

STATE OF CALIFORNIA

CALIFORNIA LAW REVISION COMMISSION

RECOMMENDATION

Commercial and Industrial Common Interest Developments

August 2012

California Law Revision Commission
4000 Middlefield Road, Room D-2
Palo Alto, CA 94303-4739
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 *Commercial and Industrial Common Interest Developments*, 42 Cal. L. Revision Comm'n Reports 1 (2012).

STATE OF CALIFORNIA

CALIFORNIA LAW REVISION COMMISSION

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

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VICTOR KING

August 17, 2012

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

A common interest development (“CID”) is a form of real property development, in which ownership of a separate interest is coupled with a shared interest in common area property.

CIDs are governed by the Davis-Stirling Common Interest Development Act (“Davis-Stirling Act”), which authorizes and defines the CID property ownership form and regulates the operation of a CID’s managing association.

The available legislative history indicates that the Davis-Stirling Act was originally intended to govern only residential property, with no expectation that it would apply to commercial or industrial property.

When it later became apparent that the Act also applied to nonresidential developments, Civil Code Section 1373 was enacted to limit that application. Section 1373 generally preserved the application of the foundational provisions of the Davis-Stirling Act (i.e., those that relate to the establishment and definition of the CID property form), while the operational provisions (i.e., those that regulated the ongoing operation of the managing association) were made inapplicable to commercial and industrial CIDs.

Since the enactment of Section 1373 in 1988, the Davis-Stirling Act has more than tripled in size, mostly through the addition of numerous new operational provisions. Many of those provisions

appear to have been designed specifically for homeowners. For the most part, the Legislature does not appear to have analyzed whether those new provisions were necessary or beneficial to commercial or industrial property owners.

The Commission has completed such an analysis, based on an extrapolation of the policies supporting the enactment of Section 1373. The Commission makes three general recommendations:

- (1) The law governing commercial and industrial CIDs should be separated from the law governing residential CIDs. This will prevent any new laws enacted to benefit residential owners from being inadvertently applied to commercial and industrial developments.
- (2) The existing foundational provisions of the Davis-Stirling Act should continue to apply to commercial and industrial CIDs. These provisions are necessary for any CID, regardless of type.
- (3) Most of the existing operational provisions of the Davis-Stirling Act should be made inapplicable to commercial and industrial CIDs. These provisions are not strictly necessary for all CIDs. They appear to have been added to the Davis-Stirling Act to benefit residential property owners, without separate consideration of their effect on commercial or industrial property owners.

This recommendation was prepared pursuant to Resolution Chapter 98 of the Statutes of 2009.

Respectfully submitted,

Crystal Miller-O'Brien
Chairperson

ACKNOWLEDGMENTS

Comments from knowledgeable persons are invaluable in the Commission's study process. The Commission would also like to express its appreciation to the many individuals and organizations who have taken the time to participate in this study.

Inclusion of the name of an individual or organization should not be taken as an indication of the individual's opinion or the organization's position on any aspect of this recommendation. The Commission regrets any errors or omissions that may have been made in compiling these acknowledgments.

KAY ADAMS

JOHN ANDREASEN

KAZUKO K. ARTUS

JACK BHASIN

GUY CHARBONNEAU

KAREN D. CONLON, *California Association Of Community Managers*

BOB CRISELL

SKIP DAUM, *Community Associations Institute*

KADIE DE SENA

STEVE DYER

TERRY FARRIS

PETER GOTTSCHLICH

DON HANEY

C. H. HOLLADAY

MATT HUARTE

BRUCE IBBETSON

MICHAEL E. JOHNSON

JOHN LAUBACH

SCOTT L. LEVITT

LISA McLAIN

DUNCAN R. MCPHERSON

RODNEY PLASCENCIA, *Calwest Properties*

TINA RASNOW, *Ventura County Superior Court Self-Help Legal Center*

CRAIG STEVENS, *Commercial Property Owners Association*

MIKE TURNER

DAVID VAN GROL

ACKNOWLEDGMENTS, cont'd

JEFFREY G. WAGNER

ED WEBER

LAWRENCE A. WOODWARD

COMMERCIAL AND INDUSTRIAL COMMON INTEREST DEVELOPMENTS

A common interest development (“CID”) is a real property development that includes all of the following: (1) separate ownership of a lot or unit, coupled with an undivided interest in common property, (2) covenants, conditions, and restrictions that limit use of both the common area and separate ownership interests, and (3) management of common property and enforcement of restrictions by a community association.¹

The Davis-Stirling Common Interest Development Act (“Davis-Stirling Act”)² is the main body of statutory law that governs CIDs in California. The Act was enacted in 1985,³ primarily to consolidate and standardize statutory provisions governing different types of CIDs.⁴

The available legislative history indicates that the Davis-Stirling Act was originally intended to govern only residential property, with no expectation that it would apply to commercial or industrial property.⁵

Two years later, when it became apparent that the Act also applied to commercial and industrial CIDs, a bill was introduced to

1. Civ. Code §§ 1352, 1363(a); C. Sproul & K. Rosenberry, *Advising California Common Interest Communities*, §§ 1.2, 1.14, 1.15, pp. 3-4, 15-19 (2010).

2. Civ. Code §§ 1350-1378.

3. 1985 Cal. Stat. ch. 874.

4. C. Sproul & K. Rosenberry, *supra* note 1, at 1.4, pp. 5-6.

5. See letter from Jerold L. Miles to Michael Krisman (Sept. 16, 1986) (on file with Commission) (“In a recent conversation between my partner Rob Thomson and Assemblyman Davis, Assemblyman Davis assured Mr. Thomson that the act was intended to apply only to residential projects.”); Office of Local Government Affairs, Enrolled Bill Report on AB 2484 (May 23, 1988) (on file with Commission) (“According to the consultant for the Assembly Housing Committee, the Davis-Stirling Act was enacted to benefit residential common interest developments. However, the language of the Davis-Stirling Act *inadvertently* included commercial and industrial developments.”) (emphasis added).

entirely exempt such developments from the Davis-Stirling Act.⁶ However, persons representing commercial property owners objected to that approach, noting that some provisions of the Act were beneficial for all CIDs, regardless of type.⁷ The bill was then amended to instead exempt commercial and industrial CIDs from selected provisions of the Act that were identified as necessary to protect residential property owners, but unnecessary and burdensome for commercial or industrial property owners.⁸ Civil Code Section 1373 was enacted in that form,⁹ with an express statement of legislative findings:

The Legislature finds that the [provisions declared inapplicable to commercial or industrial CIDs] may be appropriate to protect purchasers in residential common interest developments, however, the provisions are not necessary to protect purchasers in commercial or industrial developments since the application of those provisions results in unnecessary burdens and costs for these types of developments.¹⁰

6. AB 2484 (Hauser) (1987).

7. See, e.g., letter from Jeffrey G. Wagner to Assembly Member Daniel Hauser (June 12, 1987) (attached to Commission Staff Memorandum 2008-63, Exhibit pp. 1-2 (available from the Commission at <www.clrc.ca.gov>)); letter from F. Scott Jackson to Assembly Member Hauser (June 29, 1987) (on file with Commission); Exhibit to letter from Donna L. May to Michael Krisman (May 7, 1987) (on file with Commission).

8. See, e.g., Assembly Floor Analysis of AB 2484 (Jan. 19, 1988), p. 1 (specified provisions of Davis-Stirling Act were “enacted to benefit residential common interest developments”); Assembly Committee on Housing and Community Development Analysis of AB 2484 (Jan. 11, 1988), p. 1 (specified provisions of Davis-Stirling Act were “enacted primarily to regulate and benefit residential common interest developments”); Senate Committee on Housing and Urban Affairs Analysis of AB 2484 (May 12, 1987), p. 1 (specified provisions of Davis-Stirling Act were “designed to protect individuals in residential common interest developments”); Committee Statement of Assembly Member Hauser on AB 2484 (on file with Commission) (problems to be solved by Davis-Stirling Act “revolved around residential subdivisions”).

9. 1988 Cal. Stat. ch. 123.

10. See Civ. Code § 1373(b).

Since the enactment of Section 1373, the Davis-Stirling Act has more than tripled in size.¹¹ However, over that 23 year period, only three additions have been made to the list of exemptions in Section 1373 for commercial and industrial developments.¹²

The Commission believes that most of the new provisions of the Davis-Stirling Act have been enacted to solve problems faced by residential property owners, without separate consideration of their effects on nonresidential CIDs.¹³ As a consequence, nearly all of the numerous regulatory provisions of the Davis-Stirling Act currently apply to commercial and industrial CIDs, despite having been designed to protect residential property owners. This seems contrary to the Legislature's intent in enacting Section 1373.

11. The Act has grown from 25 code sections in 1986 to 92 code sections in 2012.

12. See 2003 Cal. Stat. ch. 557 (adding Civ. Code §§ 1357.100-1357.150), 2004 Cal. Stat. ch. 346 (adding Civ. Code § 1378), and 2011 Cal. Stat. ch. 62 (adding Civ. Code §1360.2).

13. Legislative analyses of major recent CID reform bills make no mention of the bills' effects on nonresidential CIDs, instead expressly focusing on the bills' effects on "homeowners." See, e.g., Senate Transportation and Housing Committee Analysis of SB 528 (Feb. 22, 2007), p. 1 ("A common-interest development (CID) is a form of real estate where each *homeowner* has an exclusive interest in a unit or lot and a shared or undivided interest in common area property.") (emphasis added); Senate Floor Analysis of SB 61 (Sept. 5, 2005), p. 7 ("According to the author's office, ballots in CID elections are not required by law to be secret. This leaves an opening for potential abuse wherein *homeowners* can be intimidated and disinclined to vote in accordance with their true desires.") (emphasis added); Senate Floor Analysis of SB 137 (Sept. 7, 2005) ("This bill protects owners' equity in their *homes*...") (emphasis added); Assembly Floor Analysis of AB 1098 (Sept. 8, 2005), p. 2 ("The author identifies the purpose of the bill as preserving common interest developments as affordable *housing* by detailing the financial records that are subject to *homeowner* inspection.") (emphasis added). Note too that bills proposing changes to the Davis-Stirling Act are typically referred to the housing policy committees in each chamber, and are not heard by the policy committees tasked with evaluating new business regulations.

See also the statutory text of Civ. Code §§ 1353.7 (prohibiting a CID from requiring a "homeowner" to install or repair roof in violation of statute) and 1365.2 (referencing records of interior architectural plans for individual "homes").

The Commission has completed a review of the provisions that were added to the Davis-Stirling Act since 1988, in order to determine whether those provisions should apply to commercial and industrial CIDs. In conducting this study, the Commission attempted to identify the original policy rationale for the enactment of Section 1373 and then apply that rationale to the new provisions of the Act. In other words, the Commission has attempted to extrapolate from established legislative policy, rather than make its own ad hoc judgments about which provisions are appropriate for commercial and industrial CIDs.¹⁴ The Commission's analysis and recommendations on that issue are discussed below.

The Commission also recommends that the law governing commercial and industrial CIDs be separated from the law governing residential CIDs. That would avoid any future inadvertent regulation of commercial and industrial CIDs, through the enactment of new provisions designed to benefit residential property owners. This would not prevent the Legislature from adopting reforms that apply to all types of CIDs, but it would require an affirmative step in order to give a new provision such universal application.

