

Memorandum 2012-49

**Statutory Clarification and Simplification of CID Law: Clean-Up Legislation
(Draft Recommendation)**

On August 17, 2012, Assembly Bills 805 and 806 (Torres) were enacted, implementing the Commission's recommendation to recodify the Davis-Stirling Common Interest Development Act. 2012 Cal. Stat. chs. 180, 181; *Statutory Clarification and Simplification of CID Law*, 40 Cal. L. Revision Comm'n Reports 235 (2010). Both bills have an operative date of January 1, 2014.

At the October meeting, the Commission decided to recommend clean-up legislation proposing minor revisions to the bills, based on issues arising during the legislative process. Minutes (Oct. 2012), p. 3.

Attached to this memorandum is a draft of a final recommendation proposing that clean-up legislation. The memorandum also discusses newly received comments from the public suggesting additional material for inclusion in the clean-up legislation. A letter from one of the commenters, Beth Grimm, an attorney in Pleasant Hill, is attached to this memorandum as an Exhibit.

After consideration of this memorandum and the staff draft recommendation, the Commission will need to decide whether to approve the draft recommendation, with or without changes, as a final recommendation for submission to the Legislature.

Except as otherwise indicated, all statutory references in this memorandum are to the Civil Code.

GOVERNING DOCUMENT HIERARCHY

Clarification of Commission Intent

Section 4205, a new provision added by AB 805, provides guidance on the relative authority of the law and the most common types of CID governing documents:

Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting.

4205. (a) To the extent of any inconsistency between the governing documents and the law, the law controls.

(b) To the extent of any inconsistency between the articles of incorporation and the declaration, the declaration controls.

(c) To the extent of any inconsistency between the bylaws and the articles of incorporation or declaration, the articles of incorporation or declaration control.

(d) To the extent of any inconsistency between the operating rules and the bylaws, articles of incorporation, or declaration, the bylaws, articles of incorporation, or declaration control.

In an informal email exchange with staff, Marjorie Murray of the California Alliance for Retired Americans suggested that the use of the word “inconsistency” in subdivision (a) of this section might be problematic.

Her concern is that the term might be understood to encompass more than just *incompatible* differences between governing documents and the law. Rather, it might be read to include *any* degree of difference. For example, existing law requires that an association conduct a visual inspection of its major components, every three years. Civ. Code § 5550(a). If an association’s governing documents require an inspection every year, is that an inconsistency that would invalidate the more protective provision in the governing documents?

If “inconsistency” refers to incompatible differences, then there would seem to be no inconsistency. A three-year inspection rule can be harmonized with a one-year inspection rule by complying with both. The more frequent inspections are not an obstacle to the statutory mandate.

But recall that CID law must be read and understood by millions of non-lawyers who own homes in CIDs. If those readers interpret “inconsistency” as encompassing *any* degree of difference, then the statutory three-year inspection rule might be considered inconsistent with the one-year inspection rule, therefore invalidating it.

That was not the Commission’s intention in drafting Section 4205. The purpose of Section 4205 was to provide guidance on how to resolve *conflicts* between different authorities.

The Commission’s use of the term “inconsistency” throughout the section is technically sound. For example, the online American Heritage Dictionary defines “inconsistent” as “contradictory” and “not in agreement or harmony; incompatible.” That was the Commission’s intended meaning. However, if the term might be misconstrued in practice, then it could lead to unnecessary confusion and disputes. If that problem can be avoided by replacing

“inconsistency” with a word that is less likely to be misunderstood, it might be worth including such a clarification in the clean-up legislation.

Two possible substitute terms that have occurred to the staff are “incompatibility” and “conflict.” Those terms might more clearly express the concept of differences that cannot be reconciled, rather than mere difference alone. Thus:

4205. (a) To the extent of any ~~inconsistency~~ incompatibility between the governing documents and the law, the law controls.

(b) To the extent of any ~~inconsistency~~ incompatibility between the articles of incorporation and the declaration, the declaration controls.

(c) To the extent of any ~~inconsistency~~ incompatibility between the bylaws and the articles of incorporation or declaration, the articles of incorporation or declaration control.

(d) To the extent of any ~~inconsistency~~ incompatibility between the operating rules and the bylaws, articles of incorporation, or declaration, the bylaws, articles of incorporation, or declaration control.

Comment. Section 4205 is amended to make its meaning clearer, without changing its substance. The section provides guidance on which authority controls to the extent of any incompatibility between them. For the purposes of the section, an incompatibility exists when the provisions of different authorities cannot be reconciled or harmonized with one another. Authorities are not incompatible merely because they are different.

Or:

4205. (a) To the extent of any ~~inconsistency~~ conflict between the governing documents and the law, the law controls.

(b) To the extent of any ~~inconsistency~~ conflict between the articles of incorporation and the declaration, the declaration controls.

(c) To the extent of any ~~inconsistency~~ conflict between the bylaws and the articles of incorporation or declaration, the articles of incorporation or declaration control.

(d) To the extent of any ~~inconsistency~~ conflict between the operating rules and the bylaws, articles of incorporation, or declaration, the bylaws, articles of incorporation, or declaration control.

Comment. Section 4205 is amended to make its meaning clearer, without changing its substance. The section provides guidance on which authority controls to the extent of any conflict between them. For the purposes of the section, a conflict exists when the provisions of different authorities cannot be reconciled or

harmonized with one another. Authorities are not in conflict merely because they are different.

The narrative “preliminary part” of the recommendation would provide a further opportunity for explanation:

Technical Clarification of Document Authority Provision

Civil Code Section 4205, a new section added by Assembly Bill 805, provides guidance on two fundamental aspects of CID governance, (1) the general supremacy of the law over a CID’s governing documents, and (2) the relative authority of different types of governing documents.

More specifically, Section 4205 provides guidance on how to resolve an inconsistency between the law and the governing documents or between different types of governing documents.

While the term “inconsistency” is intended to mean an incompatible difference that cannot be harmonized,[FN1] some readers could read the term more broadly, to include any difference whatsoever. Under that reading, if the law or a superior governing document has addressed an issue in any manner, it would preclude an inferior authority from addressing the same subject matter, even in a way that is compatible and harmonious with the superior authority’s rule.

