

STATE OF CALIFORNIA

# **CALIFORNIA LAW REVISION COMMISSION**

RECOMMENDATION

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

December 2012

California Law Revision Commission  
4000 Middlefield Road, Room D-2  
Palo Alto, CA 94303-4739  
[www.clrc.ca.gov](http://www.clrc.ca.gov)

## NOTE

This report includes an explanatory Comment to each section of the recommended legislation. The Comments are written as if the legislation were already operative, since their primary purpose is to explain the law as it will exist to those who will have occasion to use it after it is operative. The Comments are legislative history and are entitled to substantial weight in construing the statutory provisions. For a discussion of cases addressing the use of Law Revision Commission materials in ascertaining legislative intent, see the Commission's most recent *Annual Report*.

Cite this report as *Statutory Clarification and Simplification of CID Law: Clean-Up Legislation*, 42 Cal. L. Revision Comm'n Reports 311 (2012).

STATE OF CALIFORNIA

---

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  
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 The bills repealed the former statute (Civ.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

Assembly Bills 805 and 806 (Torres), enacted in 2012,<sup>1</sup> implemented a Law Revision Commission recommendation<sup>2</sup> to reorganize and recodify the Davis-Stirling Common Interest Development Act<sup>3</sup> (hereafter, “Davis-Stirling Act”), the primary statutory authority governing common interest developments (hereafter, “CIDs”). The bills repealed the former statute, and replaced it with a new statute<sup>4</sup> that will become operative on January 1, 2014.<sup>5</sup>

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

### Bill Conflicts

#### *Davis-Stirling Act Provisions Amended in 2012*

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

Consequently, the amendments made by those bills “prevailed over” the general repeal of the Davis-Stirling Act that was effected by Assembly Bill 805.<sup>7</sup> As a result, Sections 1363.05, 1368, and 1368.2 were not repealed. Furthermore, the substantive effect of

---

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.

those bills has not yet been incorporated into the recodified Davis-Stirling Act.

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

### ***Cross-Reference Corrections***

Assembly Bill 806 corrected numerous statutory cross-references to the provisions that were repealed by Assembly Bill 805. Because Assembly Bill 806 was large and entirely technical, it included a “subordination clause” providing that, in the event of any conflict with any other bill enacted in 2012, the other bill would prevail.<sup>9</sup>

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

### **Technical Drafting Errors**

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

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

---

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

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

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

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

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

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

SEC. \_\_\_\_\_. Section 1368 of the Civil Code is repealed.

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

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

SEC. \_\_\_\_\_. Section 1368.2 of the Civil Code is repealed.

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

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

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

2924b. (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 mortgagor) 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 his or her 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 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 and place of sale, 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 his or her 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 e-mail 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.

(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.

(3) At least 20 days before the date of 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 and place of sale 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 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 to a bona fide purchaser for value. A rescision of the trustee’s sale pursuant to this paragraph may be recorded in a notice of rescision 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 he or she is over the age of 18 years, 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 ~~subdivision (a) of Section 4354~~ 4080, 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 a homeowners' association. 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.

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

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

SEC. \_\_\_\_ . Section 4005 of the Civil Code is amended to read:  
4005. Division, part, title, chapter, ~~and~~ article, and section headings do not in any manner affect the scope, meaning, or intent of this act.

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

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

SEC. \_\_\_\_ . Section 4035 of the Civil Code is amended to read:  
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) First-class mail, postage prepaid, registered or certified mail, express mail, or overnight delivery by an express service carrier.

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

~~(2)~~ (3) 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.

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

**Civ. Code § 4090 (amended). “Board meeting”**

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

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, 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.

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

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

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

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:

(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.

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

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

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

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.

(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 ~~and its applicability~~.

(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.

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

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

#### **Civ. Code § 4528 (amended). Document disclosure summary form**

SEC. \_\_\_\_\_. Section 4528 of the Civil Code is amended to read:

4528. The form for billing disclosures required by Section 4530 shall be in substantially the following form and in at least 10-point type:

 <b>Note.</b> A form has been omitted to conserve resources.
---

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

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

SEC. \_\_\_\_\_. Section 4530 of the Civil Code is amended to read:

4530. (a) 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 the requested documents specified in Section 4525.

(b)(1) 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. 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. The association may collect a reasonable fee based upon the association's actual cost for the procurement, preparation, reproduction, and delivery of the documents requested pursuant to the provisions of this section.

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

(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.

~~(3)~~ (4) Fees for any documents required by this section shall be distinguished from other fees, fines, or assessments billed as part of the transfer or sales transaction. 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 allowed pursuant to paragraph (1).

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

~~(5)~~ (6) 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.

**Comment.** Subdivision (b) of Section 4530 is amended to continue, without substantive change, a revision to former Section 1368 made in 2012 by AB 2697 (Assembly Committee on Housing and Community Development). See 2012 Cal. Stat. ch. 770, § 4.5. This is a technical revision.

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

SEC. \_\_\_\_ . Section 12191 of the Government Code is amended to read:

12191. 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 ~~4363.6~~ 5405 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 ~~1363.6~~ 5405 of the Civil Code: No fee.

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

---