PRIOR LEGISLATIVE POLICY

In order to better understand the legislative policy rationale for the enactment of Section 1373, it is helpful to examine the content of the Davis-Stirling Act when Section 1373 was added. At that time, the Davis-Stirling Act consisted of only 25 sections, most of which governed the establishment and basic structure of a CID, rather than regulating how a CID should conduct its daily affairs.

After the enactment of Section 1373, the provisions of the Act that continued to apply to a commercial or industrial CID included all of the following:

14. But see "Exceptions to the General Recommendations," below.

- *Definitions and other general provisions.*¹⁵ These provisions are necessary to the operation of the statute and the definition of the CID property ownership form, and impose no significant burden on the operation of a CID.
- *Governing document provisions.*¹⁶ These provisions define the character of a CID's founding documents.
- *Property ownership and transfer provisions.*¹⁷ These provisions provide special rules relevant to the CID form of property ownership.
- *Basic governance provisions.*¹⁸ These provisions establish the basic governance structure for the management and maintenance of CID common area, and the enforcement of mutual restrictions. They enable governance, without regulating governance operations.

By preserving the application of those types of provisions, the Legislature seems to have concluded that such provisions are necessary for commercial and industrial CIDs, and are not unduly burdensome to their operations.

Significantly, Section 1373 exempted commercial and industrial CIDs from the following types of provisions:

15. Civ. Code §§ 1350 (short title), 1351 (definitions), 1352 (application of Act).

16. Civ. Code §§ 1353 (content of declaration), 1354 (enforcement of restrictions as equitable servitudes), 1355 and 1357 (amendment of declaration).

17. Civ. Code §§ 1358 (transfer of separate interest), 1359 (partition), 1360 (separate interest improvements), 1361 (rights of ingress, egress, and support), 1362 (ownership of common area), 1369 (mechanics liens on common area), 1370 (liberal construction of title documents), 1371 (presumption regarding unit boundaries), 1372 (construction of local zoning ordinances).

18. Civ. Code §§ 1363(a) (existence and powers of association), 1364 (maintenance obligations), 1366(a) (authority to levy assessments), 1366(c) (authority to recover collection costs), 1366(d) (exemption from interest rate limitations), 1367 (authority to lien to collect overdue assessments).

- *Provisions regulating fiscal planning and reporting.*¹⁹ These provisions state mandatory requirements governing an association's fiscal planning and reporting.
- *Judicial override of supermajority amendment requirement.*²⁰ This provision authorizes a court to approve an amendment of a CID's declaration, notwithstanding a failure to satisfy a supermajority member approval requirement stated in the declaration.
- *Transfer disclosure requirements.*²¹ This provision requires that specified information be provided to a prospective purchaser of a separate interest in a CID, before transfer of title.

The exemption of commercial and industrial CIDs from those provisions indicates that the Legislature found them to be unnecessary and unduly burdensome for those types of CIDs.²²

The basis for these conclusions can be found in a legislative analysis of the bill that added Section 1373. The analysis discussed the special character of commercial and industrial CIDs²³:

19. Civ. Code §§ 1363(b) and 1365 (mandatory financial statement), 1365.5 (fiscal duties of board), 1366(b) and 1366.1 (limitations on assessment setting).

20. Civ. Code § 1356.

21. Civ. Code § 1368.

22. See, e.g., Civ. Code § 1373(b); Assembly Floor Analysis of AB 2484 (Jan. 19, 1988) (on file with Commission); Assembly Committee on Housing and Community Development Analysis of AB 2484 (Jan. 11, 1988) (on file with Commission); Senate Committee on Housing and Urban Affairs Analysis of AB 2484 (May 12, 1987) (on file with Commission); Committee Statement of Assembly Member Hauser on AB 2484 (on file with Commission).

23. Senate Rules Committee Analysis of AB 2484 (May 18, 1988) (on file with Commission). See also Assembly Floor Analysis of AB 2484 (Jan. 19, 1988) (on file with Commission); Assembly Committee on Housing and Community Development Analysis of AB 2484 (Jan. 11, 1988) (on file with Commission); Senate Committee on Housing and Urban Affairs Analysis of AB 2484 (May 12, 1987) (on file with Commission); Committee Statement of Assembly Member Hauser on AB 2484 (on file with Commission).

- Commercial and industrial CIDs are “business endeavors in which the parties engage the services of attorneys, accountants, management companies, and developers.”
- Unlike owners in residential CIDs, owners in commercial and industrial CIDs are “well-informed” and “governed by other provisions of commercial law.”
- “The operational needs of commercial and industrial CIDs are different than the needs of residential [CIDs].”²⁴
- Regulatory requirements designed to protect residential owners “interfere with commerce, and increase the costs of doing business.”

Taken as a whole, the enactment of Section 1373 suggests the following policy principles:

- Provisions that define the basic property ownership and governance structure for CIDs are needed by commercial and industrial CIDs and do not unduly burden those CIDs.
- Provisions that are designed to help homeowners avoid mismanagement, by mandating specific management practices, are unnecessary and unduly burdensome for business owners in commercial and industrial CIDs.²⁵

24. For example, a commercial or industrial CID may require greater flexibility than a residential CID, in order to address significant business-related changes in the development’s use, facilities, and costs.

25. The Legislature has expressly recognized the difference between the needs of homeowners and business owners involved in seemingly similar ventures as recently as 2011, when adding procedural protections relating to CID meetings to Civil Code Section 1363.05. 2011 Cal. Stat. ch. 257 (SB 563 (Committee on Transportation and Housing)). As indicated in a legislative committee analysis of SB 563:

Although CIDs, as corporations, are regulated by meeting provisions of Corporations Code, as well as the Davis-Stirling Act, CIDs are not typical business corporations. For example, while shareholders of a business

- Provisions that are designed to help homeowners understand the consequences of purchasing a home in a CID are not needed by purchasers of units in commercial or industrial developments. Business owners purchasing commercial or industrial properties are presumably professionally advised and do not need the same statutory guidance provided to homeowners.²⁶
- A provision authorizing the court to circumvent a supermajority approval requirement for amendment of the declaration may be helpful in a residential CID, where homeowner apathy and fractiousness may make it difficult to obtain the approval required for a necessary amendment. This problem is less likely to arise in a commercial or industrial CID.²⁷ Furthermore, a business owner may have carefully read and relied on a CID's governing documents before purchasing a unit in a commercial or industrial CID. A judicial override of the declaration could frustrate the owners' reasonable expectations.

corporation have an obvious economic interest in the actions of the board of directors, the separate interest owners of a CID arguably have a much greater interest in the actions of its board, given that those actions affect not just economic interests, but the rules and regulations affecting day-to-day life within the development.

Assembly Committee On Judiciary Analysis of SB 563 (June 28, 2011).

26. The Legislature has drawn similar distinctions in the statutory treatment of owners of residential real property and owners of nonresidential real property in other contexts as well. See e.g., Bus. & Prof. Code § 11010.3 (inapplicability of Subdivided Lands Act to sale of lots or interests in commercial and industrial subdivisions); Civ. Code § 1102 *et seq* (statutory disclosures required only upon transfer of residential property); Ins. Code § 10101 *et seq* (statutory disclosures required only for residential property insurance).

27. See, e.g., Exhibit to letter from Donna L. May to Michael Krisman (May 6, 1987) (on file with Commission), p. 6 ("Owner apathy in residential projects which makes it difficult to obtain required extra majority consensus for declaration change is uncommon among business owners in commercial projects.").

Section 1373 has been amended three times since its enactment. Each amendment has been consistent with the principles set out above, exempting commercial and industrial CIDs from provisions regulating governance operations:

- In 2003, Section 1373 was amended to exempt commercial and industrial CIDs from new statutory procedures on association rulemaking.²⁸
- In 2004, Section 1373 was amended to exempt commercial and industrial CIDs from new statutory procedures on architectural review decisionmaking.²⁹
- In 2011, Section 1373 was amended to exempt commercial and industrial CIDs from a new restriction on an association's authority to regulate the rental of separate interests.³⁰

In summary, in enacting and amending Section 1373, the Legislature seems to have drawn a distinction between two broad classes of Davis-Stirling Act provisions:

- *Foundational Provisions.* These are enabling provisions that address the fundamental character of the CID property ownership form. They include (1) definitions of key concepts, (2) provisions relating to a CID's founding documents, (3) provisions relating to basic property ownership, transfer, and maintenance, and (4) provisions establishing the

28. 2003 Cal. Stat. ch. 557. This change to Civil Code Section 1373, which exempted commercial and industrial CIDs from Sections 1357.100 through 1357.150, related to a Law Revision Commission recommendation. See *2003-2004 Annual Report*, 33 Cal. L. Revision Comm'n Reports 569, 645-47 (2003).

29. 2004 Cal. Stat. ch. 346. This change to Civil Code Section 1373, which exempted commercial and industrial CIDs from Section 1378, also related to a Law Revision Commission recommendation. See *Common Interest Development Law: Architectural Review and Decisionmaking*, 34 Cal. L. Revision Comm'n Reports 107 (2004).

30. 2011 Cal. Stat. ch. 62. This change to Civil Code Section 1373 exempted commercial and industrial CIDs from Section 1360.2.

governing association and prescribing its necessary powers. Foundational provisions also include provisions necessary for the operation of the statute, such as rules of construction and technical definitions. These provisions are necessary for all CIDs and do not impose operational burdens on CIDs.

- *Operational Provisions.* These are regulatory provisions that impose mandates or restrictions relating to CID governance. These provisions are designed to assist and protect unsophisticated homeowners in managing their communities, but are not needed by sophisticated commercial property owners.³¹ To the extent that they mandate

31. While the legislative assumption of greater sophistication and resources is likely to be true as a general proposition, it will not be true in every case. Some business owners will be less sophisticated, and some residential property owners will be more sophisticated. However, there is good reason to believe that a business owner who purchases real property for the operation of a business is likely to be a sophisticated actor. As the California Association of Community Managers related in a letter to the Commission in 2007:

The following two demographic facts differentiate the purchaser of a commercial building or unit from the purchaser of a residence:

(1) Approximately 90% of the owners who purchase buildings or commercial units in the associations own them as a corporation, LLC, trust or partnership. Almost all of these, whether they are owned as noted above or as individuals/joint tenants, own and operate an incorporated business within the building or unit. These parties are sophisticated. They have hired legal counsel to form their legal entities and have the legal and financial resources to hire legal counsel when they believe it appropriate to protect their interests.

(2) The typical purchase price, represented as the middle 70% of the building or units sold today, varies between \$1,000,000 - \$4,000,000. The purchase and sale of these buildings and units are typically facilitated by one or more attorneys, who are obligated to protect the interests of their clients through the diligence process. In summary, these are parties who have the sophistication to manage businesses, take advantage of legal and tax opportunities presented to such businesses and to purchase multi-million dollar buildings for the tax and estate benefits provided thereby.

See Commission Staff Memorandum 2008-63 (Dec. 2, 2008), Exhibit p. 4.