In order to avoid that misconception, the Commission recommends that the term “inconsistency” be replaced with the word [“incompatibility”] [“conflict”] throughout Section 4205. That would not alter the intended meaning of the provision, but it might help to make clear that mere difference is not enough to invalidate a provision of an inferior authority.

FN1. See American Heritage Dictionary (2009) (“inconsistent” means “inconsistent; not in ... harmony; incompatible”).

Should Section 4205 be revised, with the above explanation in the preliminary part, along the lines discussed above? If so, what term should be used to replace “inconsistency?”

Subdivision Ordering

Beth Grimm, an attorney who represents homeowners and homeowner associations throughout California, proposes that Section 4205 be revised to reverse the order of subdivisions (b) and (c). She believes that otherwise subdivision (c) could be read as conflicting with subdivision (b). Exhibit p. 4.

The staff does not recommend changing the order of the subdivisions of Section 4205. The subdivisions are presented in a logical order, and there

appears to be no reason why revising their order would have any effect on their meaning.

SUGGESTED TECHNICAL REVISIONS

Erroneous Cross-Reference

Cassandra Spice, a principal attorney editor with Thomson Reuters (West Publishing), has informally pointed out a reference error in Section 4290. The section refers to Section 4120(c), when it should have referred to Section 4285.

The erroneous reference is a vestige of an earlier draft of the proposed law, in which the reference was correct. Later, the substance of then-Section 4120(c) was moved to Section 4285, without the cross-reference being updated. The staff regrets the error and **recommends that it be corrected, as follows:**

4290. (a) The certificate consenting to the recordation of a condominium plan that is required by subdivision (c) of Section ~~4120~~ 4285 shall be signed and acknowledged by all of the following persons:

....

Comment. Subdivision (a) of Section 4290 is amended to correct a reference error.

Section Headings

Ms. Grimm suggests that subject matter titles (i.e., section headings) be added to each section of the new law, to help readers find provisions that relate to a specific subject. Exhibit pp. 1-2.

The staff recommends against doing so. Modern California statute drafting conventions do not permit code section headings in bills. Such headings are routinely added later, as informal aids, by private legal publishers.

Mailed Notice

Under the new law, delivery of a required document by mail requires prepaid postage. Sections 4035, 4040. Ms. Grimm suggests that the requirement of prepaid postage should also be made an element of Section 4050, which addresses when mailed notice is complete. Exhibit p. 3.

However, the repetition of this requirement in Section 4050 would be superfluous. Before the completeness of a notice given by mail can be at issue,

there has to be lawful notice by mail, and there can be no lawful notice by mail without prepaid postage.

The staff does not recommend any change to Section 4050.

“Separate Interest” in a Condominium Project

Section 4185 defines a “separate interest” in a condominium project as “a separately owned unit, as specified in Section 4125.” Ms. Grimm suggests that this definition be revised to replace the word “unit” with “condominium.” Exhibit pp. 3-4.

However, the term “condominium” is defined to mean more than the separately owned unit that comprises an owner’s separate interest. It also includes the owner’s interest in the common area. See Section 4125(b).

For that reason, it would not be appropriate to use the term “condominium” in defining “separate interest.” They are not equivalent terms.

PROPOSED SUBSTANTIVE REFORMS

Ms. Grimm also suggests several substantive revisions to the law enacted pursuant to AB 805.

The staff recommends against including new substantive reforms in the clean-up legislation, for the same reasons that it articulated when recommending against prior substantive reform proposals at the Commission’s October meeting. See Memorandum 2012-44, pp. 7-9.

The purpose of the clean-up legislation is narrow. It is intended to fix technical errors and problems that arose in the process of enactment of AB 805, such as drafting errors and bill conflicts. Such fixes should be purely technical and uncontroversial. They do not require further study or public comment to assess their merits. Moreover, the Commission has a long-standing policy against recommending substantive changes to laws that were enacted on the Commission’s recommendation. See *CLRC Handbook of Practice and Procedures*, Rule 3.5 (Dec. 2010). While that does not bar the Commission from eventually considering further substantive reform of CID law, it does weigh against revisiting matters that were actually considered by the Commission.

Each of Ms. Grimm’s proposals are briefly summarized below, without analysis of their merits. Because the staff recommends against making *any* substantive reforms in the proposed clean-up legislation, the staff does not

intend to discuss the merits of the suggestions at the December meeting (unless a Commissioner requests otherwise).

Validity of Pre-Existing Documents and Actions

Ms. Grimm suggests restating Section 4010, which addresses the validity of documents and actions that predate the new law. Exhibit p. 2.

Effect of Local Ordinances

Ms. Grimm suggests revising Section 4020, which specifies how local ordinances are to be construed, in order to make clear that the provision does not affect an association's governing documents. Exhibit p. 2.

Personal Delivery of Notices

Ms. Grimm suggests revising Section 4035, which provides that an association may assent to receive documents by personal delivery, to require that the association specify an address to be used for any personal delivery. Exhibit pp. 2-3.

Approval by Majority

Ms. Grimm suggests deleting or revising the last clause of Section 4070, which explains the meaning of the term "approval by a majority of a quorum of members." Her proposed language would instead define the term "quorum." Exhibit p. 3.

Requirement that CID Contain Common Area

Ms. Grimm suggests revising Section 4201, which provides that a CID must contain common area, to expressly state that such common area may take the form of lien rights. Exhibit p. 4.

CID Identifying Information

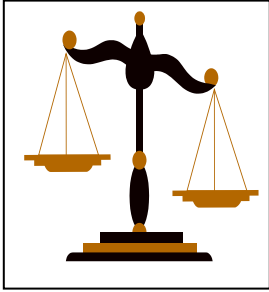
Ms. Grimm suggests combining Sections 4210 and 5405, which provide for recording or submitting identifying documentation relevant to the CID, with the addition of new language to explain the rationale for the provisions. Exhibit pp. 4-5.

RECOMMENDATION

The staff recommends that **the Commission approve the attached draft recommendation, which incorporates all staff recommendations in this memorandum, for printing and submission to the Legislature.** The staff has already made preliminary arrangements for the introduction of implementing legislation in 2013.

