the right of the property owner or his or her agent to display or have displayed on the real property, or on real property

owned by others with their consent, or both, signs which are reasonably located, in plain view of the public, are of reasonable dimensions and design, and do not adversely affect public safety, including traffic safety, and which advertise the property for sale, lease, or exchange, or advertise directions to the property, by the property owner or his or her agent is void as an unreasonable restraint upon the power of alienation.

- (b) This section shall operate retrospectively, as well as prospectively, to the full extent that it may constitutionally operate retrospectively.
- (c) A sign that conforms to the ordinance adopted in conformity with Section 713 shall be deemed to be of reasonable dimension and design pursuant to this section.

713

Local Regulations; Signs Advertising Property for Sale, Lease or Exchange

- (a) Notwithstanding any provision of any ordinance, an owner of real property or his or her agent may display or have displayed on the owner’s real property, and on real property owned by others with their consent, signs which are reasonably located, in plain view of the public, are of reasonable dimensions and design, and do not adversely affect public safety, including traffic safety, as determined by the city, county, or city and county, advertising the following:
 - (1) That the property is for sale, lease, or exchange by the owner or his or her agent.
 - (2) Directions to the property.
 - (3) The owner’s or agent’s name.
 - (4) The owner’s or agent’s address and telephone number.
- (b) Nothing in this section limits any authority which a person or local governmental entity may have to limit or regulate the display or placement of a sign on a private or public right-of-way.

Solar Energy Systems

714

Solar Energy System; Prohibition or Restriction of Installation or Use; Invalidity and Unenforceability of Instruments Affecting Real Property; Cost, Efficiency Defined; Exceptions

- (a) Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument

affecting the transfer or sale of, or any interest in, real property, and any provision of a governing document, as defined in Section 4150 or 6552, that effectively prohibits or restricts the installation or use of a solar energy system is void and unenforceable.

- (b) This section does not apply to provisions that impose reasonable restrictions on solar energy systems. However, it is the policy of the state to promote and encourage the use of solar energy systems and to remove obstacles thereto. Accordingly, reasonable restrictions on a solar energy system are those restrictions that do not significantly increase the cost of the system or significantly decrease its efficiency or specified performance, or that allow for an alternative system of comparable cost, efficiency, and energy conservation benefits.
- (c)
 - (1) A solar energy system shall meet applicable health and safety standards and requirements imposed by state and local permitting authorities, consistent with Section 65850.5 of the Government Code.
 - (2) Solar energy systems used for heating water in single family residences and solar collectors used for heating water in commercial or swimming pool applications shall be certified by an accredited listing agency as defined in the Plumbing and Mechanical Codes.
 - (3) A solar energy system for producing electricity shall also meet all applicable safety and performance standards established by the California Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability.
- (d) For the purposes of this section:
 - (1) (A) For solar domestic water heating systems or solar swimming pool heating systems that comply with state and federal law, “significantly” means an amount exceeding 10 percent of the cost of the system, but in no case more than one thousand dollars (\$1,000), or decreasing the efficiency of the solar energy system by an amount exceeding 10 percent, as originally specified and proposed.
 - (B) For photovoltaic systems that comply with state and federal law, “significantly” means an amount not to exceed one thousand dollars (\$1,000) over the system cost as originally specified and proposed, or a decrease in system efficiency of an amount exceeding 10 percent as originally specified and proposed.
 - (2) “Solar energy system” has the same meaning as defined in paragraphs (1) and (2) of subdivision (a) of Section 801.5.
- (e) (1) Whenever approval is required for the installation or use of a solar energy system, the application for approval shall be processed and approved by the appropriate approving entity in the same manner

as an application for approval of an architectural modification to the property, and shall not be willfully avoided or delayed.

- (2) For an approving entity that is an association, as defined in Section 4080 or 6528, and that is not a public entity, both of the following shall apply:
 - (A) The approval or denial of an application shall be in writing.
 - (B) If an application is not denied in writing within 45 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) Any entity, other than a public entity, that willfully violates this section shall be liable to the applicant or other party for actual damages occasioned thereby, and shall pay a civil penalty to the applicant or other party in an amount not to exceed one thousand dollars (\$1,000).
- (g) In any action to enforce compliance with this section, the prevailing party shall be awarded reasonable attorney’s fees.
- (h) (1) A public entity that fails to comply with this section may not receive funds from a state-sponsored grant or loan program for solar energy. A public entity shall certify its compliance with the requirements of this section when applying for funds from a state-sponsored grant or loan program.
- (2) A local public entity may not exempt residents in its jurisdiction from the requirements of this section.

714.1

Solar Energy System; Reasonable Restrictions in Community Associations

- (a) Notwithstanding Section 714, an association may impose reasonable provisions that:
 - (1) Restrict the installation of solar energy systems in common areas to those systems approved by the association.
 - (2) Require the owner of a separate interest to obtain the approval of the association for the installation of a solar energy system in a separate interest owned by another.
 - (3) Provide for the maintenance, repair, or replacement of roofs or other building components.
 - (4) Require installers of solar energy systems to indemnify or reimburse the association or its members for loss or damage caused by the installation, maintenance, or use of the solar energy system.

- (b) An association shall not:
 - (1) Establish a general policy prohibiting the installation or use of a rooftop solar energy system for household purposes on the roof of the building in which the owner resides, or a garage or carport adjacent to the building that has been assigned to the owner for exclusive use.
 - (2) Require approval by a vote of members owning separate interests in the common interest development, including that specified by Section 4600, for installation of a solar energy system for household purposes on the roof of the building in which the owner resides, or a garage or carport adjacent to the building that has been assigned to the owner for exclusive use.

An action by an association that contravenes paragraph (1) or (2) shall be void and unenforceable.

- (c) For purposes of this section:
 - (1) “Association” has the same meaning as defined in Section 4080 or 6528.
 - (2) “Common area” has the same meaning as defined in Section 4095 or 6532.
 - (3) “Separate interest” has the same meaning as defined in Section 4185 or 6564.

714.3

Accessory Dwelling Unit; Reasonable Restrictions in Community Associations

- (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 real property 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 Article 2 (commencing with Section 66314) of Chapter 13 or Article 3 (commencing with Section 66333) of Chapter 13 of Division of Title 7 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 Article 2 (commencing with Section 66314) or Article 3 (commencing with Section 66333) of Chapter 13 of Division 1 of Title 7 of the Government Code. **“Reasonable**

restrictions” shall not include any fees or other financial requirements.

Foreclosures

2924b

Notices of Default and of Sale; Mailing Upon Request for Copies and to Certain Interested Persons

(a) Any person desiring a copy of any notice of default and of any notice of sale under any deed of trust or mortgage with power of sale upon real property or an estate for years therein, as to which deed of trust or mortgage the power of sale cannot be exercised until these notices are given for the time and in the manner provided in Section 2924 may, at any time subsequent to recordation of the deed of trust or mortgage and prior to recordation of notice of default thereunder, cause to be filed for record in the office of the recorder of any county in which any part or parcel of the real property is situated, a duly acknowledged request for a copy of the notice of default and of sale. This request shall be signed and acknowledged by the person making the request, specifying the name and address of the person to whom the notice is to be mailed, shall identify the deed of trust or mortgage by stating the names of the parties thereto, the date of recordation thereof, and the book and page where the deed of trust or mortgage is recorded or the recorder’s number, and shall be in substantially the following form:

“In accordance with Section 2924b, Civil Code, request is hereby made that a copy of any notice of default and a copy of any notice of sale under the deed of trust (or mortgage) recorded _____, _____, in Book _____ page _____ records of _____ County, (or filed for record with recorder’s serial number _____, _____ County) California, executed by _____ as trustor (or mortgagor) in which _____ is named as beneficiary (or mortgagee) and _____ as trustee be mailed to at _____.

Name _____ Address _____.

NOTICE: A copy of any notice of default and of any notice of sale will be sent only to the address contained in this recorded request. If your address changes, a new request must be recorded.

_____ Signature”

Upon the filing for record of the request, the recorder shall index in the general index of grantors the names of the trustors (or mortgagors) recited therein and the names of persons requesting copies.

- (b) The mortgagee, trustee, or other person authorized to record the notice of default or the notice of sale shall do each of the following:
 - (1) Within 10 business days following recordation of the notice of default, deposit or cause to be deposited in the United States mail an envelope, sent by registered or certified mail with postage prepaid, containing a copy of the notice with the recording date shown thereon, addressed to each person whose name and address are set forth in a duly recorded request therefor, directed to the address designated in the request and to each trustor or mortgagor at their last known address if different than the address specified in the deed of trust or mortgage with power of sale.
 - (2) At least 20 days before the date of auction sale or listing for sale, deposit or cause to be deposited in the United States mail an envelope, sent by registered or certified mail with postage prepaid, containing a copy of the notice of the time, place, and method of sale, and the appraised value of the property as determined by a licensed neutral third-party appraiser, addressed to each person whose name and address are set forth in a duly recorded request therefor, directed to the address designated in the request and to each trustor or mortgagor at their last known address if different than the address specified in the deed of trust or mortgage with power of sale.
 - (3) As used in paragraphs (1) and (2), the “last known address” of each trustor or mortgagor means the last business or residence physical address actually known by the mortgagee, beneficiary, trustee, or other person authorized to record the notice of default. For the purposes of this subdivision, an address is “actually known” if it is contained in the original deed of trust or mortgage, or in any subsequent written notification of a change of physical address from the trustor or mortgagor pursuant to the deed of trust or mortgage. For the purposes of this subdivision, “physical address” does not include an email or any form of electronic address for a trustor or mortgagor. The beneficiary shall inform the trustee of the trustor’s last address actually known by the beneficiary. However, the trustee shall incur no liability for failing to send any notice to the last address unless the trustee has actual knowledge of it.
 - (4) A “person authorized to record the notice of default or the notice of sale” shall include an agent for the mortgagee or beneficiary, an agent of the named trustee, any person designated in an executed substitution of trustee, or an agent of that substituted trustee.
 - (5) An appraisal conducted pursuant to this section shall be based on a complete visual inspection of the interior and exterior of the property.
 - (6) Notwithstanding paragraph (5), if a mortgagor denies a licensed neutral third-party appraiser access to

the interior of the property, the appraisal shall be conducted by way of an exterior-only appraisal report.

- (7) There shall be a rebuttable presumption that an appraisal conducted by a licensed neutral third-party appraiser pursuant to this section is lawful and valid. The presumption may be rebutted if both of the following are established by clear and convincing evidence:
- (A) The appraised value was unreasonably low.
- (B) Either of the following circumstances occurred:
- (i) The appraiser did not attempt to access the interior of the property.
- (ii) The undervalued appraisal was the product of fraud.
- (8) As used in this section, “licensed neutral third-party appraiser” means an appraiser licensed by the Bureau of Real Estate Appraisers who is not an employee of the beneficiary, trustee, mortgagee, or their agents or successors.
- (c) The mortgagee, trustee, or other person authorized to record the notice of default or the notice of sale shall do the following:
- (1) Within one month following recordation of the notice of default, deposit or cause to be deposited in the United States mail an envelope, sent by registered or certified mail with postage prepaid, containing a copy of the notice with the recording date shown thereon, addressed to each person set forth in paragraph (2), provided that the estate or interest of any person entitled to receive notice under this subdivision is acquired by an instrument sufficient to impart constructive notice of the estate or interest in the land or portion thereof that is subject to the deed of trust or mortgage being foreclosed, and provided the instrument is recorded in the office of the county recorder so as to impart that constructive notice prior to the recording date of the notice of default and provided the instrument as so recorded sets forth a mailing address that the county recorder shall use, as instructed within the instrument, for the return of the instrument after recording, and which address shall be the address used for the purposes of mailing notices herein.
- (2) The persons to whom notice shall be mailed under this subdivision are:
- (A) The successor in interest, as of the recording date of the notice of default, of the estate or interest or any portion thereof of the trustor or mortgagor of the deed of trust or mortgage being foreclosed.
- (B) The beneficiary or mortgagee of any deed of trust or mortgage recorded subsequent to the deed of trust or mortgage being foreclosed, or recorded

prior to or concurrently with the deed of trust or mortgage being foreclosed but subject to a recorded agreement or a recorded statement of subordination to the deed of trust or mortgage being foreclosed.

- (C) The assignee of any interest of the beneficiary or mortgagee described in subparagraph (B), as of the recording date of the notice of default.
- (D) The vendee of any contract of sale, or the lessee of any lease, of the estate or interest being foreclosed that is recorded subsequent to the deed of trust or mortgage being foreclosed, or recorded prior to or concurrently with the deed of trust or mortgage being foreclosed but subject to a recorded agreement or statement of subordination to the deed of trust or mortgage being foreclosed.
- (E) The successor in interest to the vendee or lessee described in subparagraph (D), as of the recording date of the notice of default.
- (F) The office of the Controller, Sacramento, California, where, as of the recording date of the notice of default, a “Notice of Lien for Postponed Property Taxes” has been recorded against the real property to which the notice of default applies.
- (G) (i) *The office of the Director of Housing and Community Development, Sacramento, California, and the office of the Executive Director of the California Tax Credit Allocation Committee, Sacramento, California, respectively, where, as of the recording date of the notice of default, a use restriction, as defined in subdivision (a) of Section 65863.11 of the Government Code, has been recorded against the real property to which the notice of default applies.***
- (ii) *Any failure to comply with the provisions of this subparagraph shall not affect the validity of a trustee’s sale or a sale in favor of a bona fide purchaser.***
- (3) At least 20 days before the date of auction sale or listing for sale, deposit or cause to be deposited in the United States mail an envelope, sent by registered or certified mail with postage prepaid, containing a copy of the notice of the method of sale, the scheduled date and time of the listing for sale or the public auction, and the place of public auction, if applicable, addressed to each person to whom a copy of the notice of default is to be mailed as provided in paragraphs (1) and (2), and addressed to the office of any state taxing agency, Sacramento, California, that has recorded, subsequent to the deed of trust or mortgage being foreclosed, a notice of tax lien prior to the recording date of the notice of default against the real property to which the notice of default applies.