“one-size-fits-all” management practices, they can unduly burden commercial and industrial CIDs.

RECOMMENDATION

The Commission makes three general recommendations regarding the treatment of commercial and industrial CIDs:

- The law governing residential CIDs and commercial and industrial CIDs should be divided into two separate bodies of law.
- The operational provisions of the Davis-Stirling Act should not apply to commercial and industrial CIDs.
- The foundational provisions of the Davis-Stirling Act should continue to apply to commercial and industrial CIDs.

Those recommendations, and a small number of exceptions, are discussed below.

Statutory Separation

The Commission recommends that the law governing commercial and industrial CIDs be separated from the law governing residential CIDs. This would be accomplished by entirely exempting commercial and industrial CIDs from the existing Davis-Stirling Act, and enacting a parallel statute that would be applicable to commercial and industrial CIDs only.

This organization would prevent any future inadvertent regulation of commercial and industrial CIDs. Provisions enacted to benefit residential CIDs would be added to the existing Davis-Stirling Act, where they would have no application to commercial and industrial CIDs. If the Legislature intended for such the new provision to apply to commercial or industrial CIDs as well, a parallel provision would need to be added to the new statute governing commercial and industrial CIDs.

In addition, this organization would facilitate future development of the law governing commercial and industrial CIDs, by providing a straightforward way to enact laws

appropriate to those types of CIDs, without creating complications for residential CIDs.

Exemption from Operational Regulations

With the exceptions described below, the Commission recommends that the new statute governing commercial and industrial CIDs include the foundational provisions of the Davis-Stirling Act, but not the operational provisions of that Act.

This would preserve and extend the policy rationales discussed earlier:

- The foundational provisions of the Davis-Stirling Act are necessary to define and enable all CIDs. They are appropriately applied to commercial and industrial CIDs.
- The operational regulations of the Davis-Stirling Act were enacted to benefit residential property owners. They are not needed by business property owners, who have the sophistication to order their own operations and are already adequately regulated by general commercial law. Because the operational needs of business property owners are different from those of residential property owners, the one-size-fits-all procedural mandates of the Davis-Stirling Act may impose undue burdens on commercial operations.

Special Notice Requirement. Civil Code Section 1363(g) of the Davis-Stirling Act requires distribution of a schedule of monetary penalties that may be imposed as punishment for a violation of the governing documents. Civil Code Section 1363(j) is an accompanying disclaimer, providing that nothing in Section 1363(g) shall affect an association's authority to impose those monetary penalties. Although these provisions could be characterized as operational, they seem appropriate as an element of a fair disciplinary procedure. The requirements do not appear to impose any significant burden on CID operations.

The Commission recommends that the proposed law include these provisions.³²

Exemption from Constitutional Interest Rate Limitations. Civil Code Section 1366(f) generally exempts CIDs from interest rate limitations imposed by Article XV of the California Constitution.

Although this provision could be characterized as operational, it does not appear to impose any burden on CID operations. To the extent that it facilitates assessment collection, it may provide a benefit to all CIDs, including commercial and industrial CIDs.

The Commission recommends that Section 1366(f) be continued in the new statute.³³

Assessment Collection Provisions. Civil Code Section 1367.1 contains a detailed procedural scheme for the collection of delinquent assessment payments. While the section relates to an operational aspect of CID governance, the Commission concluded that the well-developed procedure would likely prove useful, and not unduly burdensome, in a commercial or industrial CID.

With the exception of severable provisions relating alternate dispute resolution,³⁴ calculation of delinquent assessment balances,³⁵ and notice delivery,³⁶ the Commission recommends that the provisions of Section 1367.1 be continued in the new statute.³⁷

Construction Litigation Provisions. Three sections of the Davis-Stirling Act govern construction defect litigation in a CID.³⁸ Although they might be described as operational provisions, the

32. See proposed Civ. Code §§ 6850, 6854 *infra*.

33. See proposed Civ. Code § 6808(b) *infra*.

34. Civ. Code § 1367.1(a)(4)-(6), (c).

35. Civ. Code § 1367.1(b).

36. Civ. Code § 1367.1(k).

37. See proposed Civ. Code §§ 6808(a), 6810, 6812, 6814, 6816, 6818, 6820, 6822, 6824, and 6826 *infra*.

38. Civ. Code §§ 1368.5, 1375, and 1375.1.

Commission recommends that they be preserved.³⁹ The well-developed procedures provided in those sections relate to a dispute between an association and a builder, a third party who is not involved in CID governance. Those provisions appear to be equally appropriate for the resolution of such disputes in any type of CID, and the Commission recommends that they be continued in the new statute.⁴⁰

Assessment Calculation. Civil Code Section 1366.4 provides that, with limited exception, assessments in a CID may not be calculated based on the taxable value of a separate interest. The section has an arguable foundational aspect, in that it relates to basic payment obligations of the owners and the total funding available to a CID. However, on balance, the Commission found that this level of micromanagement of business financial matters would unduly interfere with the ability of a business to make its own financial planning decisions.

The Commission therefore recommends that Section 1366.4 not be continued in the new statute.

Severability of Recommendations

The broad elements of this recommendation are severable from one another. There is independent value in establishing a separate statute for commercial and industrial CIDs, even if the Legislature does not choose to follow all of the Commission's recommendations as to its content. Conversely, there is benefit to modernizing the scope of the exemptions provided for commercial and industrial CIDs, even if the Legislature elects to forego the creation of a separate statute.

Furthermore, each of the individual recommendations as to which provisions of the Davis-Stirling Act should apply to commercial and industrial CIDs is severable from the rest of those recommendations. Those specific recommendations represent the

39. A fourth section of the Davis-Stirling Act relating to CID construction defect litigation, Civil Code Section 1375.05, was repealed by operation of law on January 1, 2011, and is not continued in the proposed law.

40. See proposed Civ. Code §§ 6870, 6872, 6874, and 6876 *infra*.

Commission's best effort to identify the historical policy rationale for the enactment of Civil Code Section 1373 and apply that rationale to subsequently enacted provisions of the Davis-Stirling Act. If the Legislature decides that a particular provision should be handled differently than the Commission has recommended, that decision should not undermine the value of any of the other specific recommendations made in this report.

Source of Statutory Language and Organization

In a separate recommendation, the Commission has proposed the recodification of the Davis-Stirling Act, to make the Act simpler to understand and use, and to make minor substantive improvements.⁴¹ That proposal was enacted on August 17, 2012, with an operative date of January 1, 2014.⁴²

The proposed new statute governing commercial and industrial CIDs would parallel the language and structure of the enacted recodification legislation. This approach has two benefits. It permits the new statute to benefit from the improvements that were implemented in the recodification, and it preserves the parallelism between provisions that would be common to both bodies of law.

Reference Tables

The recommendation includes two reference tables, which are located after the proposed law.

The first table shows the relationship between the existing Davis-Stirling Common Interest Development Act,⁴³ and the provisions of the proposed law. This table also identifies the provisions of the existing Davis-Stirling Act that have not been included in the proposed law, by an indication that those provisions are "not continued."

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

42. 2012 Cal. Stat. chs. 180, 181.

43. Civ. Code §§ 1350-1378.

The second table shows the relationship between the proposed law and the recodified Davis-Stirling Common Interest Development Act, which will become operative on January 1, 2014.

Conforming Revisions

There are a number of code sections outside the Davis-Stirling Act that include a cross-reference to a provision of the Davis-Stirling Act. To the extent that such a reference is relevant to commercial or industrial CIDs, a technical amendment of the reference would be included in the “Conforming Revisions” portion of the proposed law.

However, conforming revisions have not been recommended for code sections that fall into either of the following two categories:

- Code sections in which the referenced provision(s) of the Davis-Stirling Act would not be continued in the proposed legislation.⁴⁴
- Code sections that, by virtue of either their plain language or another express statutory provision, do not apply to exclusively commercial or industrial CIDs.⁴⁵

44. See, e.g., Civ. Code § 2079.3.

45. See, e.g., Bus. & Prof. Code § 10131.01; see also Bus. & Prof. Code § 11010.10 (read in conjunction with Bus. & Prof. Code § 11010.3).

PROPOSED LEGISLATION

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PROPOSED LEGISLATION

Civ. Code § 4202 (amended). Commercial or industrial common interest development

SECTION 1. Section 4202 of the Civil Code is amended to read:

4202. ~~(a) The following provisions do not apply to a common interest development that is limited to industrial or commercial uses by zoning or by a declaration of covenants, conditions, and restrictions that has been recorded in the official records of each county in which the common interest development is located:~~

~~(1) Section 4275.~~

~~(2) Article 5 (commencing with Section 4340) of Chapter 3.~~

~~(3) Article 2 (commencing with Section 4525), and Article 3 (commencing with Section 4575), of Chapter 4.~~

~~(4) Section 4600.~~

~~(5) Section 4740.~~

~~(6) Section 4765.~~

~~(7) Sections 5300, 5305, 5565, and 5810, and paragraph (7) of subdivision (a) of Section 5310.~~

~~(8) Sections 5500 through 5560, inclusive.~~

~~(9) Subdivision (b) of Section 5600.~~

~~(10) Subdivision (b) of Section 5605.~~

~~(b) The Legislature finds that the provisions listed in subdivision (a) are appropriate to protect purchasers in residential common interest developments, however, the provisions may not be necessary to protect purchasers in commercial or industrial developments since the application of those provisions could result in unnecessary burdens and costs for these types of developments.~~

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

Comment. Section 4202 is amended to make the provisions of the Davis-Stirling Common Interest Development Act inapplicable to an exclusively commercial or industrial common interest development, as defined in Section 6531. Many provisions of that act are continued and made applicable to exclusively commercial or industrial common interest developments by the Commercial and Industrial Common Interest Development Act, Part 5.3 (commencing with Section 6500) of

Division 4. To determine whether that act continues a particular provision of the Davis-Stirling Common Interest Development Act, see *Commercial and Industrial Common Interest Developments*, 42 Cal. L. Revision Comm'n Reports 1 (2012).

Civ. Code §§ 6500-6876 (added). Commercial and industrial common interest developments

SEC. _____. Part 5.3 (commencing with Section 6500) is added to Division 4 of the Civil Code to read:

PART 5.3. COMMERCIAL AND INDUSTRIAL
COMMON INTEREST DEVELOPMENTS

CHAPTER 1. GENERAL PROVISIONS

Article 1. Preliminary Provisions

§ 6500. Short title

6500. This part shall be known and may be cited as the Commercial and Industrial Common Interest Development Act. In a provision of this part, the part may be referred to as the act.

Comment. Section 6500 is new.

Common interest developments in general are governed by the Davis-Stirling Common Interest Development Act. See Sections 4000-6150. However, common interest developments that are exclusively commercial or industrial are exempted from the provisions of that act by Section 4202.

This part (Sections 6500-6876) establishes a separate body of law, largely based on provisions of the Davis-Stirling Common Interest Development Act, that applies to and governs exclusively commercial or industrial common interest developments.

The Comments to the sections of this act identify sections of the Davis-Stirling Common Interest Development Act that are sources of the provisions of this act, and describe how each provision in this act compares with its source.