Respectfully submitted,

Steve Cohen
Staff Counsel



BETH A. GRIMM. P.L.C.
3478 Buskirk Ave., Ste. 1000
Pleasant Hill, CA 94523
Ph. 925 746-7177
Fax 925 215-8454

Web: <http://www.californiacondoguru.com>

Serving HOAs and HOs throughout the State of California

TO BRIAN HEBERT,
California Law Revision Commission
4000 Middlefield Road, Room D-2
Palo Alto, CA 94303-4739

October 27, 2012

REGARDING BILL NUMBER: AB 805 - CHAPTER 180 - 2011-2012 SESSION (EFFECTIVE DATE JANUARY 1, 2014), CLEAN UP LEGISLATION BEING CONSIDERED IN 2012-2013.

Dear Mr. Hebert and Committee Working on Revisions to the New (Relocated) Davis Stirling Act:

I am once again, weighing in on the [now] refinements of the [relocated and restated] Davis Stirling Act. I wrote to the committee a number of times in 2010 and 2011 and attended hearings; however, I have not provided input for quite some time because frankly, I could not keep up with the hearings and changes to such a long bill as it wound itself through the legislature. It seemed that by the time it took me to get through it and list the comments it had changed. At any rate, now that it is in bill form I understand there are going to be some refinements. I wish to provide input. For background, I am an attorney having been practicing common interest development law for more than 25 years. I have a website that is listed on the State Consumer Website as a resource, and have been contributing articles to industry publications for more than 20 years and answer questions from the public on two blogs, one specifically for homeowner questions and one for board and management related questions. I have written more than 40 publications on specific subjects and 3 books for owners and board members to help them understand the laws relating to common interest developments in California. I served on a legislative action committee for more than 20 years in this area and have stayed apprised of new legislation every year since 1988. I have testified at legislative hearings. I am one of the very limited number of homeowner association attorneys in California that has taken the time to educate owners and board members in Plain English publications and have counseled homeowners as well as associations. I appreciate laws that lay people can understand.

See the notes below:

The lack of titles in the new law for each section makes it more difficult to locate particular subject matter. I realize there are more provisions than before and adding subject matter titles would make the body of law longer, but still, part of the intent of the law was to make it easier to understand, and being able to find subject matter provisions is part of that. With regard to the sections which I believe deserve comment (below) I have suggested titles (in

red). If it is determined that titles would improve the law, I am willing to suggest them for each section.

See text from the statutes as well as my comments which appear in bold italics.

Each separate comment is separated by *****

Section 4010 currently says: 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.**

Comment: I do not know what 4010 means and I have been practicing in this area of the law for 25+ years. It is unclear what **document** is contemplated by the language as it stands if not the "governing documents". I believe the intent is that any current documents regulating the association are not invalidated by the new provisions. However, I also assume that the provisions of the new law supersede the Davis Stirling Act provisions located at Civil Code Section 1351-1378, and control. There has to be a better way to say this because as currently written, the "exception" for governing documents could be interpreted to mean that no document is invalidated except for the governing documents. I suggest this language instead:

"4010. **Validity of Existing Documents.** Nothing in this Act invalidates any governing or regulatory document duly approved and/or recorded or filed prior to January 1, 2014. However, this Act supersedes the provisions of Civil Code Sections 1350-1378 and so the provisions of this act are controlling to the extent there is any conflict with the prior act."

4020. **Effect of Local Ordinances.** Unless a contrary intent is clearly expressed, a local zoning ordinance is construed to treat like structures, lots, parcels, areas, spaces in like manner regardless of the form of the common interest development. **The governing documents of a common interest development may be more restrictive than the local ordinances.**

Comment: I believe that the sentence highlighted in yellow should be added because inserting this language may lead readers to believe that the local ordinances control even when the governing documents are more restrictive.

4035. **Delivery of Notices.** (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 **by delivery at a meeting or to the association's business office.**

Comment: I believe the language highlighted in yellow needs to be added because otherwise, it is implied that if an owner has not seen the notice or an association has failed to provide one, they can deliver anything to the President or Secretary while they are out walking their dog or enjoying a Sunday afternoon at the swimming pool.

4035. Methods 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.

My comment: "Assent" is not defined. I presume that if the association provides the disclosure to owners telling them how to contact or provide information to the association that constitutes "assent" and submittal by other forms does not constitute recognizable notice.

I suggest that "assent" be replaced with (or defined as): "provided an address for personal delivery."

4050. Delivery of Documents. (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, **postage prepaid**, into the United States mail.

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

Comment: These words (postage prepaid) appeared previously and I believe they should be included.

4070. Approval of Action Under This Act. 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 at a duly held meeting at which a quorum is present, **which affirmative votes also constitute a majority of the required quorum.**

Comment: The words highlighted confuse the message. They should be deleted. If the intent of the provision is that a quorum for purposes of any action under the act is a majority of owners, it should say that.

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.

Comment, "separate interest" is equivalent of the condominium which consists of the unit plus the tenant in common interest in the common area, so I believe this word should be "condominium", not unit.

CHAPTER 2. APPLICATION OF ACT

4201. **Applicability.** Nothing in this act may be construed to apply to a real property development that does not contain common area, **which may be in the form of real property and/or lien rights as set forth in section 4175.**

Comment: I believe the highlighted words should be added because people commonly miss the fact that even when there is no real property common area, it can be established through the assessment responsibilities and lien rights. This would prevent that misconception and tie the two provisions together.

4205. **Controlling Law and/or Governing Document.** (a) To the extent of any inconsistency between the governing documents and the law, the law controls.

(b) To the extent of any inconsistency between the articles of incorporation and the declaration, the declaration controls.

(c) To the extent of any inconsistency between the bylaws and the articles of incorporation or declaration, the articles of incorporation or declaration control.

(d) To the extent of any inconsistency between the operating rules and the bylaws, articles of incorporation, or declaration, the bylaws, articles of incorporation, or declaration control.

Comment: I believe sections (b) and (c) should be changed around so it does not appear there is a contradictory statement because in the order prescribed, Section (c) might be read to conflict with (b).