- (4) Provide a copy of the notice of sale to the Internal Revenue Service, in accordance with Section 7425 of the Internal Revenue Code and any applicable federal regulation, if a "Notice of Federal Tax Lien under Internal Revenue Laws" has been recorded, subsequent to the deed of trust or mortgage being foreclosed, against the real property to which the notice of sale applies. The failure to provide the Internal Revenue Service with a copy of the notice of sale pursuant to this paragraph shall be sufficient cause to rescind the trustee's sale and invalidate the trustee's deed, at the option of either the successful bidder or purchaser at the trustee's sale or the trustee, and in either case with the consent of the beneficiary. Any option to rescind the trustee's sale pursuant to this paragraph shall be exercised prior to any transfer of the property by the successful bidder or purchaser to a bona fide purchaser for value. A rescission of the trustee's sale pursuant to this paragraph may be recorded in a notice of rescission pursuant to Section 1058.5.
- (5) The mailing of notices in the manner set forth in paragraph (1) shall not impose upon any licensed attorney, agent, or employee of any person entitled to receive notices as herein set forth any duty to communicate the notice to the entitled person from the fact that the mailing address used by the county recorder is the address of the attorney, agent, or employee.
- (d) Any deed of trust or mortgage with power of sale hereafter executed upon real property or an estate for years therein may contain a request that a copy of any notice of default and a copy of any notice of sale thereunder shall be mailed to any person or party thereto at the address of the person given therein, and a copy of any notice of default and of any notice of sale shall be mailed to each of these at the same time and in the same manner required as though a separate request therefor had been filed by each of these persons as herein authorized. If any deed of trust or mortgage with power of sale executed after September 19, 1939, except a deed of trust or mortgage of any of the classes excepted from the provisions of Section 2924, does not contain a mailing address of the trustor or mortgagor therein named, and if no request for special notice by the trustor or mortgagor in substantially the form set forth in this section has subsequently been recorded, a copy of the notice of default shall be published once a week for at least four weeks in a newspaper of general circulation in the county in which the property is situated, the publication to commence within 10 business days after the filing of the notice of default. In lieu of publication, a copy of the notice of default may be delivered personally to the trustor or mortgagor within the 10 business days or at any time before publication is completed, or by posting the notice of default in a conspicuous place on the property and mailing the notice to the last known address of the trustor or mortgagor.
- (e) Any person required to mail a copy of a notice of default or notice of sale to each trustor or mortgagor pursuant to subdivision (b) or (c) by registered or certified mail shall simultaneously cause to be deposited in the United States mail, with postage prepaid and mailed by first-class mail, an envelope containing an additional copy of the required notice addressed to each trustor or mortgagor at the same address to which the notice is sent by registered or certified mail pursuant to subdivision (b) or (c). The person shall execute and retain an affidavit identifying the notice mailed, showing the name and residence or business address of that person, that they are over 18 years of age, the date of deposit in the mail, the name and address of the trustor or mortgagor to whom sent, and that the envelope was sealed and deposited in the mail with postage fully prepaid. In the absence of fraud, the affidavit required by this subdivision shall establish a conclusive presumption of mailing.
- (f) (1) Notwithstanding subdivision (a), with respect to separate interests governed by an association, as defined in Section 4080 or 6528, the association may cause to be filed in the office of the recorder in the county in which the separate interests are situated a request that a mortgagee, trustee, or other person authorized to record a notice of default regarding any of those separate interests mail to the association a copy of any trustee's deed upon sale concerning a separate interest. The request shall include a legal description or the assessor's parcel number of all the separate interests. A request recorded pursuant to this subdivision shall include the name and address of the association and a statement that it is an association as defined in Section 4080 or 6528. Subsequent requests of an association shall supersede prior requests. A request pursuant to this subdivision shall be recorded before the filing of a notice of default. The mortgagee, trustee, or other authorized person shall mail the requested information to the association within 15 business days following the date of the trustee's sale. Failure to mail the request, pursuant to this subdivision, shall not affect the title to real property.
- (2) A request filed pursuant to paragraph (1) does not, for purposes of Section 27288.1 of the Government Code, constitute a document that either effects or evidences a transfer or encumbrance of an interest in real property or that releases or terminates any interest, right, or encumbrance of an interest in real property.
- (g) No request for a copy of any notice filed for record pursuant to this section, no statement or allegation in the request, and no record thereof shall affect the title to real property or be deemed notice to any person that any person requesting copies of notice has or claims any right, title, or interest in, or lien or charge upon the property described in the deed of trust or mortgage referred to therein.
- (h) "Business day," as used in this section, has the meaning specified in Section 9.

**SELECTED CORPORATIONS CODE
PROVISIONS AFFECTING COMMON
INTEREST DEVELOPMENTS**

Electronic Transmissions

20

**Definition of Electronic Transmission
by the Corporation**

“Electronic transmission by the corporation” means a communication (a) delivered by (1) facsimile telecommunication or electronic mail when directed to the facsimile number or electronic mail address, respectively, for that recipient on record with the corporation, (2) posting on an electronic message board or network which the corporation has designated for those communications, together with a separate notice to the recipient of the posting, which transmission shall be validly delivered upon the later of the posting or delivery of the separate notice thereof, or (3) other means of electronic communication, (b) to a recipient who has provided an unrevoked consent to the use of those means of transmission for communications under or pursuant to this code, and (c) that creates a record that is capable of retention, retrieval, and review, and that may thereafter be rendered into clearly legible tangible form. However, an electronic transmission under this code by a corporation to an individual shareholder or member of the corporation who is a natural person, and if an officer or director of the corporation, only if communicated to the recipient in that person’s capacity as a shareholder or member, is not authorized unless, in addition to satisfying the requirements of this section, the consent to the transmission has been preceded by or includes a clear written statement to the recipient as to (a) any right of the recipient to have the record provided or made available on paper or in nonelectronic form, (b) whether the consent applies only to that transmission, to specified categories of communications, or to all communications from the corporation, and (c) the procedures the recipient must use to withdraw consent.

21

**Definition of Electronic Transmission
to the Corporation**

“Electronic transmission to the corporation” means a communication (a) delivered by (1) facsimile telecommunication or electronic mail when directed to the facsimile number or electronic mail address, respectively, which the corporation has provided from time to time to shareholders or members and directors for sending communications to the corporation, (2) posting on an electronic message board or network which the corporation has designated for those communications, and

which transmission shall be validly delivered upon the posting, or (3) other means of electronic communication, (b) as to which the corporation has placed in effect reasonable measures to verify that the sender is the shareholder or member (in person or by proxy) or director purporting to send the transmission, and (c) that creates a record that is capable of retention, retrieval, and review, and that may thereafter be rendered into clearly legible tangible form.

5009

Mailing

Except as otherwise required, any reference in this part, Part 2, Part 3, Part 4 or Part 5 to mailing means first-, second-, or third-class mail, postage prepaid, unless registered mail is specified. Registered mail includes certified mail.

Notices In Newsletters

5016

**Notices or Reports Mailed or Delivered as Part of
Newsletter or Magazine**

A notice or report mailed or delivered as part of a newsletter, magazine or other organ regularly sent to members shall constitute written notice or report pursuant to this division when addressed and mailed or delivered to the member, or in the case of members who are residents of the same household and who have the same address on the books of the corporation, when addressed and mailed or delivered to one of such members, at the address appearing on the books of the corporation.

General

5033

**Approval By or Approval of a Majority of All
Members**

“Approval by (or approval of) a majority of all members” means approval by an affirmative vote (or written ballot in conformity with Section 5513, Section 7513, or Section 9413) of a majority of the votes entitled to be cast. Such approval shall include the affirmative vote of a majority of the outstanding memberships of each class, unit, or grouping of members entitled, by any provision of the articles or bylaws or of Part 2, Part 3, Part 4 or Part 5 to vote as a class, unit, or grouping of members on the subject matter being voted upon and shall also include the affirmative vote of such greater proportion, including all, of

the votes of the memberships of any class, unit, or grouping of members if such greater proportion is required by the bylaws (subdivision (e) of Section 5151, subdivision (e) of Section 7151, or subdivision (e) of Section 9151) or Part 2, Part 3, Part 4 or Part 5.

5034

Approval By or Approval of the Members

“Approval by (or approval of) the members” means approved or ratified by the affirmative vote of a majority of the votes represented and voting at a duly held meeting at which a quorum is present (which affirmative votes also constitute a majority of the required quorum) or written ballot in conformity with Section 5513, 7513, or 9413 or by the affirmative vote or written ballot of such greater proportion, including all of the votes of the memberships of any class, unit, or grouping of members as may be provided in the bylaws (subdivision (e) of Section 5151, subdivision (e) of Section 7151, or subdivision (e) of Section 9151) or in Part 2, Part 3, Part 4 or Part 5 for all or any specified member action.

5069

Proxy

“Proxy” means a written authorization signed by a member or the member’s attorney in fact giving another person or persons power to vote on behalf of such member. “Signed” for the purpose of this section means the placing of the member’s name on the proxy (whether by manual signature, typewriting, telegraphic transmission or otherwise) by the member or such member’s attorney in fact.

7210

Board of Directors; Exercise of Powers; Delegation of Management

Each corporation shall have a board of directors. Subject to the provisions of this part and any limitations in the articles or bylaws relating to action required to be approved by the members (Section 5034), or by a majority of all members (Section 5033), the activities and affairs of a corporation shall be conducted and all corporate powers shall be exercised by or under the direction of the board. The board may delegate the management of the activities of the corporation to any person or persons, management company, or committee however composed, provided that the activities and affairs of the corporation shall be managed and all corporate powers shall be exercised under the ultimate direction of the board.

7211

Meetings

- (a) Unless otherwise provided in the articles or in the bylaws, all of the following apply:
 - (1) Meetings of the board may be called by the chair of the board or the president or any vice president or the secretary or any two directors.
 - (2) Regular meetings of the board may be held without notice if the time and place of the meetings are fixed by the bylaws or the board. Special meetings of the board shall be held upon four days’ notice by first-class mail or 48 hours’ notice delivered personally or by telephone, including a voice messaging system or by electronic transmission by the corporation (Section 20). The articles or bylaws may not dispense with notice of a special meeting. A notice, or waiver of notice, need not specify the purpose of any regular or special meeting of the board.
 - (3) Notice of a meeting need not be given to a director who provided a waiver of notice or consent to holding the meeting or an approval of the minutes thereof in writing, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to that director. These waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meetings.
 - (4) A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. If the meeting is adjourned for more than 24 hours, notice of an adjournment to another time or place shall be given prior to the time of the adjourned meeting to the directors who were not present at the time of the adjournment.
 - (5) Meetings of the board may be held at a place within or without the state that has been designated in the notice of the meeting or, if not stated in the notice or if there is no notice, designated in the bylaws or by resolution of the board.
 - (6) Directors may participate in a meeting through use of conference telephone, electronic video screen communication, or electronic transmission by and to the corporation (Sections 20 and 21). Participation in a meeting through use of conference telephone or electronic video screen communication pursuant to this subdivision constitutes presence in person at that meeting as long as all directors participating in the meeting are able to hear one another. Participation in a meeting through use of electronic transmission by and to the corporation, other than conference telephone and electronic video screen communication, pursuant

to this subdivision constitutes presence in person at that meeting if both of the following apply:

- (A) Each director participating in the meeting can communicate with all of the other directors concurrently.
 - (B) Each director is provided the means of participating in all matters before the board, including, without limitation, the capacity to propose, or to interpose an objection to, a specific action to be taken by the corporation.
- (7) A majority of the number of directors authorized in or pursuant to the articles or bylaws constitutes a quorum of the board for the transaction of business. The articles or bylaws may require the presence of one or more specified directors in order to constitute a quorum of the board to transact business, as long as the death or nonexistence of a specified director or the death or nonexistence of the person or persons otherwise authorized to appoint or designate that director does not prevent the corporation from transacting business in the normal course of events. The articles or bylaws may not provide that a quorum shall be less than one-fifth the number of directors authorized in or pursuant to the articles or bylaws, or less than two, whichever is larger, unless the number of directors authorized in or pursuant to the articles or bylaws is one, in which case one director constitutes a quorum.
- (8) Subject to the provisions of Sections 7212, 7233, 7234, and subdivision (e) of Section 7237 and Section 5233, insofar as it is made applicable pursuant to Section 7238, an act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the board. The articles or bylaws may not provide that a lesser vote than a majority of the directors present at a meeting is the act of the board. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting, or a greater number required by this division, the articles or the bylaws.
- (b) An action required or permitted to be taken by the board may be taken without a meeting if all directors individually or collectively consent in writing to that action and if, subject to subdivision (a) of Section 7224, the number of directors then in office constitutes a quorum. The written consent or consents shall be filed with the minutes of the proceedings of the board. The action by written consent shall have the same force and effect as a unanimous vote of the directors. For purposes of this subdivision only, "all directors" does not include an "interested director" as defined in subdivision (a) of Section 5233, insofar as it is made applicable pursuant to Section 7238 or described in subdivision (a) of Section 7233, or a "common director" as described in subdivision (b) of Section 7233 who abstains in writing from providing consent, where (1) the facts described in paragraph (2) or (3) of subdivision

(d) of Section 5233 are established or the provisions of paragraph (1) or (2) of subdivision (a) of Section 7233 or in paragraph (1) or (2) of subdivision (b) of Section 7233 are satisfied, as appropriate, at or prior to execution of the written consent or consents; (2) the establishment of those facts or satisfaction of those provisions, as applicable, is included in the written consent or consents executed by the noninterested directors or noncommon directors or in other records of the corporation; and (3) the noninterested directors or noncommon directors, as applicable, approve the action by a vote that is sufficient without counting the votes of the interested directors or common directors.