§ 6502. Effect of headings

6502. Division, part, title, chapter, article, and section headings do not in any manner affect the scope, meaning, or intent of this act.

Comment. With respect to a commercial or industrial common interest development, Section 6502 continues Section 1350.5 without change, except as indicated below.

The following nonsubstantive changes are made:

- “Article” is added to the list of headings.
- The last word of the sentence is replaced with “act.”

For further information, see Section 6500 Comment.

Section 6502 is a standard provision found in many codes. See, e.g., Evid. Code § 5; Fam. Code § 5; Prob. Code § 4.

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4005.

§ 6505. Prospective effect

6505. 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. Section 6505 is new. It makes clear that any changes to law made by enactment of this act shall not be construed to retroactively invalidate documents prepared or actions taken prior to the operative date of the act.

The term “documents” is used to describe notices, forms, and other procedural or transactional instruments. It is not meant to include the governing documents of the association. Governing documents must conform to the law. See Section 6600.

See also Sections 6534 (“common interest development”), 6552 (“governing documents”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4010.

§ 6510. Construction of zoning ordinance

6510. Unless a contrary intent is clearly expressed, a local zoning ordinance is construed to treat like structures, lots, parcels, areas, or spaces in like manner regardless of the form of the common interest development.

Comment. With respect to a commercial or industrial common interest development, Section 6510 continues Section 1372 without change, except as indicated below.

The following nonsubstantive change is made:

- A list of all of the types of common interest developments is replaced with general language.

For further information, see Section 6500 Comment.

See also Section 6534 (“common interest development”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4020.

§ 6512. Delivered to an association

6512. (a) If a provision of this act requires that a document be delivered to an association, 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.

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

(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 6512 is new. It provides a standard rule for delivery of a document to the association.

See also Section 6520 (electronic delivery).

See also Section 6528 (“association”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4035.

§ 6514. Individual notice

6514. (a) If a provision of this act requires that an association deliver a document by “individual delivery” or “individual notice,” the document shall be delivered by one of the following methods:

(1) First-class mail, postage prepaid, registered or certified mail, express mail, or overnight delivery by an express service carrier. The document shall be addressed to the recipient at the address last shown on the books of the association.

(2) E-mail, facsimile, or other electronic means, if the recipient has consented, in writing, to that method of delivery. The consent may be revoked, in writing, by the recipient.

(b) For the purposes of this section, an unrecorded provision of the governing documents providing for a particular method of delivery does not constitute agreement by a member to that method of delivery.

Comment. Section 6514 is new. It specifies acceptable methods for delivery of a notice to an individual member. The methods listed in subdivision (a) are drawn from Section 1350.7(b)(2)-(3).

Subdivision (b) is drawn from Section 1350.7(d). It precludes use of electronic delivery methods when the recipient has not consented to use of those methods or has withdrawn such consent.

See also Section 6520 (electronic delivery).

See also Sections 6528 (“association”), 6552 (“governing documents”), 6554 (“member”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4040.

§ 6518. Time and proof of delivery

6518. (a) This section governs the delivery of a document pursuant to this act.

(b) If a document is delivered by mail, delivery is deemed to be complete on deposit into the United States mail.

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

Comment. Section 6518 is new. Subdivision (b) is drawn from the second sentence of Section 1350.7(b)(2).

Subdivision (c) is drawn from the second sentence of Section 1350.7(b)(3).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4050.

§ 6520. Electronic delivery

6520. If the association or a member has consented to receive information by electronic delivery, and a provision of this act requires that the information be in writing, that requirement is satisfied if the information is provided in an electronic record capable of retention by the recipient at the time of receipt. An electronic record is not capable of retention by the recipient if the sender or its information processing system inhibits the ability of the recipient to print or store the electronic record.

Comment. Section 6520 is new. It is drawn from and is similar to the substance of Section 1633.8(a), which is part of the Uniform Electronic Transactions Act (“UETA”).

See also Sections 6528 (“association”), 6554 (“member”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4055.

§ 6522. Approved by majority of all members

6522. If a provision of this act requires that an action be approved by a majority of all members, the action shall be approved or ratified by an affirmative vote of a majority of the votes entitled to be cast.

Comment. Section 6522 is new. It is added for drafting convenience. This section only governs an election conducted pursuant to a provision of this act (i.e., the Commercial and Industrial Common Interest Development Act). An election that is not required by this act would be governed by the association’s governing documents.

See also Section 6554 (“member”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4065.

§ 6524. Approved by majority of quorum of members

6524. 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. Section 6524 is new. It is added for drafting convenience. This section only governs an election conducted pursuant to a provision of this act (i.e., the Commercial and Industrial Common Interest Development Act). An election that is not required by this act would be governed by the association's governing documents.

See also Section 6554 ("member").

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4070.

Article 2. Definitions

§ 6526. Application of definitions

6526. The definitions in this article govern the construction of this act.

Comment. With respect to a commercial or industrial common interest development, Section 6526 continues the substance of the introductory clause of Section 1351.

For further information, see Section 6500 Comment.

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4075.

§ 6528. "Association"

6528. "Association" means a nonprofit corporation or unincorporated association created for the purpose of managing a common interest development.

Comment. With respect to a commercial or industrial common interest development, Section 6528 continues Section 1351(a) without change.

For further information, see Section 6500 Comment.

See also Section 6534 ("common interest development").

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4080.

§ 6530. "Board"

6530. "Board" means the board of directors of the association.

Comment. Section 6530 is new.

See also Section 6528 (“association”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4085.

§ 6531. “Commercial or industrial common interest development”

6531. A “commercial or industrial common interest development” means a common interest development that is limited to industrial or commercial uses by zoning or by a declaration of covenants, conditions, and restrictions that has been recorded in the official records of each county in which the common interest development is located.

Comment. Section 6531 is drawn from Section 1373(a). It is added for drafting convenience.

See also Section 6534 (“common interest development”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4202.

§ 6532. “Common area”

6532. (a) “Common area” means the entire common interest development except the separate interests therein. The estate in the common area may be a fee, a life estate, an estate for years, or any combination of the foregoing.

(b) Notwithstanding subdivision (a), in a planned development described in subdivision (b) of Section 6562, the common area may consist of mutual or reciprocal easement rights appurtenant to the separate interests.

Comment. With respect to a commercial or industrial common interest development, subdivision (a) of Section 6532 continues the first two sentences of Section 1351(b) without change.

With respect to a commercial or industrial common interest development, subdivision (b) continues the substance of the third sentence of Section 1351(b), but restates it for clarity.

For further information, see Section 6500 Comment.

See also Sections 6534 (“common interest development”), 6562 (“planned development”), 6564 (“separate interest”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4090.

§ 6534. “Common interest development”

6534. “Common interest development” means any of the following:

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

Comment. With respect to a commercial or industrial common interest development, Section 6534 continues Section 1351(c) without change, except as indicated below.

The following nonsubstantive change is made:

- The reference to a “community apartment project” is not continued.

For further information, see Section 6500 Comment.

See also Sections 6542 (“condominium project”), 6562 (“planned development”), 6566 (“stock cooperative”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4100.

§ 6540. “Condominium plan”

6540. “Condominium plan” means a plan described in Section 6624.

Comment. Section 6540 is new. It is included for drafting convenience.

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4120.

§ 6542. “Condominium project”

6542. (a) A “condominium project” means a real property development consisting of condominiums.

(b) A condominium consists of an undivided interest in common in a portion of real property coupled with a separate interest in space called a unit, the boundaries of which are described on a recorded final map, parcel map, or condominium plan in sufficient detail to locate all boundaries thereof. The area within these boundaries may be filled with air, earth, water, or fixtures, or any combination thereof, and need not be physically attached to land except by easements for access and, if necessary, support. The

description of the unit may refer to (1) boundaries described in the recorded final map, parcel map, or condominium plan, (2) physical boundaries, either in existence, or to be constructed, such as walls, floors, and ceilings of a structure or any portion thereof, (3) an entire structure containing one or more units, or (4) any combination thereof.

(c) The portion or portions of the real property held in undivided interest may be all of the real property, except for the separate interests, or may include a particular three-dimensional portion thereof, the boundaries of which are described on a recorded final map, parcel map, or condominium plan. The area within these boundaries may be filled with air, earth, water, or fixtures, or any combination thereof, and need not be physically attached to land except by easements for access and, if necessary, support.

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

Comment. With respect to a commercial or industrial common interest development, Section 6542 continues Section 1351(f) without change, except as indicated below.

The following nonsubstantive changes are made:

- The section is organized into subdivisions for ease of reference.
- In subdivision (a), the word “development” is replaced with “real property development.”
- Subdivisions (b) and (c) make clear that the contents of the area within the boundaries of a condominium may include “fixtures.”

For further information, see Section 6500 Comment.

See also Sections 6540 (“condominium plan”), 6564 (“separate interest”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4125.

§ 6544. “Declarant”

6544. “Declarant” means the person or group of persons designated in the declaration as declarant, or if no declarant is designated, the person or group of persons who sign the original declaration or who succeed to special rights, preferences, or

privileges designated in the declaration as belonging to the signator of the original declaration.

Comment. With respect to a commercial or industrial common interest development, Section 6544 continues Section 1351(g) without change.

For further information, see Section 6500 Comment.

See also Sections 6546 (“declaration”), 6560 (“person”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4130.

§ 6546. “Declaration”

6546. “Declaration” means the document, however denominated, that contains the information required by Section 6614.

Comment. With respect to a commercial or industrial common interest development, Section 6546 continues Section 1351(h) without change, except as indicated below.

The following nonsubstantive changes are made:

- The word “which” is replaced with “that.”
- The statutory cross-reference is updated to reflect the new location of the referenced provision.

For further information, see Section 6500 Comment.

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4135.

§ 6548. “Director”

6548. “Director” means a natural person who serves on the board.

Comment. Section 6548 is new. It is added for drafting convenience.

See also Section 6530 (“board”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4140.

§ 6550. “Exclusive use common area”

6550. (a) “Exclusive use common area” means a portion of the common area designated by the declaration for the exclusive use of one or more, but fewer than all, of the owners of the separate

interests and which is or will be appurtenant to the separate interest or interests.

(b) Unless the declaration otherwise provides, any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, patios, exterior doors, doorframes, and hardware incident thereto, screens and windows or other fixtures designed to serve a single separate interest, but located outside the boundaries of the separate interest, are exclusive use common area allocated exclusively to that separate interest.

(c) Notwithstanding the provisions of the declaration, internal and external telephone wiring designed to serve a single separate interest, but located outside the boundaries of the separate interest, is exclusive use common area allocated exclusively to that separate interest.

Comment. With respect to a commercial or industrial common interest development, Section 6550 continues Section 1351(i) without change, except as indicated below.

The following nonsubstantive changes are made:

- The phrase “common areas” is singularized.
- Subdivision (c) is revised to correct a drafting error.

For further information, see Section 6500 Comment.

See also Sections 6532 (“common area”), 6546 (“declaration”), 6564 (“separate interest”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4145.

§ 6552. “Governing documents”

6552. “Governing documents” means the declaration and any other documents, such as bylaws, operating rules, articles of incorporation, or articles of association, which govern the operation of the common interest development or association.