4210. **Point of Contact For Association.** In order to facilitate the **ability of title companies and other entities involved in the sales and refinancing of common interest development properties to locate the proper point of contact for the association, and to assist in** the collection of regular assessments, special assessments, transfer fees as authorized by Sections 4530, 4575, and 4580, and similar charges **due to the association,** 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:

Comment: It is patently unclear to many reading 4210 what the actual purpose is to be served by recordation of a contact statement and so it is ignored. Adding the

highlighted words and so modifying 4210 would clarify the intent, which is important but often missed. Also see comments below relating to Section 5405. I am suggesting that the statutes related to providing contact information about the association should be combined.

5405. **Identification of Common Interest Developments.** (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 thirty dollars (\$30) that the Secretary of State shall prescribe, the following information concerning the association and the development that it manages:

Comment: It seems to me that the above section and what follows specifically relates to identification of the Association and thought could be given to either referencing this particular statute along with Section 4210 above by adding a sentence to that statute, or to combine the two statutes under an Article entitled "Identification of Common Interest Developments. If you read my comments above with regard to Section 4210 you will see that I think it will help people understand the importance of providing identification information if it is explained to them. If the statutes were organized to be together it would make sense to provide a statement of legislative intent. Perhaps something like this:

"Identification of and contact information for common interest developments in California is problematic because there is not a registry. Therefore, when any a lender, bank, title company, or other entity or person needs information for payoff of an assessment account or desires contact the associations for these developments directly it is difficult to locate the office where business is conducted. Thus the legislature has adopted a mandatory registration requirement with the Secretary of State for incorporated associations and a discretionary recordation of a document providing contact information for all associations."

I commend the Law Review Commission on all of its hard work to try and make the Davis Stirling Act more cohesive, understandable and commonsense.

If I can answer any questions about the above or be of further assistance let me know.

Very truly yours,



BETH A. GRIMM, ESQ.

Beth A. Grimm, PLC (Attorney)

3478 Buskirk Avenue, # 1000

Pleasant Hill, CA 94523

Ph. 925 746-7177

Email: califcondoguru@aol.com

Web: www.californiacondoguru.com

Blogs: www.condolawgguru.com and

California Condo & HOA Law blog at
www.californiacondoguru.com/mainpage.html

#H-855

STATE OF CALIFORNIA

CALIFORNIA LAW REVISION COMMISSION

Pre-Print RECOMMENDATION

Statutory Clarification and Simplification of CID Law:
Clean-Up Legislation

Note: This is a pre-print report. The Law Revision Commission has approved the substance of this report, but minor editorial changes may be made prior to final publication.

December 2012

California Law Revision Commission
4000 Middlefield Road, Room D-2
Palo Alto, CA 94303-4739
650-494-1335
<commission@clrc.ca.gov>

CALIFORNIA LAW REVISION COMMISSION

4000 Middlefield Road, Room D-2
Palo Alto, CA 94303-4739
650-494-1335

XOCHITL CARRION, Chairperson
DAMIAN CAPOZZOLA, Vice-Chairperson
DIANE F. BOYER-VINE
JUDGE PATRICIA COWETT (RET.)
ASSEMBLY MEMBER ROGER DICKINSON
SENATOR TOM HARMAN
TARAS KIHICZAK
VICTOR KING
SUSAN DUNCAN LEE
CRYSTAL MILLER-O'BRIEN

December 13, 2012

*To: The Honorable Edmund G. Brown, Jr.
Governor of California, and
The Legislature of California*

Assembly Bills 805 and 806 (Torres), enacted in 2012, implement a Law Revision Commission recommendation to reorganize and recodify the Davis-Stirling Common Interest Development Act. The bills repealed the former statute (Civ. Code §§ 1350-1378), and replaced it with a new statute (Civ. Code §§ 4000-6150) that will become operative on January 1, 2014.

This recommendation proposes clean-up legislation to address minor technical issues relating to AB 805 and AB 806.

This recommendation was prepared pursuant to Resolution Chapter 108 of the Statutes of 2012.

Respectfully submitted,

Xochitl Carrion
Chairperson

STATUTORY CLARIFICATION AND
SIMPLIFICATION OF CID LAW:
CLEAN-UP LEGISLATION

1 Assembly Bills 805 and 806 (Torres), enacted in 2012,¹ implemented a Law Revision
2 Commission recommendation² to reorganize and recodify the Davis-Stirling Common
3 Interest Development Act³ (hereafter, “Davis-Stirling Act”), the primary statutory
4 authority governing common interest developments (hereafter, “CIDs”). The bills
5 repealed the former statute, and replaced it with a new statute⁴ that will become operative
6 on January 1, 2014.⁵

7 Before the new legislation becomes operative, clean-up legislation is needed to address
8 a small number of technical issues. The proposed revisions are explained below.

9 **Bill Conflicts**

10 *Davis-Stirling Act Provisions Amended in 2012*

11 In 2012, two bills were enacted that amended three provisions of the former
12 Davis-Stirling Act (Civil Code Sections 1363.05, 1368, and 1368.2).⁶ Both bills were
13 signed after Assembly Bill 805.

14 Consequently, the amendments made by those bills “prevailed over” the general repeal
15 of the Davis-Stirling Act that was effected by Assembly Bill 805.⁷ As a result, Sections
16 1363.05, 1368, and 1368.2 were not repealed. Furthermore, the substantive effect of those
17 bills has not yet been incorporated into the recodified Davis-Stirling Act.

18 The proposed law would correct those bill coordination problems, by (1) repealing
19 Civil Code Sections 1363.05, 1368, and 1368.2, and (2) incorporating their substance into
20 the recodified Davis-Stirling Act.⁸

21 *Cross-Reference Corrections*

22 Assembly Bill 806 corrected numerous statutory cross-references to the provisions that
23 were repealed by Assembly Bill 805. Because Assembly Bill 806 was large and entirely

1. See 2012 Cal. Stat. chs. 180, 181.

2. *Statutory Clarification and Simplification of CID Law*, 40 Cal. L. Revision Comm’n Reports 235 (2010).

3. Civ. Code §§ 1350-1378.

4. Civ. Code §§ 4000-6150.

5. 2012 Cal. Stat. ch. 180, § 3.

6. 2012 Cal. Stat. ch. 475 (AB 1838 (Calderon)); 2012 Cal. Stat. ch. 770 (AB 2697 (Assembly Committee on Housing and Community Development)).