- (c) Each director shall have one vote on each matter presented to the board of directors for action. No director may vote by proxy.
- (d) This section applies also to incorporators, to committees of the board, and to action by those incorporators or committees *mutatis mutandis*.

7212

Committees

- (a) The board may, by resolution adopted by a majority of the number of directors then in office, provided that a quorum is present, create one or more committees, each consisting of two or more directors, to serve at the pleasure of the board. Appointments to such committees shall be by a majority vote of the directors then in office, unless the articles or bylaws require a majority vote of the number of directors authorized in or pursuant to the articles or bylaws. The bylaws may authorize one or more such committees, each consisting of two or more directors, and may provide that a specified officer or officers who are also directors of the corporation shall be a member or members of such committee or committees. The board may appoint one or more directors as alternate members of such committee, who may replace any absent member at any meeting of the committee. Such committee, to the extent provided in the resolution of the board or in the bylaws, shall have all the authority of the board, except with respect to:
 - (1) The approval of any action for which this part also requires approval of the members (Section 5034) or approval of a majority of all members (Section 5033), regardless of whether the corporation has members.
 - (2) The filling of vacancies on the board or in any committee which has the authority of the board.
 - (3) The fixing of compensation of the directors for serving on the board or on any committee.
 - (4) The amendment or repeal of bylaws or the adoption of new bylaws.
 - (5) The amendment or repeal of any resolution of the board which by its express terms is not so amendable or repealable.

- (6) The appointment of committees of the board or the members thereof.
 - (7) The expenditure of corporate funds to support a nominee for director after there are more people nominated for director than can be elected.
 - (8) With respect to any assets held in charitable trust, the approval of any self-dealing transaction except as provided in paragraph (3) of subdivision (d) of Section 5233.
- (b) A committee exercising the authority of the board shall not include as members persons who are not directors. However, the board may create other committees that do not exercise the authority of the board and these other committees may include persons regardless of whether they are directors.
 - (c) Unless the bylaws otherwise provide, the board may delegate to any committee, appointed pursuant to paragraph (4) of subdivision (c) of Section 7151 or otherwise, powers as authorized by Section 7210, but may not delegate the powers set forth in paragraphs (1) to (8), inclusive, of subdivision (a).

7213

Officers

- (a) A corporation shall have (1) a chair of the board, who may be given the title chair, chairperson, chair of the board, or chairperson of the board, or a president or both, (2) a secretary, (3) a treasurer or a chief financial officer or both, and (4) any other officers with any titles and duties as shall be stated in the bylaws or determined by the board and as may be necessary to enable it to sign instruments. The president, or if there is no president the chair of the board, is the general manager and chief executive officer of the corporation, unless otherwise provided in the articles or bylaws. Unless otherwise specified in the articles or the bylaws, if there is no chief financial officer, the treasurer is the chief financial officer of the corporation. Any number of offices may be held by the same person unless the articles or bylaws provide otherwise. Where a corporation holds assets in charitable trust, any compensation of the president or chief executive officer and the chief financial officer or treasurer shall be determined in accordance with subdivision (g) of Section 12586 of the Government Code, if applicable.
- (b) Except as otherwise provided by the articles or bylaws, officers shall be chosen by the board and serve at the pleasure of the board, subject to the rights, if any, of an officer under any contract of employment. Any officer may resign at any time upon written notice to the corporation without prejudice to the rights, if any, of the corporation under any contract to which the officer is a party.

Directors and Officers

7220

Election; Term

- (a) Except as provided in subdivision (d), (e), or (f), directors shall be elected for terms of not longer than four years, as fixed in the articles or bylaws. However, the terms of directors of a corporation without members may be up to six years. In the absence of any provision in the articles or bylaws, the term shall be one year. The articles or bylaws may provide for staggering the terms of directors by dividing the total number of directors into groups of one or more directors. The terms of office of the several groups and the number of directors in each group need not be uniform. No amendment of the articles or bylaws may extend the term of a director beyond that for which the director was elected, nor may any bylaw provision increasing the terms of directors be adopted without approval of the members (Section 5034).
- (b) Except as otherwise provided in the articles or bylaws, each director, including a director elected to fill a vacancy, shall hold office until the expiration of the term for which elected and until a successor has been elected and qualified, unless the director has been removed from office.
- (c) The articles or bylaws may provide for the election of one or more directors by the members of any class voting as a class.
- (d) For the purposes of this subdivision, "designator" means one or more designators. Notwithstanding subdivisions (a) to (c), inclusive, all or any portion of the directors authorized in the articles or bylaws of a corporation may hold office by virtue of designation or selection by a specified designator as provided by the articles or bylaws rather than by election. Those directors shall continue in office for the term prescribed by the governing article or bylaw provision, or, if there is no term prescribed, until the governing article or bylaw provision is duly amended or repealed, except as provided in subdivision (e) of Section 7222. A bylaw provision authorized by this subdivision may be adopted, amended, or repealed only by approval of the members (Section 5034), except as provided in subdivision (d) of Section 7150. Unless otherwise provided in the articles or bylaws, the entitlement to designate or select a director or directors shall cease if any of the following circumstances exist:
 - (1) The specified designator of that director or directors has died or ceased to exist.
 - (2) If the entitlement of the specified designator of that director or directors to designate is in the capacity of an officer, trustee, or other status and the office, trust, or status has ceased to exist.
- (e) If a corporation has not issued memberships and (1) all the directors resign, die, or become incompetent, or (2)

a corporation's initial directors have not been named in the articles and all incorporators resign, die, or become incompetent before the election of the initial directors, the superior court of any county may appoint directors of the corporation upon application by any party in interest.

- (f) If authorized in the articles or bylaws of a corporation, all or any portion of the directors may hold office ex officio by virtue of occupying a specified position within the corporation or outside the corporation. The term of office of an ex officio director shall coincide with that director's respective term of office in the specified position entitling him or her to serve on the board of directors. Upon an ex officio director's resignation or removal from that position, or resignation or removal from the board for any reason, the term of office as a director of the corporation shall immediately cease. At that time, the successor in office shall become an ex officio director of the corporation, occupying the place of the former director.

7221

Declaration of Vacancy; Grounds; Director Qualifications

- (a) The board may declare vacant the office of a director who has been declared of unsound mind by a final order of court, or convicted of a felony, or, in the case of a corporation holding assets in charitable trust, has been found by a final order or judgment of any court to have breached any duty arising as a result of Section 7238, or, if at the time a director is elected, the bylaws provide that a director may be removed for missing a specified number of board meetings, fails to attend the specified number of meetings.
- (b) As provided in paragraph (3) of subdivision (c) of Section 7151, the articles or bylaws may prescribe the qualifications of the directors. The board, by a majority vote of the directors who meet all of the required qualifications to be a director, may declare vacant the office of any director who fails or ceases to meet any required qualification that was in effect at the beginning of that director's current term of office.

7222

Removal; Reduction in Number

- (a) Subject to subdivisions (b) and (f), any or all directors may be removed without cause if:
- (1) In a corporation with fewer than 50 members, the removal is approved by a majority of all members (Section 5033).
 - (2) In a corporation with 50 or more members, the removal is approved by the members (Section 5034).

- (3) In a corporation with no members, the removal is approved by a majority of the directors then in office.
- (b) Except for a corporation having no members, pursuant to Section 7310:
- (1) In a corporation in which the articles or bylaws authorize members to cumulate their votes pursuant to subdivision (a) of Section 7615, no director may be removed (unless the entire board is removed) when the votes cast against removal, or not consenting in writing to the removal, would be sufficient to elect the director if voted cumulatively at an election at which the same total number of votes were cast (or, if the action is taken by written ballot, all memberships entitled to vote were voted) and the entire number of directors authorized at the time of the director's most recent election were then being elected.
 - (2) When by the provisions of the articles or bylaws the members of any class, voting as a class, are entitled to elect one or more directors, any director so elected may be removed only by the applicable vote of the members of that class.
 - (3) When by the provisions of the articles or bylaws the members within a chapter or other organizational unit, or region or other geographic grouping, voting as such, are entitled to elect one or more directors, any director so elected may be removed only by the applicable vote of the members within the organizational unit or geographic grouping.
- (c) Any reduction of the authorized number of directors or any amendment reducing the number of classes of directors does not remove any director prior to the expiration of the director's term of office unless the reduction or amendment also provides for the removal of one or more specified directors.
- (d) Except as provided in this section and Sections 7221 and 7223, a director may not be removed prior to the expiration of the director's term of office.
- (e) Where a director removed under this section or Section 7221 or 7223 was chosen by designation pursuant to subdivision (d) of Section 7220, then:
- (1) Where a different person may be designated pursuant to the governing article or bylaw provision, the new designation shall be made.
 - (2) Where the governing article or bylaw provision contains no provision under which a different person may be designated, the governing article or bylaw provision shall be deemed repealed.
- (f) For the purposes of this subdivision, "designator" means one or more designators. If by the provisions of the articles or bylaws a designator is entitled to designate one or more directors, then:

- (1) Unless otherwise provided in the articles or bylaws at the time of designation, any director so designated may be removed without cause by the designator of that director.
- (2) Any director so designated may only be removed under subdivision (a) with the written consent of the designator of that director.
- (3) Unless otherwise provided in the articles or bylaws, the right to remove shall not apply if any of the following circumstances exist:
 - (A) The designator entitled to that right has died or ceased to exist.
 - (B) If that right is in the capacity of an officer, trustee, or other status, and the office, trust, or status has ceased to exist.

7224

Filling Vacancies; Resignation; Successor to Take Office at Effective Date of Resignation

- (a) Unless otherwise provided in the articles or bylaws and except for a vacancy created by the removal of a director, vacancies on the board may be filled by approval of the board (Section 5032) or, if the number of directors then in office is less than a quorum, by (1) the unanimous written consent of the directors then in office, (2) the affirmative vote of a majority of the directors then in office at a meeting held pursuant to notice or waivers of notice complying with Section 7211, or (3) a sole remaining director. Unless the articles or a bylaw approved by the members (Section 5034) provide that the board may fill vacancies occurring in the board by reason of the removal of directors, or unless the corporation has no members pursuant to Section 7310, such vacancies may be filled only by approval of the members (Section 5034).
- (b) The members may elect a director at any time to fill any vacancy not filled by the directors.
- (c) Any director may resign effective upon giving written notice to the chairperson of the board, the president, the secretary, or the board of directors of the corporation, unless the notice specifies a later time for the effectiveness of such resignation. If the resignation is effective at a future time, a successor may be elected to take office when the resignation becomes effective.

7231

Performance of Duties; Degree of Care; Reliance on Reports, Etc.; Good Faith; Exemption From Liability

- (a) A director shall perform the duties of a director, including duties as a member of any committee of the board upon which the director may serve, in good faith, in a manner such director believes to be in the best interests of the corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.
- (b) In performing the duties of a director, a director shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by:
 - (1) One or more officers or employees of the corporation whom the director believes to be reliable and competent in the matters presented;
 - (2) Counsel, independent accountants or other persons as to matters which the director believes to be within such person's professional or expert competence; or
 - (3) A committee upon which the director does not serve that is composed exclusively of any or any combination of directors, persons described in paragraph (1), or persons described in paragraph (2), as to matters within the committee's designated authority, which committee the director believes to merit confidence, so long as, in any case, the director acts in good faith, after reasonable inquiry when the need therefor is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted.
- (c) A person who performs the duties of a director in accordance with subdivisions (a) and (b) shall have no liability based upon any alleged failure to discharge the person's obligations as a director, including, without limiting the generality of the foregoing, any actions or omissions which exceed or defeat a public or charitable purpose to which assets held by a corporation are dedicated.

7233

Conflicts of Interest; Disclosure; Common Directorships; Just and Reasonable Contracts

- (a) No contract or other transaction between a corporation and one or more of its directors, or between a corporation and any domestic or foreign corporation, firm or association in which one or more of its directors has a material financial interest, is either void or voidable because such director or directors or such other corporation, business corporation,

firm or association are parties or because such director or directors are present at the meeting of the board or a committee thereof which authorizes, approves or ratifies the contract or transaction, if:

- (1) The material facts as to the transaction and as to such director's interest are fully disclosed or known to the members and such contract or transaction is approved by the members (Section 5034) in good faith, with any membership owned by any interested director not being entitled to vote thereon;
- (2) The material facts as to the transaction and as to such director's interest are fully disclosed or known to the board or committee, and the board or committee authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient without counting the vote of the interested director or directors and the contract or transaction is just and reasonable as to the corporation at the time it is authorized, approved or ratified; or
- (3) As to contracts or transactions not approved as provided in paragraph (1) or (2) of this subdivision, the person asserting the validity of the contract or transaction sustains the burden of proving that the contract or transaction was just and reasonable as to the corporation at the time it was authorized, approved or ratified.

A mere common directorship does not constitute a material financial interest within the meaning of this subdivision. A director is not interested within the meaning of this subdivision in a resolution fixing the compensation of another director as a director, officer or employee of the corporation, notwithstanding the fact that the first director is also receiving compensation from the corporation.

- (b) No contract or other transaction between a corporation and any corporation, business corporation or association of which one or more of its directors are directors is either void or voidable because such director or directors are present at the meeting of the board or a committee thereof which authorizes, approves or ratifies the contract or transaction, if:
 - (1) The material facts as to the transaction and as to such director's other directorship are fully disclosed or known to the board or committee, and the board or committee authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient without counting the vote of the common director or directors or the contract or transaction is approved by the members (Section 5034) in good faith; or
 - (2) As to contracts or transactions not approved as provided in paragraph (1) of this subdivision, the contract or transaction is just and reasonable as to the corporation at the time it is authorized, approved or ratified.