Comment. With respect to a commercial or industrial common interest development, Section 6552 continues Section 1351(j) without change, except as indicated below.

The following nonsubstantive change is made:

- The superfluous words “of the association” are not continued.

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6534 (“common interest development”), 6546 (“declaration”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4150.

§ 6553. “Individual notice”

6553. “Individual notice” means the delivery of a document pursuant to Section 6514.

Comment. Section 6553 is new. It is added for drafting convenience.

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4153.

§ 6554. “Member”

6554. “Member” means an owner of a separate interest.

Comment. Section 6554 is new. It is added for drafting convenience.

See also Section 6564 (“separate interest”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4160.

§ 6560. “Person”

6560. “Person” means a natural person, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, limited liability company, association, or other entity.

Comment. Section 6560 is new. It is added for drafting convenience.

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4170.

§ 6562. “Planned development”

6562. “Planned development” means a real property development other than a condominium project, or a stock cooperative, having either or both of the following features:

(a) Common area that is owned either by an association or in common by the owners of the separate interests who possess appurtenant rights to the beneficial use and enjoyment of the common area.

(b) Common area and an association that maintains the common area with the power to levy assessments that may become a lien

upon the separate interests in accordance with Article 2 (commencing with Section 6808) of Chapter 7.

Comment. With respect to a commercial or industrial common interest development, Section 6562 continues the substance of Section 1351(k), except as indicated below.

The following nonsubstantive changes are made:

- In the introductory clause, the word “development” is replaced with “real property development.”
- Parentheses in the introductory clause are deleted, and are replaced with a comma following the term “stock cooperative.”
- A reference to a “community apartment project” is not continued.
- Subdivision (a) is restated for clarity.
- Subdivision (b) is restated for clarity and to update a cross-reference.

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6532 (“common area”), 6542 (“condominium project”), 6564 (“separate interest”), 6566 (“stock cooperative”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4175.

§ 6564. “Separate interest”

6564. (a) “Separate interest” has the following meanings:

(1) In a condominium project, “separate interest” means a separately owned unit, as specified in Section 6542.

(2) In a planned development, “separate interest” means a separately owned lot, parcel, area, or space.

(3) In a stock cooperative, “separate interest” means the exclusive right to occupy a portion of the real property, as specified in Section 6566.

(b) Unless the declaration or condominium plan, if any exists, otherwise provides, if walls, floors, or ceilings are designated as boundaries of a separate interest, the interior surfaces of the perimeter walls, floors, ceilings, windows, doors, and outlets located within the separate interest are part of the separate interest and any other portions of the walls, floors, or ceilings are part of the common area.

(c) The estate in a separate interest may be a fee, a life estate, an estate for years, or any combination of the foregoing.

Comment. With respect to a commercial or industrial common interest development, Section 6564 continues Section 1351(l) without change, except as indicated below.

The following nonsubstantive changes are made:

- In subdivision (a)(2), the words “individual unit” are replaced with “separately owned unit.”
- The last two unnumbered paragraphs of Section 1351(l) are designated as subdivisions (b) and (c).
- Cross-references are updated to reflect the new locations of referenced provisions.
- The phrase “common areas” is singularized.
- Section 1351(l)(1), which states the meaning of “separate interest” in a community apartment project, is not continued.

For further information, see Section 6500 Comment.

See also Sections 6532 (“common area”), 6540 (“condominium plan”), 6542 (“condominium project”), 6546 (“declaration”), 6562 (“planned development”), 6566 (“stock cooperative”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4185.

§ 6566. “Stock cooperative”

6566. “Stock cooperative” means a development in which a corporation is formed or availed of, primarily for the purpose of holding title to, either in fee simple or for a term of years, improved real property, and all or substantially all of the shareholders of the corporation receive a right of exclusive occupancy in a portion of the real property, title to which is held by the corporation. The owners’ interest in the corporation, whether evidenced by a share of stock, a certificate of membership, or otherwise, shall be deemed to be an interest in a common interest development and a real estate development for purposes of subdivision (f) of Section 25100 of the Corporations Code.

Comment. With respect to a commercial or industrial common interest development, Section 6566 continues the first paragraph of Section 1351(m) without change.

For further information, see Section 6500 Comment.

See also Section 6534 (“common interest development”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4190.

CHAPTER 2. APPLICATION OF ACT

§ 6580. Creation of common interest development

6580. Subject to Section 6582, this act applies and a common interest development is created whenever a separate interest coupled with an interest in the common area or membership in the association is, or has been, conveyed, provided all of the following are recorded:

(a) A declaration.

(b) A condominium plan, if any exists.

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

Comment. With respect to a commercial or industrial common interest development, Section 6580 continues Section 1352 without change, except as indicated below.

The following nonsubstantive changes are made:

- The term “title” is replaced with “act.”
- A cross-reference is added to refer to Section 6582.

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6532 (“common area”), 6534 (“common interest development”), 6540 (“condominium plan”), 6546 (“declaration”), 6564 (“separate interest”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4200.

§ 6582. Application of act

6582. (a) This act applies only to a commercial or industrial common interest development.

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

Comment. Subdivision (a) of Section 6582 is consistent with Section 1373 as that section provided prior to the enactment of 2012 Cal. Stat. ch. 180, except that the act that added this section makes the following provisions of the Davis-Stirling Common Interest Development Act inapplicable to a commercial or industrial common interest development: Section 1350.7, Section 1351(d), the provisions of Section 1353 that require notice if a development is within an airport influence area or within the jurisdiction of the San Francisco Bay Conservation and Development Commission, Section 1353.7, Section 1354(c), a portion of Section 1355(b), a portion of Section 1357(b)-(c), Section 1363(d), (e), (g), and (h), Section 1363.001, Section 1363.005, Section 1363.03, Section 1363.04, Section 1363.05, Section 1363.07, Section 1363.09, Section 1363.1, Section 1363.2, Sections 1363.810 through 1363.850, Section 1365.1, Section 1365.2, Section 1365.2.5, Section 1365.3, Section 1365.7, the last two sentences of Section 1366(a), Section 1366(d)-(e), Section 1366.2, Section 1366.4, Section 1367.1(c), (k), and (n), Section 1367.4, Section 1367.5, Section 1367.6, Section 1368.2, and Sections 1369.510 through 1369.590.

A common interest development is created as provided in Section 6580.

With respect to a commercial or industrial common interest development, subdivision (b) continues Section 1374 without change, except as indicated below.

The following nonsubstantive changes are made:

- The word “title” is replaced with “act.”
- The phrase “wherein there does not exist” is restated for clarity.

For further information, see Section 6500 Comment.

See also Sections 6531 (“commercial or industrial common interest development”), 6532 (“common area”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4201.

CHAPTER 3. GOVERNING DOCUMENTS

Article 1. General Provisions

§ 6600. Document authority

6600. (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. Section 6600 is added to clarify the relationship between the law and the most common types of governing documents. Nothing in the section is intended to create an affirmative duty to amend a governing document to delete superseded material.

Subdivisions (a) and (b) of Section 6600 are new.

Subdivision (c) is consistent with Corporations Code Section 7151(c), providing that the bylaws shall be consistent with the articles of incorporation.

Subdivision (d) is drawn from Section 1357.110 providing that an operating rule may not be inconsistent with the declaration, articles of incorporation, or bylaws of the association.

See also Sections 6546 (“declaration”), 6552 (“governing documents”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4205.

§ 6602. Liberal construction of instruments

6602. Any deed, declaration, or condominium plan for a common interest development shall be liberally construed to facilitate the operation of the common interest development, and its provisions shall be presumed to be independent and severable. Nothing in Article 3 (commencing with Section 715) of Chapter 2 of Title 2 of Part 1 of Division 2 shall operate to invalidate any provisions of the governing documents.

Comment. With respect to a commercial or industrial common interest development, Section 6602 continues Section 1370 without change, except as indicated below.

The following nonsubstantive changes are made:

- “This division” is replaced with “Division 2.”

- The words “of a common interest development” are not continued.

For further information, see Section 6500 Comment.

See also Sections 6534 (“common interest development”), 6540 (“condominium plan”), 6546 (“declaration”), 6552 (“governing documents”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4215.

§ 6604. Boundaries of units

6604. In interpreting deeds and condominium plans, the existing physical boundaries of a unit in a condominium project, when the boundaries of the unit are contained within a building, or of a unit reconstructed in substantial accordance with the original plans thereof, shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed in the deed or condominium plan, if any exists, regardless of settling or lateral movement of the building and regardless of minor variance between boundaries shown on the plan or in the deed and those of the building.

Comment. With respect to a commercial or industrial common interest development, Section 6604 continues Section 1371 without change.

For further information, see Section 6500 Comment.

See also Sections 6540 (“condominium plan”), 6542 (“condominium project”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4220.

§ 6606. Deletion of unlawful restrictive covenants

6606. (a) No declaration or other governing document shall include a restrictive covenant in violation of Section 12955 of the Government Code.

(b) Notwithstanding any other provision of law or provision of the governing documents, the board, without approval of the members, shall amend any declaration or other governing document that includes a restrictive covenant prohibited by this section to delete the restrictive covenant, and shall restate the declaration or other governing document without the restrictive

covenant but with no other change to the declaration or governing document.

(c) If the declaration is amended under this section, the board shall record the restated declaration in each county in which the common interest development is located. If the articles of incorporation are amended under this section, the board shall file a certificate of amendment with the Secretary of State pursuant to Section 7814 of the Corporations Code.

(d) If after providing written notice to an association, pursuant to Section 6512, requesting that the association delete a restrictive covenant that violates subdivision (a), and the association fails to delete the restrictive covenant within 30 days of receiving the notice, the Department of Fair Employment and Housing, a city or county in which a common interest development is located, or any person may bring an action against the association for injunctive relief to enforce subdivision (a). The court may award attorney's fees to the prevailing party.

Comment. With respect to a commercial or industrial common interest development, Section 6606 continues Section 1352.5 without change, except as indicated below.

The following nonsubstantive changes are made:

- In subdivision (b), the words “board of directors of an association” are replaced with “board.” See Section 6530 (“board”).
- In subdivision (b), the word “owners” is replaced with “members.” See Section 6554 (“member”).
- Subdivision (c) is added.
- Subdivision (d) is revised to include a reference to the provision governing notice to an association (Section 6512).

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6530 (“board”), 6534 (“common interest development”), 6546 (“declaration”), 6552 (“governing documents”), 6560 (“person”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4225.

§ 6608. Deletion of declarant provisions in governing documents

6608. (a) Notwithstanding any provision of the governing documents to the contrary, the board may, after the developer has completed construction of the development, has terminated construction activities, and has terminated marketing activities for the sale, lease, or other disposition of separate interests within the development, adopt an amendment deleting from any of the governing documents any provision which is unequivocally designed and intended, or which by its nature can only have been designed or intended, to facilitate the developer in completing the construction or marketing of the development. However, provisions of the governing documents relative to a particular construction or marketing phase of the development may not be deleted under the authorization of this subdivision until that construction or marketing phase has been completed.

(b) The provisions which may be deleted by action of the board shall be limited to those which provide for access by the developer over or across the common area for the purposes of (1) completion of construction of the development, and (2) the erection, construction, or maintenance of structures or other facilities designed to facilitate the completion of construction or marketing of separate interests.