7. See Gov’t Code § 9605.

8. See proposed amendments to Civ. Code §§ 4090, 4525, 4528, 4530 *infra*.

1 technical, it included a “subordination clause” providing that, in the event of any conflict
2 with any other bill enacted in 2012, the other bill would prevail.⁹

3 Pursuant to this subordination clause, a number of the cross-reference corrections
4 included in Assembly Bill 806 did not operate.¹⁰ The proposed law would make those
5 corrections.

6 **Technical Drafting Errors**

7 Assembly Bill 805 inadvertently omitted language from two sections of the recodified
8 Davis-Stirling Act. The proposed law would restore the missing language.¹¹

9 The proposed law would also correct an erroneous cross-reference in Civil Code
10 Section 4290(a).

9. 2012 Cal. Stat. ch. 181, § 85.

10. See Civ. Code § 2924b (amended by 2012 Cal. Stat. ch. 255); Gov’t Code § 12191 (amended by 2012 Cal. Stat. ch. 494).

11. See proposed amendments to Civ. Code §§ 4005, 4035 *infra*.

PROPOSED LEGISLATION

1 **Civ. Code § 1363.05 (repealed). Open meeting act**

2 SECTION 1. Section 1363.05 of the Civil Code is repealed.

3 **Comment.** Section 1363.05 is repealed. This implements the repeal of former Sections
4 1350-1378 and their continuation in Sections 4000-6150. See 2012 Cal. Stat. ch. 180; *Statutory*
5 *Clarification and Simplification of CID Law*, 40 Cal. L. Revision Comm’n Reports 235 (2010).

6 **Civ. Code §1368 (repealed). Disclosures upon sale or transfer of title**

7 SEC. _____. Section 1368 of the Civil Code is repealed.

8 **Comment.** Section 1368 is repealed. This implements the repeal of former Sections 1350-1378
9 and their continuation in Sections 4000-6150. See 2012 Cal. Stat. ch. 180; *Statutory Clarification*
10 *and Simplification of CID Law*, 40 Cal. L. Revision Comm’n Reports 235 (2010).

11 **Civ. Code §1368.2 (repealed). Document disclosure summary form**

12 SEC. _____. Section 1368.2 of the Civil Code is repealed.

13 **Comment.** Section 1368.2 is repealed. This implements the repeal of former Sections
14 1350-1378 and their continuation in Sections 4000-6150. See 2012 Cal. Stat. ch. 180; *Statutory*
15 *Clarification and Simplification of CID Law*, 40 Cal. L. Revision Comm’n Reports 235 (2010).

16 **Civ. Code § 2924b (amended). Request for copy of notice of default or sale**

SEC. _____. Section 2924b of the Civil Code is amended to read:

17 2924b. (a) Any person desiring a copy of any notice of default and of any notice
18 of sale under any deed of trust or mortgage with power of sale upon real property
19 or an estate for years therein, as to which deed of trust or mortgage the power of
20 sale cannot be exercised until these notices are given for the time and in the
21 manner provided in Section 2924 may, at any time subsequent to recordation of
22 the deed of trust or mortgage and prior to recordation of notice of default
23 thereunder, cause to be filed for record in the office of the recorder of any county
24 in which any part or parcel of the real property is situated, a duly acknowledged
25 request for a copy of the notice of default and of sale. This request shall be signed
26 and acknowledged by the person making the request, specifying the name and
27 address of the person to whom the notice is to be mailed, shall identify the deed of
28 trust or mortgage by stating the names of the parties thereto, the date of
29 recordation thereof, and the book and page where the deed of trust or mortgage is
30 recorded or the recorder’s number, and shall be in substantially the following
31 form:

32 “In accordance with Section 2924b, Civil Code, request is hereby made that a
33 copy of any notice of default and a copy of any notice of sale under the deed of
34 trust (or mortgage) recorded _____, _____, in Book _____ page _____ records of
35 _____ County, (or filed for record with recorder’s serial number _____, _____
36 County) California, executed by _____ as trustor (or mortgagor) in which

1 trustee, any person designated in an executed substitution of trustee, or an agent of
2 that substituted trustee.

3 (c) The mortgagee, trustee, or other person authorized to record the notice of
4 default or the notice of sale shall do the following:

5 (1) Within one month following recordation of the notice of default, deposit or
6 cause to be deposited in the United States mail an envelope, sent by registered or
7 certified mail with postage prepaid, containing a copy of the notice with the
8 recording date shown thereon, addressed to each person set forth in paragraph (2),
9 provided that the estate or interest of any person entitled to receive notice under
10 this subdivision is acquired by an instrument sufficient to impart constructive
11 notice of the estate or interest in the land or portion thereof that is subject to the
12 deed of trust or mortgage being foreclosed, and provided the instrument is
13 recorded in the office of the county recorder so as to impart that constructive
14 notice prior to the recording date of the notice of default and provided the
15 instrument as so recorded sets forth a mailing address that the county recorder
16 shall use, as instructed within the instrument, for the return of the instrument after
17 recording, and which address shall be the address used for the purposes of mailing
18 notices herein.

19 (2) The persons to whom notice shall be mailed under this subdivision are:

20 (A) The successor in interest, as of the recording date of the notice of default, of
21 the estate or interest or any portion thereof of the trustor or mortgagor of the deed
22 of trust or mortgage being foreclosed.

23 (B) The beneficiary or mortgagee of any deed of trust or mortgage recorded
24 subsequent to the deed of trust or mortgage being foreclosed, or recorded prior to
25 or concurrently with the deed of trust or mortgage being foreclosed but subject to a
26 recorded agreement or a recorded statement of subordination to the deed of trust or
27 mortgage being foreclosed.

28 (C) The assignee of any interest of the beneficiary or mortgagee described in
29 subparagraph (B), as of the recording date of the notice of default.

30 (D) The vendee of any contract of sale, or the lessee of any lease, of the estate or
31 interest being foreclosed that is recorded subsequent to the deed of trust or
32 mortgage being foreclosed, or recorded prior to or concurrently with the deed of
33 trust or mortgage being foreclosed but subject to a recorded agreement or
34 statement of subordination to the deed of trust or mortgage being foreclosed.