This subdivision does not apply to contracts or transactions covered by subdivision (a).

Member Discipline/Rights

7341

Expulsion, Suspension or Termination; Fairness and Reasonableness; Procedure

- (a) No member may be expelled or suspended, and no membership or memberships may be terminated or suspended, except according to procedures satisfying the requirements of this section. An expulsion, termination or suspension not in accord with this section shall be void and without effect.
- (b) Any expulsion, suspension, or termination must be done in good faith and in a fair and reasonable manner. Any procedure which conforms to the requirements of subdivision (c) is fair and reasonable, but a court may also find other procedures to be fair and reasonable when the full circumstances of the suspension, termination, or expulsion are considered.
- (c) A procedure is fair and reasonable when:
 - (1) The provisions of the procedure have been set forth in the articles or bylaws, or copies of such provisions are sent annually to all the members as required by the articles or bylaws;
 - (2) It provides the giving of 15 days' prior notice of the expulsion, suspension or termination and the reasons therefor; and
 - (3) It provides an opportunity for the member to be heard, orally or in writing, not less than five days before the effective date of the expulsion, suspension or termination by a person or body authorized to decide that the proposed expulsion, termination or suspension not take place.
- (d) Any notice required under this section may be given by any method reasonably calculated to provide actual notice. Any notice given by mail must be given by first-class or registered mail sent to the last address of the members shown on the corporation's records.
- (e) Any action challenging an expulsion, suspension or termination of membership, including any claim alleging defective notice, must be commenced within one year after the date of the expulsion, suspension or termination. In the event such an action is successful the court may order any relief, including reinstatement, it finds equitable under the circumstances, but no vote of the members or of the board may be set aside solely because a person was at the time of the vote wrongfully excluded by virtue of the challenged expulsion, suspension or termination, unless the court

finds further that the wrongful expulsion, suspension or termination was in bad faith and for the purpose, and with the effect, of wrongfully excluding the member from the vote or from the meeting at which the vote took place, so as to affect the outcome of the vote.

- (f) This section governs only the procedures for expulsion, suspension or termination and not the substantive grounds therefore. An expulsion, suspension or termination based upon substantive grounds which violate contractual or other rights of the member or are otherwise unlawful is not made valid by compliance with this section.
- (g) A member who is expelled or suspended or whose membership is terminated shall be liable for any charges incurred, services or benefits actually rendered, dues, assessments or fees incurred before the expulsion, suspension or termination or arising from contract or otherwise.

Meetings/Voting

7510

Annual Meetings; Place; Written Ballot; Court Order for Meeting; Special Meetings

- (a) Meetings of members may be held at a place within or without this state as may be stated in or fixed in accordance with the bylaws. If no other place is stated or so fixed, meetings of members shall be held at the principal office of the corporation. Subject to any limitations in the articles or bylaws of the corporation, if authorized by the board of directors in its sole discretion, and subject to those guidelines and procedures as the board of directors may adopt, members not physically present in person (or, if proxies are allowed, by proxy) at a meeting of members may, by electronic transmission by and to the corporation (Sections 20 and 21), electronic video screen communication, conference telephone, or other means of remote communication, participate in a meeting of members, be deemed present in person (or, if proxies are allowed, by proxy), and vote at a meeting of members, subject to subdivision (f).
- (b) A regular meeting of members shall be held on a date and time, and with the frequency stated in or fixed in accordance with the bylaws, but in any event in each year in which directors are to be elected at that meeting for the purpose of conducting such election, and to transact any other proper business which may be brought before the meeting.
- (c) If a corporation with members is required by subdivision (b) to hold a regular meeting and fails to hold the regular meeting for a period of 60 days after the date designated therefor or, if no date has been designated, for a period of 15 months after the formation of the corporation or after its last regular meeting, or if the corporation fails to

hold a written ballot for a period of 60 days after the date designated therefor, then the superior court of the proper county may summarily order the meeting to be held or the ballot to be conducted upon the application of a member or the Attorney General, after notice to the corporation giving it an opportunity to be heard.

- (d) The votes represented, either in person (or, if proxies are allowed, by proxy), at a meeting called or by written ballot ordered pursuant to subdivision (c), and entitled to be cast on the business to be transacted shall constitute a quorum, notwithstanding any provision of the articles or bylaws or in this part to the contrary. The court may issue such orders as may be appropriate including, without limitation, orders designating the time and place of the meeting, the record date for determination of members entitled to vote, and the form of notice of the meeting.
- (e) Special meetings of members for any lawful purpose may be called by the board, the chairperson of the board, the president, or such other persons, if any, as are specified in the bylaws. In addition, special meetings of members for any lawful purpose may be called by 5 percent or more of the members.
- (f) A meeting of the members may be conducted, in whole or in part, by electronic transmission by and to the corporation, electronic video screen communication, conference telephone, or other means of remote communication if the corporation implements reasonable measures: (1) to provide members and proxyholders, if proxies are allowed, a reasonable opportunity to participate in the meeting and to vote on matters submitted to the members, including an opportunity to read or hear the proceedings of the meeting concurrently with those proceedings, (2) if any member or proxyholder, if proxies are allowed, votes or takes other action at the meeting by means of electronic transmission to the corporation, electronic video screen communication, conference telephone, or other means of remote communication, to maintain a record of that vote or action in its books and records, and (3) to verify that each person who has voted remotely is a member or proxyholder, if proxies are allowed. A corporation shall not conduct a meeting of members solely by electronic transmission by and to the corporation, electronic video screen communication, conference telephone, or other means of remote communication unless one or more of the following conditions apply: (A) all of the members consent; (B) the board determines it is necessary or appropriate because of an emergency, as defined in paragraph (5) of subdivision (m) of Section 7140; or (C) notwithstanding the absence of consent from all members pursuant to (A) or subdivision (b) of Section 20, the meeting *** includes a live audiovisual feed for the duration of the meeting. A corporation holding a meeting pursuant to (C) may offer, in addition to remote audiovisual feed, an audio-only means by which a member or proxyholder may participate provided that the choice between participating via audiovisual or via audio-only means is made by the member or proxyholder and the corporation does not impose any barriers to either mode of participation. A de minimis disruption of an audio or audiovisual feed does not

require a corporation to end a meeting under, or render the corporation out of compliance with, this subdivision.

7511

Notice of Meeting

- (a) Whenever members are required or permitted to take any action at a meeting, a written notice of the meeting shall be given not less than 10 nor more than 90 days before the date of the meeting to each member who, on the record date for notice of the meeting, is entitled to vote thereat; provided, however, that if notice is given by mail, and the notice is not mailed by first-class, registered, or certified mail, that notice shall be given not less than 20 days before the meeting. Subject to subdivision (f), and subdivision (b) of Section 7512, the notice shall state the place, date and time of the meeting, the means of electronic transmission by and to the corporation (Sections 20 and 21), electronic video screen communication, conference telephone, or other means of remote communication, if any, by which members may participate in that meeting, and (1) in the case of a special meeting, the general nature of the business to be transacted, and no other business may be transacted, or (2) in the case of the regular meeting, those matters which the board, at the time the notice is given, intends to present for action by the members, but, except as provided in subdivision (b) of Section 7512, any proper matter may be presented at the meeting for the action. The notice of any meeting at which directors are to be elected shall include the names of all those who are nominees at the time the notice is given to members.
- (b) (1) Notice of a members' meeting or any report shall be given personally, by electronic transmission by a corporation, or by mail or other means of written communication, addressed to a member at the address of the member appearing on the books of the corporation or given by the member to the corporation for purpose of notice, or if no such address appears or is given, at the place where the principal office of the corporation is located or by publication at least once in a newspaper of general circulation in the county in which the principal office is located. Notwithstanding the foregoing, the notice of a members' meeting or any report may be sent by electronic communication or other means of remote communication if the board determines it is necessary or appropriate because of an emergency, as defined in paragraph (5) of subdivision (m) of Section 7140. An affidavit of giving of any notice or report as permitted because of an emergency or otherwise in accordance with the provisions of this part, executed by the secretary, assistant secretary, or any transfer agent, shall be prima facie evidence of the giving of the notice or report.
- (2) If any notice or report addressed to the member at the address of the member appearing on the books of the corporation is returned to the corporation by the United States Postal Service marked to indicate that the United States Postal Service is unable to deliver the notice or report to the member at the address, all future notices or reports shall be deemed to have been duly given without further mailing if the same shall be available for the member upon written demand of the member at the principal office of the corporation for a period of one year from the date of the giving of the notice or report to all other members.
- (3) (A) Notice given by electronic transmission by the corporation under this subdivision shall be valid only if it complies with Section 20. Notwithstanding the foregoing, notice shall not be given by electronic transmission by the corporation under this subdivision after either of the following:
- (i) The corporation is unable to deliver two consecutive notices to the member by that means.
- (ii) The inability to so deliver the notices to the member becomes known to the secretary, any assistant secretary, the transfer agent, or other person responsible for the giving of the notice.
- (B) This paragraph shall not apply if notices are provided by electronic communication or other means of remote communication as permitted because of an emergency.
- (c) Upon request in writing to the corporation addressed to the attention of the chairperson of the board, president, vice president, or secretary by any person (other than the board) entitled to call a special meeting of members, the officer forthwith shall cause notice to be given to the members entitled to vote that a meeting will be held at a time fixed by the board not less than 35 nor more than 90 days after the receipt of the request. If the corporation is a common interest development, as defined in Section 4100 of the Civil Code, the corporation shall cause notice to be given to the members entitled to vote that a meeting will be held at a time fixed by the board not less than 35 nor more than 150 days after receipt of the request. If the notice is not given within 20 days after receipt of the request, the persons entitled to call the meeting may give the notice or the superior court of the proper county shall summarily order the giving of the notice, after notice to the corporation giving it an opportunity to be heard. The court may issue such orders as may be appropriate, including, without limitation, orders designating the time and place of the meeting, the record date for determination of members entitled to vote, and the form of notice.
- (d) When a members' meeting is adjourned to another time or place, unless the bylaws otherwise require and except as provided in this subdivision, notice need not be given of the adjourned meeting if the time and place thereof (or the means of electronic transmission by and to the corporation or electronic video screen communication, conference telephone, or other means of remote communication, if any,

by which members may participate) are announced at the meeting at which the adjournment is taken. No meeting may be adjourned for more than 45 days. At the adjourned meeting the corporation may transact any business which might have been transacted at the original meeting. If after the adjournment a new record date is fixed for notice or voting, a notice of the adjourned meeting shall be given to each member who, on the record date for notice of the meeting, is entitled to vote at the meeting.

- (e) The transactions of any meeting of members however called and noticed, and wherever held, are as valid as though had at a meeting duly held after regular call and notice, if a quorum is present either in person or by proxy, and if, either before or after the meeting, each of the persons entitled to vote, not present in person (or, if proxies are allowed, by proxy), provides a waiver of notice or consent to the holding of the meeting or an approval of the minutes thereof in writing. All such waivers, consents, and approvals shall be filed with the corporate records or made a part of the minutes of the meeting. Attendance of a person at a meeting shall constitute a waiver of notice of and presence at the meeting, except when the person objects, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened and except that attendance at a meeting is not a waiver of any right to object to the consideration of matters required by this part to be included in the notice but not so included, if the objection is expressly made at the meeting. Neither the business to be transacted at nor the purpose of any regular or special meeting of members need be specified in any written waiver of notice, consent to the holding of the meeting or approval of the minutes thereof, unless otherwise provided in the articles or bylaws, except as provided in subdivision (f).
- (f) Any approval of the members required under Section 7222, 7224, 7233, 7812, 8610, or 8719, other than unanimous approval by those entitled to vote, shall be valid only if the general nature of the proposal so approved was stated in the notice of meeting or in any written waiver of notice.
- (g) A court may find that notice not given in conformity with this section is still valid, if it was given in a fair and reasonable manner.

7512

Quorum

- (a) One-third of the voting power, represented in person or by proxy, shall constitute a quorum at a meeting of members, but, subject to subdivisions (b) and (c), a bylaw may set a different quorum. Any bylaw amendment to increase the quorum may be adopted only by approval of the members (Section 5034). If a quorum is present, the affirmative vote of the majority of the voting power represented at the meeting, entitled to vote, and voting on any matter shall be the act of the members unless the vote of a greater number

or voting by classes is required by this part or the articles or bylaws.

- (b) Where a bylaw authorizes a corporation to conduct a meeting with a quorum of less than one-third of the voting power, then the only matters that may be voted upon at any regular meeting actually attended, in person or by proxy, by less than one-third of the voting power are matters notice of the general nature of which was given, pursuant to the first sentence of subdivision (a) of Section 7511.
- (c) Subject to subdivision (b), the members present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment notwithstanding the withdrawal of enough members to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the members required to constitute a quorum or, if required by this division, or by the articles or the bylaws, the vote of the greater number or voting by classes.
- (d) In the absence of a quorum, any meeting of members may be adjourned from time to time by the vote of a majority of the votes represented either in person or by proxy, but no other business may be transacted, except as provided in subdivision (c).
- (e) For an election of directors of a corporation that is a common interest development, and in the absence of meeting quorum as required by the association's governing documents or this section, unless a lower quorum for a reconvened meeting is authorized by an association's governing documents, the corporation may adjourn the meeting to a date at least 20 days after the adjourned meeting, at which time the quorum required for purposes of a reconvened meeting to elect directors shall be 20 percent of the association's members, voting in person, by proxy, or by secret ballot.