(c) At least 30 days prior to taking action pursuant to subdivision (a), the board shall deliver to all members, by individual delivery pursuant to Section 6514, (1) a copy of all amendments to the governing documents proposed to be adopted under subdivision (a), and (2) a notice of the time, date, and place the board will consider adoption of the amendments. The board may consider adoption of amendments to the governing documents pursuant to subdivision (a) only at a meeting that is open to all members, who shall be given opportunity to make comments thereon. All deliberations of the board on any action proposed under subdivision (a) shall only be conducted in an open meeting.

(d) The board may not amend the governing documents pursuant to this section without the approval of a majority of a quorum of the members, pursuant to Section 6524. For the purposes of this

section, “quorum” means more than 50 percent of the members who own no more than two separate interests in the development.

Comment. With respect to a commercial or industrial common interest development, Section 6608 continues Section 1355.5 without change, except as indicated below.

The following substantive change is made:

- Subdivision (c) is revised to provide for individual delivery of the specified notice. See Section 6514.

The following nonsubstantive changes are made:

- The words “his or her” are not continued in subdivision (a).
- The words “of a common interest development” are not continued in subdivision (a).
- The words “board of directors” and “board of directors of the association” are replaced throughout with “board.” See Section 6530 (“board”).
- Subdivision (b) are revised to use numerals to number the listed items, rather than letters.
- Subdivisions (c) and (d) are revised to use “member.” See Section 6554 (“member”).
- Subdivision (c) is revised to delete the unnecessary word “such.”
- Subdivision (c) is revised to replace the word “which” with “that.”
- Subdivision (d) is revised to use the standard term “approval of a majority of a quorum of the members.” See Section 6524.

For further information, see Section 6500 Comment.

See also Sections 6530 (“board”), 6532 (“common area”), 6552 (“governing documents”), 6564 (“separate interest”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4230.

§ 6610. Correction of statutory cross-reference

6610. (a) Notwithstanding any other provision of law or provision of the governing documents, if the governing documents include a reference to a provision of the Davis Stirling Common Interest Development Act that was continued in a new provision by the act that added this section, the board may amend the governing documents, solely to correct the cross-reference, by adopting a

board resolution that shows the correction. Member approval is not required in order to adopt a resolution pursuant to this section.

(b) A declaration that is corrected under this section may be restated in corrected form and recorded, provided that a copy of the board resolution authorizing the corrections is recorded along with the restated declaration.

Comment. Section 6610 is new. It is intended to provide a simplified method to correct statutory cross-references in an association's governing documents that are required as a result of the enactment of the act that added this section. No other amendment can be made under this section.

See also Sections 6530 ("board"), 6546 ("declaration"), 6552 ("governing documents").

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4235.

Article 2. Declaration

§ 6614. Content of declaration

6614. (a) A declaration, recorded on or after January 1, 1986, shall contain a legal description of the common interest development, and a statement that the common interest development is a condominium project, planned development, stock cooperative, or combination thereof. The declaration shall additionally set forth the name of the association and the restrictions on the use or enjoyment of any portion of the common interest development that are intended to be enforceable equitable servitudes.

(b) The declaration may contain any other matters the declarant or the members consider appropriate.

Comment. With respect to a commercial or industrial common interest development, subdivision (a) of Section 6614 continues the first two sentences of Section 1353(a)(1) without change, except as indicated below.

The following nonsubstantive change is made:

- A reference to a "community apartment project" is not continued.

With respect to a commercial or industrial common interest development, subdivision (b) continues Section 1353(b) without change, except as indicated below.

The following nonsubstantive changes are made:

- The word “owners” is replaced with “members.” See Section 6554 (“member”).
- The words “original signator of the declaration” are replaced with “declarant.” See Section 6544 (“declarant”).

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6534 (“common interest development”), 6542 (“condominium project”), 6546 (“declaration”), 6562 (“planned development”), 6566 (“stock cooperative”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4250.

§ 6616. Amendment authorized

6616. Except to the extent that a declaration provides by its express terms that it is not amendable, in whole or in part, a declaration that fails to include provisions permitting its amendment at all times during its existence may be amended at any time.

Comment. With respect to a commercial or industrial common interest development, Section 6616 continues the first sentence of Section 1355(b) without change, except as indicated below.

The following nonsubstantive change is made:

- The word “which” is replaced with “that.”

For the procedure to amend a declaration, see Section 6620.

For further information, see Section 6500 Comment.

See also Section 6546 (“declaration”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4260.

§ 6618. Amendment to extend term of declaration authorized

6618. (a) The Legislature finds that there are common interest developments that have been created with deed restrictions that do not provide a means for the members to extend the term of the declaration. The Legislature further finds that covenants and restrictions, contained in the declaration, are an appropriate method

for protecting the common plan of developments and to provide for a mechanism for financial support for the upkeep of common area including, but not limited to, roofs, roads, heating systems, and recreational facilities. If declarations terminate prematurely, common interest developments may deteriorate and the supply of affordable units could be impacted adversely. The Legislature further finds and declares that it is in the public interest to provide a vehicle for extending the term of the declaration if the extension is approved by a majority of all members, pursuant to Section 6522.

(b) A declaration that specifies a termination date, but that contains no provision for extension of the termination date, may be extended, before its termination date, by the approval of members pursuant to Section 6620.

(c) No single extension of the terms of the declaration made pursuant to this section shall exceed the initial term of the declaration or 20 years, whichever is less. However, more than one extension may occur pursuant to this section.

Comment. With respect to a commercial or industrial common interest development, subdivision (a) of Section 6618 continues Section 1357(a) without change, except as indicated below.

The following nonsubstantive changes are made:

- The defined term “member” is used. See Section 6554 (“member”).
- The phrase “common areas” is singularized.
- The word “which” is replaced with “that.”
- A reference to approval by “members having more than 50 percent of the votes in the association” is replaced with standard terminology.
- A reference to “housing” is deleted.
- A comma is added after the word “restrictions” in the second sentence.

With respect to a commercial or industrial common interest development, subdivision (b) continues part of the substance of Section 1357(b), authorizing extension of the termination date of a declaration that does not provide for extension of the termination date, except as indicated below.

The following nonsubstantive change is made:

- Language is added to make clear that the extension must occur before the termination date.

The procedure for extension of the termination date provided in Section 1357(b)-(c) is not continued. An extension would instead be made pursuant to the general procedure for amendment of a declaration. See Section 6620.

With respect to a commercial or industrial common interest development, subdivision (c) continues Section 1357(d) without change.

For further information, see Section 6500 Comment.

See also Sections 6532 (“common area”), 6534 (“common interest development”), 6546 (“declaration”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4265.

§ 6620. Amendment procedure

6620. (a) A declaration may be amended pursuant to the declaration or this act. An amendment is effective after all of the following requirements have been met:

(1) The proposed amendment has been delivered by individual notice to all members not less than 15 days and not more than 60 days prior to any approval being solicited.

(2) The amendment has been approved by the percentage of members required by the declaration and any other person whose approval is required by the declaration.

(3) That fact has been certified in a writing executed and acknowledged by the officer designated in the declaration or by the association for that purpose, or if no one is designated, by the president of the association.

(4) The amendment has been recorded in each county in which a portion of the common interest development is located.

(b) If the declaration does not specify the percentage of members who must approve an amendment of the declaration, an amendment may be approved by a majority of all members, pursuant to Section 6522.

Comment. With respect to a commercial or industrial common interest development, subdivision (a) of Section 6620 continues Section 1355(a) without change, except as indicated below.

The following substantive changes are made:

- A notice requirement drawn from Section 1355(b) is added.
- The term “governing documents” is replaced with the term “declaration.” See Section 6546 (“declaration”).
- Paragraph (a)(2) is revised to recognize that a declaration may require that an amendment be approved by a non-member.

The following nonsubstantive changes are made:

- The first word is replaced with “A.”
- The word “title” is replaced with “act.”
- A reference to a statutory exception that is not continued in this act is deleted.
- The defined term “member” is used. See Section 6554 (“member”).
- The subdivision is divided into paragraphs, with conforming technical adjustments to the language.

Subdivision (b) generalizes a rule stated in Sections 1355(b) and 1357. For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6534 (“common interest development”), 6553 (“individual notice”), 6560 (“person”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4270.

Article 3. Articles of Incorporation

§ 6622. Content of articles

6622. (a) The articles of incorporation of an association filed with the Secretary of State shall include a statement, which shall be in addition to the statement of purposes of the corporation, that does all of the following:

(1) Identifies the corporation as an association formed to manage a common interest development under the Commercial and Industrial Common Interest Development Act.

(2) States the business or corporate office of the association, if any, and, if the office is not on the site of the common interest development, states the front street and nearest cross street for the physical location of the common interest development.

(3) States the name and address of the association’s managing agent, if any.

(b) The statement filed by an incorporated association with the Secretary of State pursuant to Section 8210 of the Corporations Code shall also contain a statement identifying the corporation as an association formed to manage a common interest development under the Commercial and Industrial Common Interest Development Act.

Comment. With respect to a commercial or industrial common interest development, Section 6622 continues Section 1363.5 without change, except as indicated below.

The following substantive change is made:

- A cross-reference to the definition of “managing agent” is not continued.
- A reference to this act is substituted for a reference to the Davis Stirling Common Interest Development Act.

The following nonsubstantive change is made:

- References to “common interest development association” have been standardized.

Nothing in paragraph (a)(3) precludes an owner of a separate interest from serving as the association’s managing agent.

See also Corp. Code §§ 1502 (annual statement), 7130-7135 (content of articles of incorporation), 7810-7820 (amendment of articles of incorporation), 7150-7153 (content and amendment of bylaws).

See also Sections 6528 (“association”), 6534 (“common interest development”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4280.

Article 4. Condominium Plan

§ 6624. “Condominium plan”

6624. A condominium plan shall contain all of the following:

(a) A description or survey map of a condominium project, which shall refer to or show monumentation on the ground.

(b) A three-dimensional description of a condominium project, one or more dimensions of which may extend for an indefinite distance upwards or downwards, in sufficient detail to identify the common area and each separate interest.

(c) A certificate consenting to the recordation of the condominium plan pursuant to this act that is signed and acknowledged as provided in Section 6626.

Comment. With respect to a commercial or industrial common interest development, Section 6624 continues Section 1351(e)(1)-(2) and a part of Section 1351(e)(3) without change, except as indicated below.

The following nonsubstantive changes are made:

- The enumerated items are set out as subdivisions.
- The word “title” is replaced with “act.”
- The list of persons who must sign and acknowledge the certificate consenting to recordation of the condominium plan is replaced with a reference to the section governing the creation and recordation of a condominium plan.

For further information, see Section 6500 Comment.

See also Sections 6532 (“common area”), 6542 (“condominium project”), 6564 (“separate interest”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4285.

§ 6626. Recordation of condominium plan

6626. (a) The certificate consenting to the recordation of a condominium plan that is required by subdivision (c) of Section 6624 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 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. With respect to a commercial or industrial common interest development, Section 6626 continues the substance of Section 1351(e)(3), except as indicated below.