35 (E) The successor in interest to the vendee or lessee described in subparagraph
36 (D), as of the recording date of the notice of default.

37 (F) The office of the Controller, Sacramento, California, where, as of the
38 recording date of the notice of default, a "Notice of Lien for Postponed Property
39 Taxes" has been recorded against the real property to which the notice of default
40 applies.

41 (3) At least 20 days before the date of sale, deposit or cause to be deposited in
42 the United States mail an envelope, sent by registered or certified mail with
43 postage prepaid, containing a copy of the notice of the time and place of sale

1 addressed to each person to whom a copy of the notice of default is to be mailed as
2 provided in paragraphs (1) and (2), and addressed to the office of any state taxing
3 agency, Sacramento, California, that has recorded, subsequent to the deed of trust
4 or mortgage being foreclosed, a notice of tax lien prior to the recording date of the
5 notice of default against the real property to which the notice of default applies.

6 (4) Provide a copy of the notice of sale to the Internal Revenue Service, in
7 accordance with Section 7425 of the Internal Revenue Code and any applicable
8 federal regulation, if a “Notice of Federal Tax Lien under Internal Revenue Laws”
9 has been recorded, subsequent to the deed of trust or mortgage being foreclosed,
10 against the real property to which the notice of sale applies. The failure to provide
11 the Internal Revenue Service with a copy of the notice of sale pursuant to this
12 paragraph shall be sufficient cause to rescind the trustee’s sale and invalidate the
13 trustee’s deed, at the option of either the successful bidder at the trustee’s sale or
14 the trustee, and in either case with the consent of the beneficiary. Any option to
15 rescind the trustee’s sale pursuant to this paragraph shall be exercised prior to any
16 transfer of the property by the successful bidder to a bona fide purchaser for value.
17 A rescision of the trustee’s sale pursuant to this paragraph may be recorded in a
18 notice of rescision pursuant to Section 1058.5.

19 (5) The mailing of notices in the manner set forth in paragraph (1) shall not
20 impose upon any licensed attorney, agent, or employee of any person entitled to
21 receive notices as herein set forth any duty to communicate the notice to the
22 entitled person from the fact that the mailing address used by the county recorder
23 is the address of the attorney, agent, or employee.

24 (d) Any deed of trust or mortgage with power of sale hereafter executed upon
25 real property or an estate for years therein may contain a request that a copy of any
26 notice of default and a copy of any notice of sale thereunder shall be mailed to any
27 person or party thereto at the address of the person given therein, and a copy of
28 any notice of default and of any notice of sale shall be mailed to each of these at
29 the same time and in the same manner required as though a separate request
30 therefor had been filed by each of these persons as herein authorized. If any deed
31 of trust or mortgage with power of sale executed after September 19, 1939, except
32 a deed of trust or mortgage of any of the classes excepted from the provisions of
33 Section 2924, does not contain a mailing address of the trustor or mortgagor
34 therein named, and if no request for special notice by the trustor or mortgagor in
35 substantially the form set forth in this section has subsequently been recorded, a
36 copy of the notice of default shall be published once a week for at least four weeks
37 in a newspaper of general circulation in the county in which the property is
38 situated, the publication to commence within 10 business days after the filing of
39 the notice of default. In lieu of publication, a copy of the notice of default may be
40 delivered personally to the trustor or mortgagor within the 10 business days or at
41 any time before publication is completed, or by posting the notice of default in a
42 conspicuous place on the property and mailing the notice to the last known address
43 of the trustor or mortgagor.

1 (e) Any person required to mail a copy of a notice of default or notice of sale to
2 each trustor or mortgagor pursuant to subdivision (b) or (c) by registered or
3 certified mail shall simultaneously cause to be deposited in the United States mail,
4 with postage prepaid and mailed by first-class mail, an envelope containing an
5 additional copy of the required notice addressed to each trustor or mortgagor at the
6 same address to which the notice is sent by registered or certified mail pursuant to
7 subdivision (b) or (c). The person shall execute and retain an affidavit identifying
8 the notice mailed, showing the name and residence or business address of that
9 person, that he or she is over the age of 18 years, the date of deposit in the mail,
10 the name and address of the trustor or mortgagor to whom sent, and that the
11 envelope was sealed and deposited in the mail with postage fully prepaid. In the
12 absence of fraud, the affidavit required by this subdivision shall establish a
13 conclusive presumption of mailing.

14 (f)(1) Notwithstanding subdivision (a), with respect to separate interests
15 governed by an association, as defined in ~~subdivision (a) of Section 1351~~ 4080,
16 the association may cause to be filed in the office of the recorder in the county in
17 which the separate interests are situated a request that a mortgagee, trustee, or
18 other person authorized to record a notice of default regarding any of those
19 separate interests mail to the association a copy of any trustee's deed upon sale
20 concerning a separate interest. The request shall include a legal description or the
21 assessor's parcel number of all the separate interests. A request recorded pursuant
22 to this subdivision shall include the name and address of the association and a
23 statement that it is a homeowners' association. Subsequent requests of an
24 association shall supersede prior requests. A request pursuant to this subdivision
25 shall be recorded before the filing of a notice of default. The mortgagee, trustee, or
26 other authorized person shall mail the requested information to the association
27 within 15 business days following the date the trustee's deed is recorded. Failure
28 to mail the request, pursuant to this subdivision, shall not affect the title to real
29 property.

30 (2) A request filed pursuant to paragraph (1) does not, for purposes of Section
31 27288.1 of the Government Code, constitute a document that either effects or
32 evidences a transfer or encumbrance of an interest in real property or that releases
33 or terminates any interest, right, or encumbrance of an interest in real property.

34 (g) No request for a copy of any notice filed for record pursuant to this section,
35 no statement or allegation in the request, and no record thereof shall affect the title
36 to real property or be deemed notice to any person that any person requesting
37 copies of notice has or claims any right, title, or interest in, or lien or charge upon
38 the property described in the deed of trust or mortgage referred to therein.

39 (h) "Business day," as used in this section, has the meaning specified in
40 Section 9.

41 **Comment.** Subdivision (f) of Section 2924b is amended to correct a cross-reference to former
42 Section 1351(a).