7513

Acts without Meeting; Written Ballot; Number of Ballots and Approvals; Solicitation; Revocation of Ballots; Election of Directors

- (a) Subject to subdivision (e), and unless prohibited in the articles or bylaws, any action which may be taken at any regular or special meeting of members may be taken without a meeting if the corporation distributes a written ballot to every member entitled to vote on the matter. Unless otherwise provided by the articles or bylaws and if approved by the board of directors, that ballot and any related material may be sent by electronic transmission by the corporation (Section 20) and responses may be returned to the corporation by electronic transmission to the corporation (Section 21). That ballot shall set forth the proposed action, provide an opportunity to specify approval or disapproval of any proposal, and provide a reasonable time within which to return the ballot to the corporation.

- (b) Approval by written ballot pursuant to this section shall be valid only when the number of votes cast by ballot within the time period specified equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.
- (c) Ballots shall be solicited in a manner consistent with the requirements of subdivision (b) of Section 7511 and Section 7514. All such solicitations shall indicate the number of responses needed to meet the quorum requirement and, with respect to ballots other than for the election of directors, shall state the percentage of approvals necessary to pass the measure submitted. The solicitation must specify the time by which the ballot must be received in order to be counted.
- (d) Unless otherwise provided in the articles or bylaws, a written ballot may not be revoked.
- (e) Directors may be elected by written ballot under this section, where authorized by the articles or bylaws, except that election by written ballot may not be authorized where the directors are elected by cumulative voting pursuant to Section 7615.
- (f) When directors are to be elected by written ballot and the articles or bylaws prescribe a nomination procedure, the procedure may provide for a date for the close of nominations prior to the printing and distributing of the written ballots.

7514

Form of Proxy or Written Ballot

- (a) Any form of proxy or written ballot distributed to 10 or more members of a corporation with 100 or more members shall afford an opportunity on the proxy or form of written ballot to specify a choice between approval and disapproval of each matter or group of related matters intended, at the time the written ballot or proxy is distributed, to be acted upon at the meeting for which the proxy is solicited or by such written ballot, and shall provide, subject to reasonable specified conditions, that where the person solicited specifies a choice with respect to any such matter the vote shall be cast in accordance therewith.
- (b) In any election of directors, any form of proxy or written ballot in which the directors to be voted upon are named therein as candidates and which is marked by a member "withhold" or otherwise marked in a manner indicating that the authority to vote for the election of directors is withheld shall not be voted either for or against the election of a director.
- (c) Failure to comply with this section shall not invalidate any corporate action taken, but may be the basis for challenging

any proxy at a meeting or written ballot and the superior court may compel compliance therewith at the suit of any member.

7517

Ballots, Proxies; Good Faith Acceptance or Rejection

- (a) If the name signed on a ballot, consent, waiver, or proxy appointment corresponds to the name of a member, the corporation if acting in good faith is entitled to accept the ballot, consent, waiver or proxy appointment and give it effect as the act of the member.
- (b) If the name signed on a ballot, consent, waiver, or proxy appointment does not correspond to the record name of a member, the corporation if acting in good faith is nevertheless entitled to accept the ballot, consent, waiver, or proxy appointment and give it effect as the act of the member if any of the following occur:
- (1) The member is an entity and the name signed purports to be that of an officer or agent of the entity.
 - (2) The name signed purports to be that of an attorney-in-fact of the member and if the corporation requests, evidence acceptable to the corporation of the signatory's authority to sign for the member has been presented with respect to the ballot, consent, waiver, or proxy appointment.
 - (3) Two or more persons hold the membership as cotenants or fiduciaries and the name signed purports to be the name of at least one of the coholders and the person signing appears to be acting on behalf of all the coholders.
 - (4) The name signed purports to be that of an administrator, executor, guardian, or conservator representing the member and, if the corporation requests, evidence of fiduciary status acceptable to the corporation has been presented with respect to the ballot, consent, waiver, or proxy appointment.
 - (5) The name signed purports to be that of a receiver or trustee in bankruptcy of the member, and, if the corporation requests, evidence of this status acceptable to the corporation has been presented with respect to the ballot, consent, waiver, or proxy appointment.
- (c) The corporation is entitled to reject a ballot, consent, waiver, or proxy appointment if the secretary or other officer or agent authorized to tabulate votes, acting in good faith, has a reasonable basis for doubt concerning the validity of the signature or the signatory's authority to sign for the member.
- (d) The corporation and any officer or agent thereof who accepts or rejects a ballot, consent, waiver, or proxy

appointment in good faith and in accordance with the standards of this section shall not be liable in damages to the member for the consequences of the acceptance or rejection.

- (e) Corporate action based on the acceptance or rejection of a ballot, consent, waiver, or proxy appointment under this section is valid unless a court of competent jurisdiction determines otherwise.

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7527

Time to Contest Election, Appointment, Or Removal of Director; Defect in Notice

An action challenging the validity of any election, appointment or removal of a director or directors must be commenced within nine months after the election, appointment or removal. If no such action is commenced, in the absence of fraud, any election, appointment or removal of a director is conclusively presumed valid nine months thereafter.

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7611

Record Date; Right to Vote; Notice; Adjournment

- (a) The bylaws may provide or, in the absence of such provision, the board may fix, in advance, a date as the record date for the purpose of determining the members entitled to notice of any meeting of members. Such record date shall not be more than 90 nor less than 10 days before the date of the meeting. If no record date is fixed, members at the close of business on the business day preceding the day on which notice is given or, if notice is waived, at the close of business on the business day preceding the day on which the meeting is held are entitled to notice of a meeting of members. A determination of members entitled to notice of a meeting of members shall apply to any adjournment of the meeting unless the board fixes a new record date for the adjourned meeting.
- (b) The bylaws may provide or, in the absence of such provision, the board may fix, in advance, a date as the record date for the purpose of determining the members entitled to vote at a meeting of members. Such record date shall not be more than 60 days before the date of the meeting. Such record date shall also apply in the case of an adjournment of the meeting unless the board fixes a new record date for the adjourned meeting. If no record date is fixed, members on the day of the meeting who are otherwise eligible to vote are entitled to vote at the meeting of members or, in the case of an adjourned meeting, members on the day of the adjourned meeting who are otherwise eligible to vote are entitled to vote at the adjourned meeting of members.
- (c) The bylaws may provide or, in the absence of such provision, the board may fix, in advance, a date as the record date for

the purpose of determining the members entitled to cast written ballots (Section 7513). Such record date shall not be more than 60 days before the day on which the first written ballot is mailed or solicited. If no record date is fixed, members on the day the first written ballot is mailed or solicited who are otherwise eligible to vote are entitled to cast written ballots.

- (d) The bylaws may provide or, in the absence of such provision, the board may fix, in advance, a date as the record date for the purpose of determining the members entitled to exercise any rights in respect of any other lawful action. Such record date shall not be more than 60 days prior to such other action. If no record date is fixed, members at the close of business on the day on which the board adopts the resolution relating thereto, or the 60th day prior to the date of such other action, whichever is later, are entitled to exercise such rights.

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7612

Membership in Names of Two or More Persons

If a membership stands of record in the names of two or more persons, whether fiduciaries, members of a partnership, joint tenants, tenants in common, spouses as community property, tenants by the entirety, persons entitled to vote under a voting agreement or otherwise, or if two or more persons (including proxyholders) have the same fiduciary relationship respecting the same membership, unless the secretary of the corporation is given written notice to the contrary and is furnished with a copy of the instrument or order appointing them or creating the relationship wherein it is so provided, their acts with respect to voting shall have the following effect:

- (a) If only one votes, such act binds all; or
- (b) If more than one vote, the act of the majority so voting binds all.

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7613

Proxies

- (a) Any member may authorize another person or persons to act by proxy with respect to such membership except that this right may be limited or withdrawn by the articles or bylaws, subject to subdivision (f). Any proxy purported to be executed in accordance with the provisions of this part shall be presumptively valid.
- (b) No proxy shall be valid after the expiration of 11 months from the date thereof unless otherwise provided in the proxy, except that the maximum term of any proxy shall be three years from the date of execution. Every proxy continues in full force and effect until revoked by the person executing it prior to the vote pursuant thereto, except as

otherwise provided in this section. Such revocation may be effected by a writing delivered to the corporation stating that the proxy is revoked or by a subsequent proxy executed by the person executing the prior proxy and presented to the meeting, or as to any meeting by attendance at such meeting and voting in person by the person executing the proxy. The dates contained on the forms of proxy presumptively determine the order of execution, regardless of the postmark dates on the envelopes in which they are mailed.

- (c) A proxy is not revoked by the death or incapacity of the maker or the termination of a membership as a result thereof unless, before the vote is counted, written notice of such death or incapacity is received by the corporation.
- (d) Unless otherwise provided in the articles or bylaws, the proxy of a member which states that it is irrevocable is irrevocable for the period specified therein (notwithstanding subdivisions (b) and (c)) when it is held by any of the following or a nominee of any of the following:
 - (1) A person who has purchased or who has agreed to purchase the membership;
 - (2) A creditor or creditors of the corporation or the member who extended or continued credit to the corporation or the member in consideration of the proxy if the proxy states that it was given in consideration of such extension or continuation of credit and the name of the person extending or continuing the credit; or
 - (3) A person who has contracted to perform services as an employee of the corporation, if the proxy is required by the contract of employment and if the proxy states that it was given in consideration of such contract of employment, the name of the employee and the period of employment contracted for.

Notwithstanding the period of irrevocability specified, the proxy becomes revocable when the agreement to purchase is terminated; the debt of the corporation or the member is paid; or the period of employment provided for in the contract of employment has terminated. In addition to the foregoing paragraphs (1) through (3), a proxy of a member may be made irrevocable (notwithstanding subdivision (c)) if it is given to secure the performance of a duty or to protect a title, either legal or equitable, until the happening of events which, by its terms, discharge the obligations secured by it.

- (e) A proxy may be revoked, notwithstanding a provision making it irrevocable, by a transferee of a membership without knowledge of the existence of the provision unless the existence of the proxy and its irrevocability appears on the certificate representing the membership.
- (f) Subdivision (a) notwithstanding:
 - (1) No amendment of the articles or bylaws repealing, restricting, creating or expanding proxy rights may be

adopted without approval by the members (Section 5034); and

- (2) No amendment of the articles or bylaws restricting or limiting the use of proxies may affect the validity of a previously issued irrevocable proxy during the term of its irrevocability, so long as it complied with applicable provisions, if any, of the articles or bylaws at the time of its issuance, and is otherwise valid under this section.
- (g) Anything to the contrary notwithstanding, any revocable proxy covering matters requiring a vote of the members pursuant to Section 7222; Section 7224; Section 7233; paragraph (1) of subdivision (f) of this section; Section 7812; paragraph (2) of subdivision (a) of Section 7911; Section 8012; subdivision (a) of Section 8015; Section 8610; or subdivision (a) of Section 8719 is not valid as to such matters unless it sets forth the general nature of the matter to be voted on.

7614

Inspectors of Election

- (a) In advance of any meeting of members, the board may appoint inspectors of election to act at the meeting and any adjournment thereof. If inspectors of election are not so appointed, or if any persons so appointed fail to appear or refuse to act, the chairperson of any meeting of members may, and on the request of any member or a member's proxy shall, appoint inspectors of election (or persons to replace those who so fail or refuse) at the meeting. The number of inspectors shall be either one or three. If appointed at a meeting on the request of one or more members or proxies, the majority of members represented in person or by proxy shall determine whether one or three inspectors are to be appointed. In the case of any action by written ballot (Section 7513), the board may similarly appoint inspectors of election to act with powers and duties as set forth in this section.
- (b) The inspectors of election shall determine the number of memberships outstanding and the voting power of each, the number represented at the meeting, the existence of a quorum, and the authenticity, validity and effect of proxies, receive votes, ballots or consents, hear and determine all challenges and questions in any way arising in connection with the right to vote, count and tabulate all votes or consents, determine when the polls shall close, determine the result and do such acts as may be proper to conduct the election or vote with fairness to all members.
- (c) The inspectors of election shall perform their duties impartially, in good faith, to the best of their ability and as expeditiously as is practical. If there are three inspectors of election, the decision, act, or certificate of a majority is effective in all respects as the decision, act, or certificate of all. Any report or certificate made by the inspectors of election is prima facie evidence of the facts stated therein.

7615

Cumulative Voting

- (a) If the articles or bylaws authorize cumulative voting, but not otherwise, every member entitled to vote at any election of directors may cumulate the member's votes and give one candidate a number of votes equal to the number of directors to be elected multiplied by the number of votes to which the member is entitled, or distribute the member's votes on the same principle among as many candidates as the member thinks fit. An article or bylaw provision authorizing cumulative voting may be repealed or amended only by approval of the members (Section 5034), except that the governing article or bylaw provision may require the vote of a greater proportion of the members, or of the members of any class, for its repeal.
- (b) No member shall be entitled to cumulate votes for a candidate or candidates unless the candidate's name or candidates' names have been placed in nomination prior to the voting and the member has given notice at the meeting prior to the voting of the member's intention to cumulate votes. If any one member has given this notice, all members may cumulate their votes for candidates in nomination.
- (c) In any election of directors by cumulative voting, the candidates receiving the highest number of votes are elected, subject to any lawful provision specifying election by classes.
- (d) In any election of directors not governed by subdivision (c), unless otherwise provided in the articles or bylaws, the candidates receiving the highest number of votes are elected.
- (e) Elections for directors need not be by ballot unless a member demands election by ballot at the meeting and before the voting begins or unless the bylaws so require.

Annual Corporate Statement

8210

Statement of Names and Addresses of Officers and of Agent for Service of Process

- (a) Every corporation shall, within 90 days after the filing of its original articles and biennially thereafter during the applicable filing period, file, on a form prescribed by the Secretary of State, a statement containing: (1) the name of the corporation and the Secretary of State's file number; (2) the names and complete business or residence addresses of its chief executive officer, secretary, and chief financial officer; (3) the street address of its principal office in California, if any; (4) the mailing address of the corporation, if different from the street address of its principal office or if the corporation has no principal office address in California;

and (5) if the corporation chooses to receive renewal notices and any other notifications from the Secretary of State by electronic mail instead of by United States mail, a valid electronic mail address for the corporation or for the corporation's designee to receive those notices.