The following nonsubstantive changes are made:

- A reference to a conversion of a community apartment project is not continued.
- The last paragraph of Section 1351(e) is not continued in this section.
- A cross-reference to Section 6624(c) is added to the first paragraph.
- Subdivision (b) is revised to make clear that it states an exception to who must sign the certificate of consent to recordation, rather than the condominium plan itself.

For further information, see Section 6500 Comment.

See also Sections 6540 (“condominium plan”), 6542 (“condominium project”), 6560 (“person”), 6566 (“stock cooperative”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4290.

§ 6628. Amendment or revocation of condominium plan

6628. A condominium plan may be amended or revoked by a recorded instrument that is acknowledged and signed by all the persons who, at the time of amendment or revocation, are persons whose signatures are required under Section 6626.

Comment. With respect to a commercial or industrial common interest development, Section 6628 continues the last paragraph of Section 1351(e) without change, except as indicated below.

The following nonsubstantive change is made:

- Language is added to make clear that the persons whose signatures are required for amendment or revocation of a condominium plan are the persons who fall within the groups described in Section 6626 at the time of amendment or revocation.

For further information, see Section 6500 Comment.

See also Sections 6540 (“condominium plan”), 6560 (“person”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4295.

Article 5. Operating Rules

§ 6630. “Operating rule”

6630. For the purposes of this article, “operating rule” means a regulation adopted by the board that applies generally to the management and operation of the common interest development or the conduct of the business and affairs of the association.

Comment. With respect to a commercial or industrial common interest development, Section 6630 continues Section 1357.100(a) without change.

See also Sections 6528 (“association”), 6534 (“common interest development”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4340.

§ 6632. Requirements for validity and enforceability

6632. An operating rule is valid and enforceable only if all of the following requirements are satisfied:

(a) The rule is in writing.

(b) The rule is within the authority of the board conferred by law or by the declaration, articles of incorporation or association, or bylaws of the association.

(c) The rule is not inconsistent with governing law and the declaration, articles of incorporation or association, and bylaws of the association.

(d) The rule is reasonable, and is adopted, amended, or repealed in good faith.

Comment. With respect to a commercial or industrial common interest development, Section 6632 continues Section 1357.110(a)-(c), the first part of (d), and (e), without change, except as indicated below.

The following nonsubstantive change is made:

- The words “board of directors of the association” are replaced with “board.” See Section 6530 (“board”).

See also Sections 6528 (“association”), 6546 (“declaration”), 6630 (“operating rule”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4350.

CHAPTER 4. OWNERSHIP AND TRANSFER OF INTERESTS

Article 1. Ownership Rights and Interests

§ 6650. Ownership of common area

6650. Unless the declaration otherwise provides, in a condominium project, or in a planned development in which the common area is owned by the owners of the separate interests, the common area is owned as tenants in common, in equal shares, one for each separate interest.

Comment. With respect to a commercial or industrial common interest development, Section 6650 continues Section 1362 without change, except as indicated below.

The following nonsubstantive changes are made:

- The phrase “common areas” is singularized.
- The words “unit or lot” are replaced with “separate interest.”

For further information, see Section 6500 Comment.

See also Sections 6532 (“common area”), 6542 (“condominium project”), 6546 (“declaration”), 6562 (“planned development”), 6564 (“separate interest”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4500.

§ 6652. Appurtenant rights and easements

6652. Unless the declaration otherwise provides:

(a) In a condominium project, and in those planned developments with common area owned in common by the owners of the separate interests, there are appurtenant to each separate interest nonexclusive rights of ingress, egress, and support, if necessary, through the common area. The common area is subject to these rights.

(b) In a stock cooperative, and in a planned development with common area owned by the association, there is an easement for ingress, egress, and support, if necessary, appurtenant to each separate interest. The common area is subject to these easements.

Comment. With respect to a commercial or industrial common interest development, Section 6652 continues Section 1361 without change, except as indicated below.

The following nonsubstantive changes are made:

- A reference to a “community apartment project” is not continued.
- The phrase “common areas” is singularized.

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6532 (“common area”), 6542 (“condominium project”), 6546 (“declaration”), 6562 (“planned development”), 6564 (“separate interest”), 6566 (“stock cooperative”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4505.

§ 6654. Access to separate interest property

6654. Except as otherwise provided in law, an order of the court, or an order pursuant to a final and binding arbitration decision, an association may not deny a member or occupant physical access to the member’s or occupant’s separate interest, either by restricting access through the common area to the separate interest, or by restricting access solely to the separate interest.

Comment. With respect to a commercial or industrial common interest development, Section 6654 continues Section 1361.5 without change, except as indicated below.

The following nonsubstantive changes are made:

- The words “his or her” are replaced with “the member’s or occupant’s.”
- References to the “owner’s” separate interest are revised to omit the word “owner’s.” This will help to avoid any implication that the reference does not also apply to an “occupant” of a separate interest.
- The word “owner” is replaced with “member” throughout. See Section 6554 (“member”).
- The phrase “common areas” is singularized.

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6532 (“common area”), 6564 (“separate interest”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4510.

Article 2. Restrictions on Transfers

§ 6656. Partition of condominium project

6656. (a) Except as provided in this section, the common area in a condominium project shall remain undivided, and there shall be no judicial partition thereof. Nothing in this section shall be deemed to prohibit partition of a cotenancy in a condominium.

(b) The owner of a separate interest in a condominium project may maintain a partition action as to the entire project as if the owners of all of the separate interests in the project were tenants in common in the entire project in the same proportion as their interests in the common area. The court shall order partition under this subdivision only by sale of the entire condominium project and only upon a showing of one of the following:

(1) More than three years before the filing of the action, the condominium project was damaged or destroyed, so that a material part was rendered unfit for its prior use, and the condominium project has not been rebuilt or repaired substantially to its state prior to the damage or destruction.

(2) Three-fourths or more of the project is destroyed or substantially damaged and owners of separate interests holding in the aggregate more than a 50-percent interest in the common area oppose repair or restoration of the project.

(3) The project has been in existence more than 50 years, is obsolete and uneconomic, and owners of separate interests holding in the aggregate more than a 50-percent interest in the common area oppose repair or restoration of the project.

(4) Any conditions in the declaration for sale under the circumstances described in this subdivision have been met.

Comment. With respect to a commercial or industrial common interest development, Section 6656 continues Section 1359 without change, except as indicated below.

The following nonsubstantive changes are made:

- The phrase “common areas” is singularized.
- Subdivision (b)(4) is rephrased to avoid use of “such.”

For further information, see Section 6500 Comment.

See also Sections 6532 (“common area”), 6542 (“condominium project”), 6546 (“declaration”), 6564 (“separate interest”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4610.

§ 6658. Lien for work performed in condominium project

6658. (a) In a condominium project, no labor performed or services or materials furnished with the consent of, or at the request of, an owner in the condominium project or the owners’ agent or contractor shall be the basis for the filing of a lien against any other property of any other owner in the condominium project unless that other owner has expressly consented to or requested the performance of the labor or furnishing of the materials or services. However, express consent shall be deemed to have been given by the owner of any condominium in the case of emergency repairs thereto.

(b) Labor performed or services or materials furnished for the common area, if duly authorized by the association, shall be deemed to be performed or furnished with the express consent of each condominium owner.

(c) The owner of any condominium may remove that owner’s condominium from a lien against two or more condominiums or any part thereof by payment to the holder of the lien of the fraction of the total sum secured by the lien that is attributable to the owner’s condominium.

Comment. With respect to a commercial or industrial common interest development, Section 6658 continues Section 1369 without change, except as indicated below.

The following nonsubstantive changes are made:

- The section is divided into subdivisions for ease of reference.
- The words “his or her” are replaced with “owner” throughout.
- The phrase “common areas” is singularized.
- The word “which” is replaced with “that” in subdivision (c).

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6532 (“common area”), 6542 (“condominium project”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4615.

Article 3. Transfer of Separate Interest

§ 6662. Condominium project

6662. In a condominium project the common area is not subject to partition, except as provided in Section 6656. Any conveyance, judicial sale, or other voluntary or involuntary transfer of the separate interest includes the undivided interest in the common area. Any conveyance, judicial sale, or other voluntary or involuntary transfer of the owner’s entire estate also includes the owner’s membership interest in the association.

Comment. With respect to a commercial or industrial common interest development, Section 6662 continues Section 1358(b) without change, except as indicated below.

The following nonsubstantive changes are made:

- A cross-reference is updated to reflect the new location of the referenced provision.
- The phrase “common areas” is singularized.

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6532 (“common area”), 6542 (“condominium project”), 6564 (“separate interest”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4630.

§ 6664. Planned development

6664. In a planned development, any conveyance, judicial sale, or other voluntary or involuntary transfer of the separate interest includes the undivided interest in the common area, if any exists. Any conveyance, judicial sale, or other voluntary or involuntary transfer of the owner’s entire estate also includes the owner’s membership interest in the association.

Comment. With respect to a commercial or industrial common interest development, Section 6664 continues Section 1358(c) without change, except as indicated below.

The following nonsubstantive change is made:

- The phrase “common areas” is singularized.

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6532 (“common area”), 6562 (“planned development”), 6564 (“separate interest”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4635.

§ 6666. Stock cooperative

6666. In a stock cooperative, any conveyance, judicial sale, or other voluntary or involuntary transfer of the separate interest includes the ownership interest in the corporation, however evidenced. Any conveyance, judicial sale, or other voluntary or involuntary transfer of the owner’s entire estate also includes the owner’s membership interest in the association.

Comment. With respect to a commercial or industrial common interest development, Section 6666 continues Section 1358(d) without change.

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6564 (“separate interest”), 6566 (“stock cooperative”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4640.

§ 6668. Transfer of exclusive use common area

6668. Nothing in this article prohibits the transfer of exclusive use areas, independent of any other interest in a common interest subdivision, if authorization to separately transfer exclusive use areas is expressly stated in the declaration and the transfer occurs in accordance with the terms of the declaration.

Comment. With respect to a commercial or industrial common interest development, Section 6668 continues the next to last paragraph of Section 1358 without change, except as indicated below.

The following nonsubstantive change is made:

- “Section” is replaced with “article.”

For further information, see Section 6500 Comment.

See also Section 6546 (“declaration”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4645.

§ 6670. Severability of interests

6670. Any restrictions upon the severability of the component interests in real property which are contained in the declaration shall not be deemed conditions repugnant to the interest created within the meaning of Section 711. However, these restrictions shall not extend beyond the period in which the right to partition a project is suspended under Section 6656.

Comment. With respect to a commercial or industrial common interest development, Section 6670 continues the last paragraph of Section 1358 without change, except as indicated below.

The following nonsubstantive changes are made:

- A superfluous reference to the “Civil Code” is not continued.
- The cross-reference is updated to reflect the new location of the referenced provision.

For further information, see Section 6500 Comment.

See also Section 6546 (“declaration”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4650.

CHAPTER 5. PROPERTY USE AND MAINTENANCE

Article 1. Protected Uses

§ 6700. Application of article

6700. This article includes provisions that limit the authority of an association or the governing documents to regulate the use of a member’s separate interest. Nothing in this article is intended to affect the application of any other provision that limits the authority of an association to regulate the use of a member’s separate interest, including, but not limited to, the following provisions:

- (a) Sections 712 and 713, relating to the display of signs.