1 **Civ. Code § 4005 (amended). Effect of headings**

SEC. _____. Section 4005 of the Civil Code is amended to read:

2 4005. Division, part, title, chapter, ~~and~~ article, and section headings do not in
3 any manner affect the scope, meaning, or intent of this act.

4 **Comment.** Section 4005 is amended to correct a drafting error.

5 **Civ. Code § 4035 (amended). Delivered to an association**

SEC. _____. Section 4035 of the Civil Code is amended to read:

6 4035. (a) If a provision of this act requires that a document be delivered to an
7 association, the document shall be delivered to the person designated in the annual
8 policy statement, prepared pursuant to Section 5310, to receive documents on
9 behalf of the association. If no person has been designated to receive documents,
10 the document shall be delivered to the president or secretary of the association.

11 (b) A document delivered pursuant to this section may be delivered by any of
12 the following methods:

13 (1) First-class mail, postage prepaid, registered or certified mail, express mail, or
14 overnight delivery by an express service carrier.

15 ~~(1)~~ (2) By e-mail, facsimile, or other electronic means, if the association has
16 assented to that method of delivery.

17 ~~(2)~~ (3) By personal delivery, if the association has assented to that method of
18 delivery. If the association accepts a document by personal delivery it shall
19 provide a written receipt acknowledging delivery of the document.

20 **Comment.** Section 4035 is amended to correct a drafting error.

21 **Civ. Code § 4090 (amended). "Board meeting"**

SEC. _____. Section 4090 of the Civil Code is amended to read:

22 4090. "Board meeting" means either of the following:

23 (a) A congregation, at the same time and place, of a sufficient number of
24 directors to establish a quorum of the board, to hear, discuss, or deliberate upon
25 any item of business that is within the authority of the board.

26 (b) A teleconference, where a sufficient number of directors to establish a
27 quorum of the board, in different locations, are connected by electronic means,
28 through audio or video, or both. A teleconference meeting shall be conducted in a
29 manner that protects the rights of members of the association and otherwise
30 complies with the requirements of this act. Except for a meeting that will be held
31 solely in executive session, the notice of the teleconference meeting shall identify
32 at least one physical location so that members of the association may attend, and at
33 least one director or a person designated by the board shall be present at that
34 location. Participation by directors in a teleconference meeting constitutes
35 presence at that meeting as long as all directors participating are able to hear one
36 another, as well as members of the association speaking on matters before the
37 board.

1 **Comment.** Subdivision (b) of Section 4090 is amended to continue, without substantive
2 change, a revision to former Section 1363.05(k)(2) made in 2012 by AB 2697 (Assembly
3 Committee on Housing and Community Development). See 2012 Cal. Stat. ch. 770, § 3. This is a
4 technical revision.

5 **Civ. Code § 4290 (amended). Recordation of condominium plan**

 SEC. _____. Section 4290 of the Civil Code is amended to read:

6 4290. (a) The certificate consenting to the recordation of a condominium plan
7 that is required by subdivision (c) of Section ~~4120~~ 4185 shall be signed and
8 acknowledged by all of the following persons:

9 (1) The record owner of fee title to that property included in the condominium
10 project.

11 (2) In the case of a condominium project that will terminate upon the
12 termination of an estate for years, by all lessors and lessees of the estate for years.

13 (3) In the case of a condominium project subject to a life estate, by all life
14 tenants and remainder interests.

15 (4) The trustee or the beneficiary of each recorded deed of trust, and the
16 mortgagee of each recorded mortgage encumbering the property.

17 (b) Owners of mineral rights, easements, rights-of-way, and other nonpossessory
18 interests do not need to sign the certificate.

19 (c) In the event a conversion to condominiums of a community apartment
20 project or stock cooperative has been approved by the required number of owners,
21 trustees, beneficiaries, and mortgagees pursuant to Section 66452.10 of the
22 Government Code, the certificate need only be signed by those owners, trustees,
23 beneficiaries, and mortgagees approving the conversion.

24 **Comment.** Subdivision (a) of Section 4290 is amended to correct a reference error.

25 **Civ. Code § 4525 (amended). Disclosure to prospective purchaser**

 SEC. _____. Section 4525 of the Civil Code is amended to read:

26 4525. (a) The owner of a separate interest shall provide the following documents
27 to a prospective purchaser of the separate interest, as soon as practicable before the
28 transfer of title or the execution of a real property sales contract, as defined in
29 Section 2985:

30 (1) A copy of all governing documents. If the association is not incorporated,
31 this shall include a statement in writing from an authorized representative of the
32 association that the association is not incorporated.

33 (2) If there is a restriction in the governing documents limiting the occupancy,
34 residency, or use of a separate interest on the basis of age in a manner different
35 from that provided in Section 51.3, a statement that the restriction is only
36 enforceable to the extent permitted by Section 51.3 and a statement specifying the
37 applicable provisions of Section 51.3.

38 (3) A copy of the most recent documents distributed pursuant to Article 7
39 (commencing with Section 5300) of Chapter 6.

1 (4) A true statement in writing obtained from an authorized representative of the
2 association as to the amount of the association's current regular and special
3 assessments and fees, any assessments levied upon the owner's interest in the
4 common interest development that are unpaid on the date of the statement, and any
5 monetary fines or penalties levied upon the owner's interest and unpaid on the
6 date of the statement. The statement obtained from an authorized representative
7 shall also include true information on late charges, interest, and costs of collection
8 which, as of the date of the statement, are or may be made a lien upon the owner's
9 interest in a common interest development pursuant to Article 2 (commencing
10 with Section 5650) of Chapter 8.

11 (5) A copy or a summary of any notice previously sent to the owner pursuant to
12 Section 5855 that sets forth any alleged violation of the governing documents that
13 remains unresolved at the time of the request. The notice shall not be deemed a
14 waiver of the association's right to enforce the governing documents against the
15 owner or the prospective purchaser of the separate interest with respect to any
16 violation. This paragraph shall not be construed to require an association to inspect
17 an owner's separate interest.

18 (6) A copy of the initial list of defects provided to each member pursuant to
19 Section 6000, unless the association and the builder subsequently enter into a
20 settlement agreement or otherwise resolve the matter and the association complies
21 with Section 6100. Disclosure of the initial list of defects pursuant to this
22 paragraph does not waive any privilege attached to the document. The initial list of
23 defects shall also include a statement that a final determination as to whether the
24 list of defects is accurate and complete has not been made.