- (b) The statement required by subdivision (a) shall also designate, as the agent of the corporation for the purpose of service of process, a natural person residing in this state or any domestic or foreign or foreign business corporation that has complied with Section 1505 and whose capacity to act as an agent has not terminated. If a natural person is designated, the statement shall set forth the person's complete business or residence street address. If a corporate agent is designated, no address for it shall be set forth.
- (c) For the purposes of this section, the applicable filing period for a corporation shall be the calendar month during which its original articles were filed and the immediately preceding five calendar months. The Secretary of State shall provide a notice to each corporation to comply with this section approximately three months before the close of the applicable filing period. The notice shall state the due date for compliance and shall be sent to the last address of the corporation according to the records of the Secretary of State or to the last electronic mail address according to the records of the Secretary of State if the corporation has elected to receive notices from the Secretary of State by electronic mail. Neither the failure of the Secretary of State to send the notice nor the failure of the corporation to receive it is an excuse for failure to comply with this section.
- (d) Whenever any of the information required by subdivision (a) is changed, the corporation may file a current statement containing all the information required by subdivisions (a) and (b). In order to change its agent for service of process or the address of the agent, the corporation must file a current statement containing all the information required by subdivisions (a) and (b). Whenever any statement is filed pursuant to this section, it supersedes any previously filed statement and the statement in the articles as to the agent for service of process and the address of the agent.
- (e) The Secretary of State may destroy or otherwise dispose of any statement filed pursuant to this section after it has been superseded by the filing of a new statement.
- (f) This section does not place any person dealing with the corporation on notice of, or under any duty to inquire about, the existence or content of a statement filed pursuant to this section.

Records And Membership Lists

8311

Inspections; Persons Authorized; Copies

Any inspection under this chapter may be made in person or by agent or attorney and the right of inspection includes the right to copy and make extracts.

8320

Books and Records

- (a) Each corporation shall keep:
- (1) Adequate and correct books and records of account:
 - (2) Minutes of the proceedings of its members, board and committees of the board; and
 - (3) A record of its members giving their names and addresses and the class of membership held by each.
- (b) Those minutes and other books and records shall be kept either in written form or in any other form capable of being converted into clearly legible tangible form or in any combination of the foregoing. When minutes and other books and records are kept in a form capable of being converted into clearly legible paper form, the clearly legible paper form into which those minutes and other books and records are converted shall be admissible in evidence, and accepted for all other purposes, to the same extent as an original paper record of the same information would have been, provided that the paper form accurately portrays the record.

8321

Annual Report

- (a) A corporation shall notify each member yearly of the member's right to receive a financial report pursuant to this subdivision. Except as provided in subdivision (c), upon written request of a member, the board shall promptly cause the most recent annual report to be sent to the requesting member. An annual report shall be prepared not later than 120 days after the close of the corporation's fiscal year. Unless otherwise provided by the articles or bylaws and if approved by the board of directors, that report and any accompanying material may be sent by electronic transmission by the corporation (Section 20). That report shall contain in appropriate detail the following:

- (1) A balance sheet as of the end of that fiscal year and an income statement and a statement of cashflows for that fiscal year.
 - (2) A statement of the place where the names and addresses of the current members are located.
 - (3) Any information required by Section 8322.
- (b) The report required by subdivision (a) shall be accompanied by any report thereon of independent accountants, or, if there is no report, the certificate of an authorized officer of the corporation that the statements were prepared without audit from the books and records of the corporation.
- (c) Subdivision (a) does not apply to any corporation that receives less than ten thousand dollars (\$10,000) in gross revenues or receipts during the fiscal year.

8325

Results of Membership Vote

For a period of 60 days following the conclusion of an annual, regular, or special meeting of members, a corporation shall, upon written request from a member, forthwith inform the member of the result of any particular vote of members taken at the meeting, including the number of memberships voting for, the number of memberships voting against, and the number of memberships abstaining or withheld from voting. If the matter voted on was the election of directors, the corporation shall report the number of memberships, or votes if voted cumulatively, cast for each nominee for director. If more than one class or series of memberships voted, the report shall state the appropriate numbers by class and series of memberships.

8330

Demand; Persons Authorized; Reason; Alternative Proposal

- (a) Subject to Sections 8331 and 8332, and unless the corporation provides a reasonable alternative pursuant to subdivision (c), a member may do either or both of the following as permitted by subdivision (b):
- (1) Inspect and copy the record of all the members' names, addresses and voting rights, at reasonable times, upon five business days' prior written demand upon the corporation which demand shall state the purpose for which the inspection rights are requested; or
 - (2) Obtain from the secretary of the corporation, upon written demand and tender of a reasonable charge, a list of the names, addresses and voting rights of those members entitled to vote for the election of directors, as of the most recent record date for which it has been compiled or as of a date specified by the member

subsequent to the date of demand. The demand shall state the purpose for which the list is requested. The membership list shall be made available on or before the later of ten business days after the demand is received or after the date specified therein as the date as of which the list is to be compiled.

- (b) The rights set forth in subdivision (a) may be exercised by:
 - (1) Any member, for a purpose reasonably related to such person’s interest as a member. Where the corporation reasonably believes that the information will be used for another purpose, or where it provides a reasonable alternative pursuant to subdivision (c), it may deny the member access to the list. In any subsequent action brought by the member under Section 8336, the court shall enforce the rights set forth in subdivision (a) unless the corporation proves that the member will allow use of the information for purposes unrelated to the person’s interest as a member or that the alternative method offered reasonably achieves the proper purpose set forth in the demand.
 - (2) The authorized number of members for a purpose reasonably related to the members’ interest as members.
- (c) The corporation may, within ten business days after receiving a demand under subdivision (a), deliver to the person or persons making the demand a written offer of an alternative method of achieving the purpose identified in said demand without providing access to or a copy of the membership list. An alternative method which reasonably and in a timely manner accomplishes the proper purpose set forth in a demand made under subdivision (a) shall be deemed a reasonable alternative, unless within a reasonable time after acceptance of the offer the corporation fails to do those things which it offered to do. Any rejection of the offer shall be in writing and shall indicate the reasons the alternative proposed by the corporation does not meet the proper purpose of the demand made pursuant to subdivision (a).

8333

Accounting Books; Minutes; Demand; Purpose

The accounting books and records and minutes of proceedings of the members and the board and committees of the board shall be open to inspection upon the written demand on the corporation of any member at any reasonable time, for a purpose reasonably related to such person’s interests as a member.

8334

Directors’ Rights

Every director shall have the absolute right at any reasonable time to inspect and copy all books, records and documents of every kind and to inspect the physical properties of the corporation of which such person is a director.

8338

Membership List; Authorized and Prohibited Uses; Damages; Injunction; Costs, Expenses and Attorney Fees

- (a) A membership list is a corporate asset. Without consent of the board a membership list or any part thereof may not be obtained or used by any person for any purpose not reasonably related to a member’s interest as a member. Without limiting the generality of the foregoing, without the consent of the board a membership list or any part thereof may not be:
 - (1) Used to solicit money or property unless such money or property will be used solely to solicit the vote of the members in an election to be held by their corporation.
 - (2) Used for any purpose which the user does not reasonably and in good faith believe will benefit the corporation.
 - (3) Used for any commercial purpose or purpose in competition with the corporation.
 - (4) Sold to or purchased by any person.
- (b) Any person who violates the provisions of subdivision (a) shall be liable for any damage such violation causes the corporation and shall account for and pay to the corporation any profit derived as a result of said violation. In addition, a court in its discretion may award exemplary damages for a fraudulent or malicious violation of subdivision (a).
- (c) Nothing in this article shall be construed to limit the right of a corporation to obtain injunctive relief necessary to restrain misuse of a membership list or any part thereof.
- (d) In any action or proceeding under this section, a court may award the corporation reasonable costs and expenses, including reasonable attorneys’ fees, in connection with such action or proceeding.
- (e) As used in this section, the term “membership list” means the record of the members’ names and addresses.

**SELECTED GOVERNMENT CODE
PROVISIONS AFFECTING COMMON
INTEREST DEVELOPMENTS**

Community Association Registration

12191

Registration Fees; Community Associations

The miscellaneous business entity filing fees are the following:

- (a) Foreign associations, as defined in Sections 170 and 171 of the Corporations Code:
 - (1) Filing the statement and designation upon the qualification of a foreign association pursuant to Section 2105 of the Corporations Code: One hundred dollars (\$100).
 - (2) Filing an amended statement and designation by a foreign association pursuant to Section 2107 of the Corporations Code: Thirty dollars (\$30).
 - (3) Filing a certificate showing the surrender of the right of a foreign association to transact intrastate business pursuant to Section 2112 of the Corporations Code: No fee.
- (b) Unincorporated Associations:
 - (1) Filing a statement in accordance with Section 18200 of the Corporations Code as to principal place of office or place for sending notices or designating agent for service: Twenty-five dollars (\$25).
 - (2) Insignia Registrations: Ten dollars (\$10).
- (c) Community Associations and Common Interest Developments:
 - (1) Filing a statement by a community association in accordance with Section 5405 or 6760 of the Civil Code to register the common interest development that it manages: An amount not to exceed thirty dollars (\$30).
 - (2) Filing an amended statement by a community association in accordance with Section 5405 or 6760 of the Civil Code: No fee.

Fair Housing

12955

Unlawful Practices

It shall be unlawful:

- (a) For the owner of any housing accommodation to discriminate against or harass any person because of the race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, veteran or military status, or genetic information of that person.
- (b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, disability, veteran or military status, or genetic information of any person seeking to purchase, rent, or lease any housing accommodation.
- (c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, veteran or military status, or genetic information or an intention to make that preference, limitation, or discrimination.
- (d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, gender, gender identity, gender expression, sexual orientation, color, race, religion, ancestry, national origin, familial status, marital status, disability, genetic information, source of income, veteran or military status, or on any other basis prohibited by that section. Selection preferences based on age, imposed in connection with a federally approved housing program, do not constitute age discrimination in housing.
- (e) For any person, bank, mortgage company, or other financial institution that provides financial assistance for the purchase, refinance, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, veteran or military status, or genetic information in the

terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

- (f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner’s dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.
- (g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.
- (h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, ancestry, disability, genetic information, source of income, familial status, veteran or military status, or national origin.
- (i) (1) For any person or other organization or entity whose business involves real estate-related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, source of income, familial status, disability, veteran or military status, or genetic information.
- (2) For any person or other entity whose business includes performing appraisals, as defined in subdivision (b) of Section 11302 of the Business and Professions Code, of residential real property to discriminate against any person in making available those services, or in the performance of those services, because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, source of income, disability, genetic information, veteran or military status, or national origin.
- (j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, ancestry, disability, genetic information, familial status, source of income, veteran or military status, or national origin.
- (k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, source of income, disability, genetic information, veteran or military status, or national origin.

- (l) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, genetic information, national origin, source of income, veteran or military status, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

Discrimination under this subdivision also includes the existence of a restrictive covenant, regardless of whether accompanied by a statement that the restrictive covenant is repealed or void.

- (m) As used in this section, “race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, veteran or military status, or genetic information,” includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.
- (n) To use a financial or income standard in the rental of housing that fails to account for the aggregate income of persons residing together or proposing to reside together on the same basis as the aggregate income of married persons residing together or proposing to reside together.
- (o) (1) In instances in which there is a government rent subsidy, to do either of the following:
 - (A) Use a financial or income standard in assessing eligibility for the rental of housing that is not based on the portion of the rent to be paid by the tenant.
 - (B) (i) Use a person’s credit history as part of the application process for a rental accommodation without offering the applicant the option, at the applicant’s discretion, of providing lawful, verifiable alternative evidence of the applicant’s reasonable ability to pay the portion of the rent to be paid by the tenant, including, but not limited to, government benefit payments, pay records, and bank statements.
 - (ii) If the applicant elects to provide lawful, verifiable alternative evidence of the applicant’s reasonable ability to pay pursuant to clause (i), the housing provider shall do both of the following:
 - (I) Provide the applicant reasonable time to respond with that alternative evidence.

(II) Reasonably consider that alternative evidence in lieu of the person’s credit history in determining whether to offer the rental accommodation to the applicant.

(2) This subdivision does not limit the ability of the owner of a housing accommodation to request information or documentation to verify employment, to request landlord references, or to verify the identity of a person.

(p) (1) For the purposes of this section, “source of income” means lawful, verifiable income paid directly to a tenant, or to a representative of a tenant, or paid to a housing owner or landlord on behalf of a tenant, including federal, state, or local public assistance, and federal, state, or local housing subsidies, including, but not limited to, federal housing assistance vouchers issued under Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f). “Source of income” includes a federal Department of Housing and Urban Development Veterans Affairs Supportive Housing voucher. For the purposes of this section, a housing owner or landlord is not considered a representative of a tenant unless the source of income is a federal Department of Housing and Urban Development Veterans Affairs Supportive Housing voucher.

(2) For the purposes of this section, it shall not constitute discrimination based on source of income to make a written or oral inquiry concerning the level or source of income.

12956.1

Discriminatory Covenants in Deeds or Declarations; Disclosure; Penalties

(a) As used in this section:

(1) “Association,” “governing documents,” and “declaration” have the same meanings as set forth in Sections 4080, 4135, and 4150 or Sections 6528, 6546, and 6552 of the Civil Code.

(2) “Redaction” means the process of rerecording of a document that originally contained unlawful restrictive language, and when presented to the county recorder for rerecording, no longer contains the unlawful language or the unlawful language is masked so that it is not readable or visible.

(3) “Redacted” means the result of the rerecording of a document that originally contained unlawful restrictive language, and when presented to the county recorder for rerecording, no longer contains the unlawful language or the unlawful language is masked so that it is not readable or visible.

(b) (1) A county recorder, title company, escrow company, real estate broker, real estate agent, or association that provides a copy of a declaration, governing document, or deed to any person shall place a cover page or stamp on the first page of the previously recorded document or documents stating, in at least 14-point boldface type, the following:

“If this document contains any restriction based on age, race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, veteran or military status, genetic information, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government Code by submitting a “Restrictive Covenant Modification” form, together with a copy of the attached document with the unlawful provision redacted to the county recorder’s office. The “Restrictive Covenant Modification” form can be obtained from the county recorder’s office and may be available on its internet website. The form may also be available from the party that provided you with this document. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.”

(2) The requirements of paragraph (1) shall not apply to documents being submitted for recordation to a county recorder.

(3) A title company, escrow company, or association that delivers a copy of a declaration, governing document, or deed directly to a person who holds an ownership interest of record in property shall also provide a Restrictive Covenant Modification form with procedural information for appropriate processing along with the document.

(c) Any person who records a document for the express purpose of adding a racially restrictive covenant is guilty of a misdemeanor. The county recorder shall not incur any liability for recording the document. Notwithstanding any other provision of law, a prosecution for a violation of this subdivision shall commence within three years after the discovery of the recording of the document.

12956.2

Removal of Discriminatory Descriptive Covenants

(a) (1) A person who holds or is acquiring an ownership interest of record in property that the person believes is the subject of an unlawfully restrictive covenant in violation of subdivision (l) of Section 12955 may record a document titled Restrictive Covenant Modification.

A title company, escrow company, county recorder, real estate broker, real estate agent, or other person also may record the modification document provided for in this section. The county recorder may waive the fee prescribed for recording and indexing instruments pursuant to Section 27361 in the case of a restrictive covenant modification document. The modification document shall include a complete copy of the original document containing the unlawfully restrictive language with the unlawfully restrictive covenant language redacted.

- (2) Beginning July 1, 2022, if a title company, escrow company, real estate broker, or real estate agent has actual knowledge that a declaration, governing document, or deed that is being directly delivered to a person who holds or is acquiring an ownership interest in property includes a possible unlawfully restrictive covenant, they shall notify the person who holds or is acquiring the ownership interest in the property of the existence of that covenant and their ability to have it removed through the restrictive covenant modification process. There shall be no presumption that a party providing a document has read the document or has actual knowledge of its content.

- (3) Beginning July 1, 2022, if requested before the close of escrow, the title company or escrow company directly involved in the pending transaction shall assist in the preparation of a Restrictive Covenant Modification pursuant to this section, but the title company or escrow company shall have no liability associated with the recordation of a Restrictive Covenant Modification that contains modifications not authorized by this section on behalf of the requester.

- (b) (1) Before recording the Restrictive Covenant Modification document, the county recorder shall submit the modification document and the original document to the county counsel who shall determine whether the language in the original document contains an unlawful restriction based on age, race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, genetic information, veteran or military status, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry. The county counsel shall return the documents and inform the county recorder of its determination within a period of time specified in paragraph (2). The county recorder shall refuse to record the modification document if the county counsel or their designee finds that the original document does not contain an unlawful restriction as specified in this subdivision or the modification document contains modifications not authorized by this section.

- (2) For documents recorded pursuant to subdivision (a), the period of time shall be a reasonable period of time, not to exceed three months, from the date the request for recordation is made, unless extraordinary circumstances apply.

- (c) If a person requests to record a modification document, that person shall provide a return address in order for the county recorder to notify this person of the action taken by the county counsel on the respective property. The notice required pursuant to this subdivision may be made on a postcard mailed by first-class mail.
- (d) The modification document shall be indexed in the same manner as the original document being modified. It shall contain a recording reference to the original document in the form of a book and page or instrument number, and date of the recording.
- (e) Subject to covenants, conditions, and restrictions that were recorded after the recording of the original document that contains the unlawfully restrictive language and subject to covenants, conditions, and restrictions that will be recorded after the Restrictive Covenant Modification, the restrictions in the Restrictive Covenant Modification, once recorded, are the only restrictions having effect on the property. The effective date of the terms and conditions of the modification document shall be the same as the effective date of the original document.
- (f) A Restrictive Covenant Modification form shall be prepared and accepted for submission and recordation in all counties in substantially the following form:

RESTRICTIVE COVENANT MODIFICATION:

The following referenced document contains a restriction based on age, race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, veteran or military status, genetic information, national origin, source of income as defined in subdivision (p) of Section 12955 of the Government Code, or ancestry, that violates state and federal fair housing laws and is void. Pursuant to Section 12956.2 of the Government Code, this document is being recorded solely for the purpose of redacting and eliminating that restrictive covenant as shown on page(s) ___ of the document recorded on _____ (date) in book _____ and page _____ or instrument number _____ of the official records of the County of _____, State of California.

Attached hereto is a true, correct and complete copy of the document referenced above, with the unlawful restrictive covenant redacted.

This modification document shall be indexed in the same manner as the original document being modified, pursuant to subdivision (d) of Section 12956.2 of the Government Code.

The effective date of the terms and conditions of the modification document shall be the same as the effective date of the original document.

(Signature of submitting party)

_____ County Counsel, or their designee, pursuant to paragraph (1) of subdivision (b) of Section 12956.2 of the

Government Code, hereby states that it has determined that the original document referenced above contains an unlawful restriction and this modification may be recorded.

Or

_____ County Counsel, or their designee, pursuant to paragraph (1) of subdivision (b) of Section 12956.2 of the Government Code, finds that the original document does not contain an unlawful restriction, or the modification document contains modifications not authorized, and this modification may not be recorded.

County Counsel

By:

Date:

- (g) The county recorder shall make available to the public Restrictive Covenant Modification forms onsite in an appropriately designated area, or online on the county recorder's internet website, either of which shall be deemed to satisfy the requirement of paragraphs (1) and (2) of subdivision (b) of Section 12956.1 to provide a Restrictive Covenant Modification form if the procedural information for appropriate processing is attached to the form. Those forms shall permit multiple submissions on behalf of different homes and for processing homes in batches with respect to a modification document that affects multiple homes or lots. The forms shall also permit the submission of a restrictive covenant modification form for a homeowners' association or a common interest development to modify covenants, conditions, and restrictions that will correct unlawfully restrictive covenants for multiple dwellings within a subdivision.
- (h) If a person causes to be recorded a modified document pursuant to this section that contains modifications not authorized by this section, the county recorder shall not incur liability for recording the document. The liability that may result from the unauthorized recordation is the sole responsibility of the person who caused the modified recordation as provided in subdivision (a).
- (i) (1) A restrictive covenant modification that is approved by county counsel or their designee and recorded pursuant to this section removes the illegal covenant from all property affected by the original covenant regardless of who submits the modification.
- (2) This section does not affect the obligations of the governing board of a common interest development as defined in Section 4100 or 6534 of the Civil Code if the board of directors of that common interest development is subject to the requirements of subdivision (b) of Section 4225 or of subdivision (b) of Section 6606 of the Civil Code.
- (j) For purposes of this section, "redaction" and "redacted" mean the same as defined in Section 12956.1.

SELECTED VEHICLE CODE PROVISIONS AFFECTING COMMON INTEREST DEVELOPMENTS

Towing of Vehicles

22658

Removal from Private Property

- (a) The owner or person in lawful possession of private property, including an association of a common interest development, as defined in Sections 4080 and 4100 or Sections 6528 and 6534 of the Civil Code, may cause the removal of a vehicle parked on the property to a storage facility that meets the requirements of subdivision (n) under any of the following circumstances:
- (1) There is displayed, in plain view at all entrances to the property, a sign not less than 17 inches by 22 inches in size, with lettering not less than one inch in height, prohibiting public parking and indicating that vehicles will be removed at the owner's expense, and containing the telephone number of the local traffic law enforcement agency and the name and telephone number of each towing company that is a party to a written general towing authorization agreement with the owner or person in lawful possession of the property. The sign may also indicate that a citation may also be issued for the violation.
 - (2) The vehicle has been issued a notice of parking violation, and 96 hours have elapsed since the issuance of that notice.
 - (3) The vehicle is on private property and lacks an engine, transmission, wheels, tires, doors, windshield, or any other major part or equipment necessary to operate safely on the highways, the owner or person in lawful possession of the private property has notified the local traffic law enforcement agency, and 24 hours have elapsed since that notification.
 - (4) The lot or parcel upon which the vehicle is parked is improved with a single-family dwelling.
- (b) The tow truck operator removing the vehicle, if the operator knows or is able to ascertain from the property owner, person in lawful possession of the property, or the registration records of the Department of Motor Vehicles the name and address of the registered and legal owner of the vehicle, shall immediately give, or cause to be given, notice in writing to the registered and legal owner of the fact of the removal, the grounds for the removal, and indicate the place to which the vehicle has been removed. If the vehicle is stored in a storage facility, a copy of the notice shall be given to the proprietor of the storage facility. The notice provided for in this section shall include the amount of mileage on the vehicle at the time of removal, if the vehicle has a visible odometer, and the time of the removal from the property. If the tow truck operator does not know and is not able to ascertain the name of the owner or for any other reason is unable to give the notice to the owner as provided in this section, the tow truck operator shall comply with the requirements of subdivision (c) of Section 22853 relating to notice in the same manner as applicable to an officer removing a vehicle from private property.
- (c) This section does not limit or affect any right or remedy that the owner or person in lawful possession of private property may have by virtue of other provisions of law authorizing the removal of a vehicle parked upon private property.
- (d) The owner of a vehicle removed from private property pursuant to subdivision (a) may recover for any damage to the vehicle resulting from any intentional or negligent act of a person causing the removal of, or removing, the vehicle.
- (e) (1) An owner or person in lawful possession of private property, or an association of a common interest development, causing the removal of a vehicle parked on that property is liable for double the storage or towing charges whenever there has been a failure to comply with paragraph (1), (2), or (3) of subdivision (a) or to state the grounds for the removal of the vehicle if requested by the legal or registered owner of the vehicle as required by subdivision (f).
- (2) A property owner or owner's agent or lessee who causes the removal of a vehicle parked on that property pursuant to the exemption set forth in subparagraph (A) of paragraph (1) of subdivision (l) and fails to comply with that subdivision is guilty of an infraction, punishable by a fine of one thousand dollars (\$1,000).
- (f) An owner or person in lawful possession of private property, or an association of a common interest development, causing the removal of a vehicle parked on that property shall notify by telephone or, if impractical, by the most expeditious means available, the local traffic law enforcement agency within one hour after authorizing the tow. An owner or person in lawful possession of private property, an association of a common interest development, causing the removal of a vehicle parked on that property, or the tow truck operator who removes the vehicle, shall state the grounds for the removal of the vehicle if requested by the legal or registered owner of that vehicle. A towing company that removes a vehicle from private property in compliance with subdivision (l) is not responsible in a situation relating to the validity of the removal. A towing company that removes the vehicle under this section shall be responsible for the following:
- (1) Damage to the vehicle in the transit and subsequent storage of the vehicle.

- (2) The removal of a vehicle other than the vehicle specified by the owner or other person in lawful possession of the private property.
- (g) (1) (A) Possession of a vehicle under this section shall be deemed to arise when a vehicle is removed from private property and is in transit.
- (B) Upon the request of the owner of the vehicle or that owner's agent, the towing company or its driver shall immediately and unconditionally release a vehicle that is not yet removed from the private property and in transit.
- (C) A person failing to comply with subparagraph (B) is guilty of a misdemeanor.
- (2) If a vehicle is released to a person in compliance with subparagraph (B) of paragraph (1), the vehicle owner or authorized agent shall immediately move that vehicle to a lawful location.
- (h) A towing company may impose a charge of not more than one-half of the regular towing charge for the towing of a vehicle at the request of the owner, the owner's agent, or the person in lawful possession of the private property pursuant to this section if the owner of the vehicle or the vehicle owner's agent returns to the vehicle after the vehicle is coupled to the tow truck by means of a regular hitch, coupling device, drawbar, portable dolly, or is lifted off the ground by means of a conventional trailer, and before it is removed from the private property. The regular towing charge may only be imposed after the vehicle has been removed from the private property and is in transit.
- (i) (1) (A) A charge for towing or storage, or both, of a vehicle under this section is excessive if the charge exceeds the greater of the following:
- (i) That which would have been charged for that towing or storage, or both, made at the request of a law enforcement agency under an agreement between a towing company and the law enforcement agency that exercises primary jurisdiction in the city in which is located the private property from which the vehicle was, or was attempted to be, removed, or if the private property is not located within a city, then the law enforcement agency that exercises primary jurisdiction in the county in which the private property is located.
- (ii) That which would have been charged for that towing or storage, or both, under the rate approved for that towing operator by the Department of the California Highway Patrol for the jurisdiction in which the private property is located and from which the vehicle was, or was attempted to be, removed.
- (B) A towing operator shall make available for inspection and copying their rate approved by the Department of the California Highway Patrol, if any, within 24 hours of a request without a warrant to law enforcement, the Attorney General, district attorney, or city attorney.
- (2) If a vehicle is released within 24 hours from the time the vehicle is brought into the storage facility, regardless of the calendar date, the storage charge shall be for only one day. Not more than one day's storage charge may be required for a vehicle released the same day that it is stored.
- (3) If a request to release a vehicle is made and the appropriate fees are tendered and documentation establishing that the person requesting release is entitled to possession of the vehicle, or is the owner's insurance representative, is presented within the initial 24 hours of storage, and the storage facility fails to comply with the request to release the vehicle or is not open for business during normal business hours, then only one day's storage charge may be required to be paid until after the first business day. A business day is any day in which the lienholder is open for business to the public for at least eight hours. If a request is made more than 24 hours after the vehicle is placed in storage, charges may be imposed on a full calendar day basis for each day, or part thereof, that the vehicle is in storage.
- (j) (1) A person who charges a vehicle owner a towing, service, or storage charge at an excessive rate, as described in subdivision (h) or (i), is civilly liable to the vehicle owner for four times the amount charged.
- (2) A person who knowingly charges a vehicle owner a towing, service, or storage charge at an excessive rate, as described in subdivision (h) or (i), or who fails to make available their rate as required in subparagraph (B) of paragraph (1) of subdivision (i), is guilty of a misdemeanor, punishable by a fine of not more than two thousand five hundred dollars (\$2,500), or by imprisonment in a county jail for not more than three months, or by both that fine and imprisonment.
- (k) (1) A person operating or in charge of a storage facility where vehicles are stored pursuant to this section shall accept a valid bank credit card or cash for payment of towing and storage by a registered owner, the legal owner, or the owner's agent claiming the vehicle. A credit card shall be in the name of the person presenting the card. "Credit card" means "credit card" as defined in subdivision (a) of Section 1747.02 of the Civil Code, except, for the purposes of this section, credit card does not include a credit card issued by a retail seller.
- (2) A person described in paragraph (1) shall conspicuously display, in that portion of the storage facility office where business is conducted with the public, a notice advising that all valid credit cards and cash are acceptable means of payment.