25 (7) A copy of the latest information provided for in Section 6100.

26 (8) Any change in the association's current regular and special assessments and
27 fees which have been approved by the board, but have not become due and
28 payable as of the date disclosure is provided pursuant to this subdivision.

29 (9) If there is a provision in the governing documents that prohibits the rental or
30 leasing of any of the separate interests in the common interest development to a
31 renter, lessee, or tenant, a statement describing the prohibition ~~and its~~
32 ~~applicability~~.

33 (10) If requested by the prospective purchaser, a copy of the minutes of board
34 meetings, excluding meetings held in executive session, conducted over the
35 previous 12 months, that were approved by the board.

36 (b) This section does not apply to an owner that is subject to the requirements of
37 Section 11018.6 of the Business and Professions Code.

38 **Comment.** Paragraph (9) of subdivision (a) of Section 4525 is amended to continue, without
39 substantive change, a revision to former Section 1368 made in 2012 by AB 2697 (Assembly
40 Committee on Housing and Community Development). See 2012 Cal. Stat. ch. 770, § 4.5. This is
41 a technical revision.

1 **Civ. Code § 4528 (amended). Document disclosure summary form**
 2 SEC. _____. Section 4528 of the Civil Code is amended to read:
 3 4528. The form for billing disclosures required by Section 4530 shall be in
 4 substantially the following form and in at least 10-point type:

**CHARGES FOR DOCUMENTS PROVIDED AS REQUIRED
 BY SECTION 4525***

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	Not Available (N/A) or Not Applicable (N/App)
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)	_____	_____
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)	_____	_____
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.

- 1 **Comment.** Section 4528 is amended to continue, without substantive change, a revision to
- 2 former Section 1368.2 made in 2012 by AB 1838 (Calderon). See 2012 Cal. Stat. ch. 475, § 2.
- 3 This is a technical revision.

1 **Civ. Code § 4530 (amended). Information to be provided by association**

2 SEC. _____. Section 4530 of the Civil Code is amended to read:

3 4530. (a) Upon written request, the association shall, within 10 days of the
4 mailing or delivery of the request, provide the owner of a separate interest, or any
5 other recipient authorized by the owner, with a copy of the requested documents
6 specified in Section 4525.

7 (b)(1) Upon receipt of a written request, the association shall provide, on the
8 form described in Section 4528, a written or electronic estimate of the fees that
9 will be assessed for providing the requested documents. The documents required
10 to be made available pursuant to this section may be maintained in electronic
11 form, and may be posted on the association's Internet Web site. Requesting parties
12 shall have the option of receiving the documents by electronic transmission if the
13 association maintains the documents in electronic form. The association may
14 collect a reasonable fee based upon the association's actual cost for the
15 procurement, preparation, reproduction, and delivery of the documents requested
16 pursuant to the provisions of this section.

17 (2) No additional fees may be charged by the association for the electronic
18 delivery of the documents requested.

19 (3) (A) A cancellation fee for documents specified in subdivision (a) shall not be
20 collected if either of the following applies:

21 (i) The request was canceled in writing by the same party that placed the order
22 and work had not yet been performed on the order.

23 (ii) The request was canceled in writing and any work that had been performed
24 on the order was compensated.

25 (B) The association shall refund all fees collected pursuant to paragraph (1) if
26 the request was canceled in writing and work had not yet been performed on the
27 order.

28 (C) If the request was canceled in writing, the association shall refund the share
29 of fees collected pursuant to paragraph (1) that represents the portion of the work
30 not performed on the order.

31 ~~(3)~~ (4) Fees for any documents required by this section shall be distinguished
32 from other fees, fines, or assessments billed as part of the transfer or sales
33 transaction. Delivery of the documents required by this section shall not be
34 withheld for any reason nor subject to any condition except the payment of the fee
35 allowed pursuant to paragraph (1).

36 ~~(4)~~ (5) An association may contract with any person or entity to facilitate
37 compliance with the requirements of this subdivision on behalf of the association.

38 ~~(5)~~ (6) The association shall also provide a recipient authorized by the owner of
39 a separate interest with a copy of the completed form specified in Section 4528 at
40 the time the required documents are delivered.

41 **Comment.** Subdivision (b) of Section 4530 is amended to continue, without substantive
42 change, a revision to former Section 1368 made in 2012 by AB 2697 (Assembly Committee on

1 Housing and Community Development). See 2012 Cal. Stat. ch. 770, § 4.5. This is a technical
2 revision.

3 **Gov't Code § 12191 (amended). Miscellaneous business entity filing fees**

SEC. ____ . Section 12191 of the Government Code is amended to read:
4 12191. The miscellaneous business entity filing fees are the following:

5 (a) Foreign Associations, as defined in Sections 170 and 171 of the Corporations
6 Code:

7 (1) Filing the statement and designation upon the qualification of a foreign
8 association pursuant to Section 2105 of the Corporations Code: One hundred
9 dollars (\$100).

10 (2) Filing an amended statement and designation by a foreign association
11 pursuant to Section 2107 of the Corporations Code: Thirty dollars (\$30).

12 (3) Filing a certificate showing the surrender of the right of a foreign association
13 to transact intrastate business pursuant to Section 2112 of the Corporations Code:
14 No fee.

15 (b) Unincorporated Associations:

16 (1) Filing a statement in accordance with Section 24003 of the Corporations
17 Code as to principal place of office or place for sending notices or designating
18 agent for service: Twenty-five dollars (\$25).

19 (2) Insignia Registrations: Ten dollars (\$10).

20 (c) Community Associations and Common Interest Developments:

21 (1) Filing a statement by a community association in accordance with Section
22 ~~1363.6~~ 5405 of the Civil Code to register the common interest development that it
23 manages: An amount not to exceed thirty dollars (\$30).

24 (2) Filing an amended statement by a community association in accordance with
25 Section ~~1363.6~~ 5405 of the Civil Code: No fee.

26 **Comment.** Subdivision (c) of Section 12191 is amended to correct cross-references to former
27 Civil Code Section 1363.6.