- (3) A person operating or in charge of a storage facility who refuses to accept a valid credit card or who fails to post the required notice under paragraph (2) is guilty of a misdemeanor, punishable by a fine of not more than two thousand five hundred dollars (\$2,500), or by imprisonment in a county jail for not more than three months, or by both that fine and imprisonment.
- (4) A person described in paragraph (1) who violates paragraph (1) or (2) is civilly liable to the registered owner of the vehicle or the person who tendered the fees for four times the amount of the towing and storage charges.
- (5) A person operating or in charge of the storage facility shall have sufficient moneys on the premises of the primary storage facility during normal business hours to accommodate, and make change in, a reasonable monetary transaction.
- (6) Credit charges for towing and storage services shall comply with Section 1748.1 of the Civil Code. Law enforcement agencies may include the costs of providing for payment by credit when making agreements with towing companies as described in subdivision (I).
- (I) (1) (A) A towing company shall not remove or commence the removal of a vehicle from private property without first obtaining the written authorization from the property owner or lessee, including an association of a common interest development, or an employee or agent thereof, who shall be present at the time of removal and verify the alleged violation, except that presence and verification is not required if the person authorizing the tow is the property owner, or the owner's agent who is not a tow operator, of a residential rental property of 15 or fewer units that does not have an onsite owner, owner's agent or employee, and the tenant has verified the violation, requested the tow from that tenant's assigned parking space, and provided a signed request or email, or has called and provides a signed request or email within 24 hours, to the property owner or owner's agent, which the owner or agent shall provide to the towing company within 48 hours of authorizing the tow. The signed request or email shall contain the name and address of the tenant, and the date and time the tenant requested the tow. A towing company shall obtain, within 48 hours of receiving the written authorization to tow, a copy of a tenant request required pursuant to this subparagraph. For the purpose of this subparagraph, a person providing the written authorization who is required to be present on the private property at the time of the tow does not have to be physically present at the specified location of where the vehicle to be removed is located on the private property.
- (B) The written authorization under subparagraph (A) shall include all of the following:
- (i) The make, model, vehicle identification number, and license plate number of the removed vehicle. If the vehicle is a shared mobility device or does not have an identifiable make, model, vehicle identification number, or license plate number, the authorization shall include any identification numbers on the vehicle, including, but not limited to, a quick response (QR) code or serial number.
- (ii) The name, signature, job title, residential or business address, and working telephone number of the person, described in subparagraph (A), authorizing the removal of the vehicle.
- (iii) The grounds for the removal of the vehicle.
- (iv) The time when the vehicle was first observed parked at the private property.
- (v) The time that authorization to tow the vehicle was given.
- (C) (i) When the vehicle owner or their agent claims the vehicle, the towing company prior to payment of a towing or storage charge shall provide a photocopy of the written authorization to the vehicle owner or the agent.
- (ii) If the vehicle was towed from a residential property, the towing company shall redact the information specified in clause (ii) of subparagraph (B) in the photocopy of the written authorization provided to the vehicle owner or the agent pursuant to clause (i).
- (iii) The towing company shall also provide to the vehicle owner or the agent a separate notice that provides the telephone number of the appropriate local law enforcement or prosecuting agency by stating "If you believe that you have been wrongfully towed, please contact the local law enforcement or prosecuting agency at [insert appropriate telephone number]." The notice shall be in English and in the most populous language, other than English, that is spoken in the jurisdiction.
- (D) A towing company shall not remove or commence the removal of a vehicle from private property described in subdivision (a) of Section 22953 unless the towing company has made a good faith inquiry to determine that the owner or the property owner's agent complied with Section 22953.
- (E) (i) General authorization to remove or commence removal of a vehicle at the towing company's discretion shall not be delegated to a towing company or its affiliates except in

the case of a vehicle unlawfully parked within 15 feet of a fire hydrant or in a fire lane, or in a manner which interferes with an entrance to, or exit from, the private property.

- (ii) In those cases in which general authorization is granted to a towing company or its affiliate to undertake the removal or commence the removal of a vehicle that is unlawfully parked within 15 feet of a fire hydrant or in a fire lane, or that interferes with an entrance to, or exit from, private property, the towing company and the property owner, or owner's agent, or person in lawful possession of the private property shall have a written agreement granting that general authorization.
- (2) If a towing company removes a vehicle under a general authorization described in subparagraph (E) of paragraph (1) and that vehicle is unlawfully parked within 15 feet of a fire hydrant or in a fire lane, or in a manner that interferes with an entrance to, or exit from, the private property, the towing company shall take, prior to the removal of that vehicle, a photograph of the vehicle that clearly indicates that parking violation. Prior to accepting payment, the towing company shall keep one copy of the photograph taken pursuant to this paragraph, and shall present that photograph and provide, without charge, a photocopy to the owner or an agent of the owner, when that person claims the vehicle.
- (3) A towing company shall maintain the original written authorization, or the general authorization described in subparagraph (E) of paragraph (1) and the photograph of the violation, required pursuant to this section, and any written requests from a tenant to the property owner or owner's agent required by subparagraph (A) of paragraph (1), for a period of three years and shall make them available for inspection and copying within 24 hours of a request without a warrant to law enforcement, the Attorney General, district attorney, or city attorney.
- (4) A person who violates this subdivision is guilty of a misdemeanor, punishable by a fine of not more than two thousand five hundred dollars (\$2,500), or by imprisonment in a county jail for not more than three months, or by both that fine and imprisonment.
- (5) A person who violates this subdivision is civilly liable to the owner of the vehicle or their agent for four times the amount of the towing and storage charges.
- (m) (1) A towing company that removes a vehicle from private property under this section shall notify the local law enforcement agency of that tow after the vehicle is removed from the private property and is in transit.
- (2) A towing company is guilty of a misdemeanor if the towing company fails to provide the notification require under paragraph (1) within 60 minutes after the vehicle is removed from the private property and
- is in transit or 15 minutes after arriving at the storage facility, whichever time is less.
- (3) A towing company that does not provide the notification under paragraph (1) within 30 minutes after the vehicle is removed from the private property and is in transit is civilly liable to the registered owner of the vehicle, or the person who tenders the fees, for three times the amount of the towing and storage charges.
- (4) If notification is impracticable, the times for notification, as required pursuant to paragraphs (2) and (3), shall be tolled for the time period that notification is impracticable. This paragraph is an affirmative defense.
- (n) A vehicle removed from private property pursuant to this section shall be stored in a facility that meets all of the following requirements:
- (1) (A) Is located within a 10-mile radius of the property from where the vehicle was removed.
- (B) The 10-mile radius requirement of subparagraph (A) does not apply if a towing company has prior general written approval from the law enforcement agency that exercises primary jurisdiction in the city in which is located the private property from which the vehicle was removed, or if the private property is not located within a city, then the law enforcement agency that exercises primary jurisdiction in the county in which is located the private property.
- (2) (A) Remains open during normal business hours and releases vehicles after normal business hours.
- (B) A gate fee may be charged for releasing a vehicle after normal business hours, weekends, and state holidays. However, the maximum hourly charge for releasing a vehicle after normal business hours shall be one-half of the hourly tow rate charged for initially towing the vehicle, or less.
- (C) Notwithstanding any other provision of law and for purposes of this paragraph, "normal business hours" are Monday to Friday, inclusive, from 8 a.m. to 5 p.m., inclusive, except state holidays.
- (3) Has a public pay telephone in the office area that is open and accessible to the public.
- (o) (1) It is the intent of the Legislature in the adoption of subdivision (k) to assist vehicle owners or their agents by, among other things, allowing payment by credit cards for towing and storage services, thereby expediting the recovery of towed vehicles and concurrently promoting the safety and welfare of the public.
- (2) It is the intent of the Legislature in the adoption of subdivision (l) to further the safety of the general public by ensuring that a private property owner or lessee has provided authorization for the removal

of a vehicle from their property, thereby promoting the safety of those persons involved in ordering the removal of the vehicle as well as those persons removing, towing, and storing the vehicle.

- (3) It is the intent of the Legislature in the adoption of subdivision (g) to promote the safety of the general public by requiring towing companies to unconditionally release a vehicle that is not lawfully in their possession, thereby avoiding the likelihood of dangerous and violent confrontation and physical injury to vehicle owners and towing operators, the stranding of vehicle owners and their passengers at a dangerous time and location, and impeding expedited vehicle recovery, without wasting law enforcement's limited resources.
- (p) The remedies, sanctions, restrictions, and procedures provided in this section are not exclusive and are in addition to other remedies, sanctions, restrictions, or procedures that may be provided in other provisions of law, including, but not limited to, those that are provided in Sections 12110 and 34660.
- (q) A vehicle removed and stored pursuant to this section shall be released by the law enforcement agency, impounding agency, or person in possession of the vehicle, or any person acting on behalf of them, to the legal owner or the legal owner's agent upon presentation of the assignment, as defined in subdivision (b) of Section 7500.1 of the Business and Professions Code; a release from the one responsible governmental agency, only if required by the agency; a government-issued photographic identification card; and any one of the following as determined by the legal owner or the legal owner's agent: a certificate of repossession for the vehicle, a security agreement for the vehicle, or title, whether paper or electronic, showing proof of legal ownership for the vehicle. Any documents presented may be originals, photocopies, or facsimile copies, or may be transmitted electronically. The storage facility shall not require any documents to be notarized. The storage facility may require the agent of the legal owner to produce a photocopy or facsimile copy of its repossession agency license or registration issued pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code, or to demonstrate, to the satisfaction of the storage facility, that the agent is exempt from licensure pursuant to Section 7500.2 or 7500.3 of the Business and Professions Code.

22853

Notice to Department of Justice; Notice to Stolen Vehicle System

- (a) Whenever an officer or an employee removing a California registered vehicle from a highway or from public property for storage under this chapter does not know and is not able to ascertain the name of the owner or for any other reason is unable to give notice to the owner as required by Section 22852, the officer or employee shall immediately

notify, or cause to be notified, the Department of Justice, Stolen Vehicle System, of its removal. The officer or employee shall file a notice with the proprietor of any public garage in which the vehicle may be stored. The notice shall include a complete description of the vehicle, the date, time, and place from which removed, the amount of mileage on the vehicle at the time of removal, and the name of the garage or place where the vehicle is stored.

- (b) Whenever an officer or an employee removing a vehicle not registered in California from a highway or from public property for storage under this chapter does not know and is not able to ascertain the owner or for any other reason is unable to give the notice to the owner as required by Section 22852, the officer or employee shall immediately notify, or cause to be notified, the Department of Justice, Stolen Vehicle System. If the vehicle is not returned to the owner within 120 hours, the officer or employee shall immediately send, or cause to be sent, a written report of the removal by mail to the Department of Justice at Sacramento and shall file a copy of the notice with the proprietor of any public garage in which the vehicle may be stored. The report shall be made on a form furnished by that department and shall include a complete description of the vehicle, the date, time, and place from which the vehicle was removed, the amount of mileage on the vehicle at the time of removal, the grounds for removal, and the name of the garage or place where the vehicle is stored.
- (c) Whenever an officer or employee or private party removing a vehicle from private property for storage under this chapter does not know and is not able to ascertain the name of the owner or for any other reason is unable to give the notice to the owner as required by Section 22852 and if the vehicle is not returned to the owner within a period of 120 hours, the officer or employee or private party shall immediately send, or cause to be sent, a written report of the removal by mail to the Department of Justice at Sacramento and shall file a copy of the notice with the proprietor of any public garage in which the vehicle may be stored. The report shall be made on a form furnished by that department and shall include a complete description of the vehicle, the date, time, and place from which the vehicle was removed, the amount of mileage on the vehicle at the time of removal, the grounds for removal, and the name of the garage or place where the vehicle is stored.

SELECTED CASES AFFECTING COMMON INTEREST DEVELOPMENTS

In addition to the statutes enumerated in this book, you may be interested in reading the following seminal cases that affect common interest developments:

Nahrstedt v. Lakeside Village

California Supreme Court, 1994 (8 Cal.4th 361)

<https://www.davis-stirling.com/HOME/Case-Law/Nahrstedt-v-Lakeside-Village>

Lamden v. La Jolla Shores Clubdominium Homeowners Assn.

California Supreme Court, 1999 (21 Cal.4th 249)

<https://www.davis-stirling.com/HOME/Case-Law/Lamden-v-La-Jolla-Shores>

Additional Case Law Resources

For additional case law that shapes the common interest development industry, please visit:

www.davis-stirling.com/HOME/Case-Law/Case-Law-Intro

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