(b) Sections 714 and 714.1, relating to solar energy systems.

(c) Section 714.5, relating to structures that are constructed offsite and moved to the property in sections or modules.

(d) Sections 782, 782.5, and 6150 of this code and Section 12956.1 of the Government Code, relating to racial restrictions.

Comment. Section 6700 is new. It provides a non-exclusive list of provisions outside of this act that limit the authority of an association to regulate separate interest property use.

See also Sections 6528 (“association”), 6552 (“governing documents”), 6554 (“member”), 6564 (“separate interest”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4700.

§ 6702. Display of U.S. flag

6702. (a) Except as required for the protection of the public health or safety, no governing document shall limit or prohibit, or be construed to limit or prohibit, the display of the flag of the United States by a member on or in the member’s separate interest or within the member’s exclusive use common area.

(b) For purposes of this section, “display of the flag of the United States” means a flag of the United States made of fabric, cloth, or paper displayed from a staff or pole or in a window, and does not mean a depiction or emblem of the flag of the United States made of lights, paint, roofing, siding, paving materials, flora, or balloons, or any other similar building, landscaping, or decorative component.

(c) In any action to enforce this section, the prevailing party shall be awarded reasonable attorney’s fees and costs.

Comment. With respect to a commercial or industrial common interest development, Section 6702 continues Section 1353.5 without change, except as indicated below.

The following nonsubstantive changes are made:

- A superfluous cross-reference to governing definitions is not continued.
- A superfluous reference to a declaration is not continued.
- The word “owner” is replaced with “member.” See Section 6554 (“member”).

For further information, see Section 6500 Comment.

See also Sections 6532 (“common area”), 6546 (“declaration”), 6550 (“exclusive use common area”), 6552 (“governing documents”), 6564 (“separate interest”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4705.

§ 6704. Noncommercial sign

6704. (a) The governing documents may not prohibit posting or displaying of noncommercial signs, posters, flags, or banners on or in a member’s separate interest, except as required for the protection of public health or safety or if the posting or display would violate a local, state, or federal law.

(b) For purposes of this section, a noncommercial sign, poster, flag, or banner may be made of paper, cardboard, cloth, plastic, or fabric, and may be posted or displayed from the yard, window, door, balcony, or outside wall of the separate interest, but may not be made of lights, roofing, siding, paving materials, flora, or balloons, or any other similar building, landscaping, or decorative component, or include the painting of architectural surfaces.

(c) An association may prohibit noncommercial signs and posters that are more than nine square feet in size and noncommercial flags or banners that are more than 15 square feet in size.

Comment. With respect to a commercial or industrial common interest development, Section 6704 continues Section 1353.6 without change, except as indicated below.

The following nonsubstantive changes are made:

- The words “including the operating rules” are not continued.
- The word “owner” is replaced with “member.” See Section 6554 (“member”).
- In subdivision (c), the numeral “9” is replaced with “nine” for stylistic reasons.

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6552 (“governing documents”), 6564 (“separate interest”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4710.

§ 6706. Pets

6706. (a) No governing documents shall prohibit the owner of a separate interest within a common interest development from keeping at least one pet within the common interest development, subject to reasonable rules and regulations of the association. This section may not be construed to affect any other rights provided by law to an owner of a separate interest to keep a pet within the development.

(b) For purposes of this section, “pet” means any domesticated bird, cat, dog, aquatic animal kept within an aquarium, or other animal as agreed to between the association and the owner.

(c) If the association implements a rule or regulation restricting the number of pets an owner may keep, the new rule or regulation shall not apply to prohibit an owner from continuing to keep any pet that the owner currently keeps in the owner’s separate interest if the pet otherwise conforms with the previous rules or regulations relating to pets.

(d) For the purposes of this section, “governing documents” shall include, but are not limited to, the conditions, covenants, and restrictions of the common interest development, and the bylaws, rules, and regulations of the association.

(e) This section shall become operative on January 1, 2001, and shall only apply to governing documents entered into, amended, or otherwise modified on or after that date.

Comment. With respect to a commercial or industrial common interest development, Section 6706 continues Section 1360.5 without change, except as indicated below.

The following nonsubstantive changes are made:

- A reference to “homeowner” is replaced with “owner” in subdivision (b).
- The words “his or her” are replaced with “the owner’s” in subdivision (c).

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6534 (“common interest development”), 6552 (“governing documents”), 6564 (“separate interest”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4715.

§ 6708. Television antenna or satellite dish

6708. (a) Any covenant, condition, or restriction contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of, or any interest in, a common interest development that effectively prohibits or restricts the installation or use of a video or television antenna, including a satellite dish, or that effectively prohibits or restricts the attachment of that antenna to a structure within that development where the antenna is not visible from any street or common area, except as otherwise prohibited or restricted by law, is void and unenforceable as to its application to the installation or use of a video or television antenna that has a diameter or diagonal measurement of 36 inches or less.

(b) This section shall not apply to any covenant, condition, or restriction, as described in subdivision (a), that imposes reasonable restrictions on the installation or use of a video or television antenna, including a satellite dish, that has a diameter or diagonal measurement of 36 inches or less. For purposes of this section, “reasonable restrictions” means those restrictions that do not significantly increase the cost of the video or television antenna system, including all related equipment, or significantly decrease its efficiency or performance and include all of the following:

(1) Requirements for application and notice to the association prior to the installation.

(2) Requirement of a member to obtain the approval of the association for the installation of a video or television antenna that has a diameter or diagonal measurement of 36 inches or less on a separate interest owned by another.

(3) Provision for the maintenance, repair, or replacement of roofs or other building components.

(4) Requirements for installers of a video or television antenna to indemnify or reimburse the association or its members for loss or damage caused by the installation, maintenance, or use of a video or television antenna that has a diameter or diagonal measurement of 36 inches or less.

(c) Whenever approval is required for the installation or use of a video or television antenna, including a satellite dish, the

application for approval shall be processed by the appropriate approving entity for the common interest development in the same manner as an application for approval of an architectural modification to the property, and the issuance of a decision on the application shall not be willfully delayed.

(d) In any action to enforce compliance with this section, the prevailing party shall be awarded reasonable attorney's fees.

Comment. With respect to a commercial or industrial common interest development, Section 6708 continues Section 1376 without change, except as indicated below.

The following nonsubstantive change is made:

- The word "owner" is replaced with "member." See Section 6554 ("member").

For further information, see Section 6500 Comment.

See also 47 C.F.R. § 1.4000.

See also Sections 6528 ("association"), 6532 ("common area"), 6534 ("common interest development"), 6564 ("separate interest").

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4725.

§ 6710. Marketing restriction

6710. (a) Any provision of a governing document that arbitrarily or unreasonably restricts an owner's ability to market the owner's interest in a common interest development is void.

(b) No association may adopt, enforce, or otherwise impose any governing document that does either of the following:

(1) Imposes an assessment or fee in connection with the marketing of an owner's interest in an amount that exceeds the association's actual or direct costs.

(2) Establishes an exclusive relationship with a real estate broker through which the sale or marketing of interests in the development is required to occur. The limitation set forth in this paragraph does not apply to the sale or marketing of separate interests owned by the association or to the sale or marketing of common area by the association.

(c) For purposes of this section, “market” and “marketing” mean listing, advertising, or obtaining or providing access to show the owner’s interest in the development.

(d) This section does not apply to rules or regulations made pursuant to Section 712 or 713 regarding real estate signs.

Comment. With respect to a commercial or industrial common interest development, Section 6710 continues Section 1368.1 without change, except as indicated below.

The following substantive changes are made:

- The introductory clause is revised to make clear that a void provision does not void the entire governing document that contains it.
- The words “rule or regulation” are replaced with “governing document.” See Section 6552 (“governing documents”). This broadens the application of the section so that it governs any provision in the governing documents and not just an operating rule.

The following nonsubstantive changes are made:

- The words “his or her” are replaced with “the owner’s” in subdivision (a).
- The phrase “common areas” is singularized.
- The words “of an association” are not continued.
- A reference to a statutory limitation set forth in Section 1366.1, a provision that is not continued in this act, is deleted.

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6532 (“common area”), 6534 (“common interest development”), 6552 (“governing documents”), 6564 (“separate interest”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4730.

§ 6712. Low water-using plants

6712. (a) Notwithstanding any other law, a provision of the governing documents shall be void and unenforceable if it does any of the following:

(1) Prohibits, or includes conditions that have the effect of prohibiting, the use of low water-using plants as a group.

(2) Has the effect of prohibiting or restricting compliance with either of the following:

(A) A water-efficient landscape ordinance adopted or in effect pursuant to subdivision (c) of Section 65595 of the Government Code.

(B) Any regulation or restriction on the use of water adopted pursuant to Section 353 or 375 of the Water Code.

(b) This section shall not prohibit an association from applying landscaping rules established in the governing documents, to the extent the rules fully conform with the requirements of subdivision (a).

Comment. With respect to a commercial or industrial common interest development, Section 6712 continues Section 1353.8 without change, except as indicated below.

The following nonsubstantive change is made:

- Surplus language is not continued (i.e., the phrases “of any,” “of a common interest development,” and “and regulations”). The term “governing documents” includes all governing documents of a common interest development. See Section 6552 (“governing documents”).

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6552 (“governing documents”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4735.

§ 6713. Electric vehicle charging stations

6713. (a) Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a common interest development, and any provision of a governing document, as defined in Section 6552, that either effectively prohibits or unreasonably restricts the installation or use of an electric vehicle charging station in an owner’s designated parking space, including, but not limited to, a deeded parking space, a parking space in an owner’s exclusive use common area, or a parking space that is specifically designated for use by a particular owner, or is in

conflict with the provisions of this section is void and unenforceable.

(b) (1) This section does not apply to provisions that impose reasonable restrictions on electric vehicle charging stations. However, it is the policy of the state to promote, encourage, and remove obstacles to the use of electric vehicle charging stations.

(2) For purposes of this section, “reasonable restrictions” are restrictions that do not significantly increase the cost of the station or significantly decrease its efficiency or specified performance.

(c) An electric vehicle charging station shall meet applicable health and safety standards and requirements imposed by state and local authorities, and all other applicable zoning, land use or other ordinances, or land use permits.

(d) For purposes of this section, “electric vehicle charging station” means a station that is designed in compliance with the California Building Standards Code and delivers electricity from a source outside an electric vehicle into one or more electric vehicles. An electric vehicle charging station may include several charge points simultaneously connecting several electric vehicles to the station and any related equipment needed to facilitate charging plug-in electric vehicles.

(e) If approval is required for the installation or use of an electric vehicle charging station, the application for approval shall be processed and approved by the association in the same manner as an application for approval of an architectural modification to the property, and shall not be willfully avoided or delayed. The approval or denial of an application shall be in writing. If an application is not denied in writing within 60 days from the date of receipt of the application, the application shall be deemed approved, unless that delay is the result of a reasonable request for additional information.

(f) If the electric vehicle charging station is to be placed in a common area or an exclusive use common area, as designated in the common interest development’s declaration, the following provisions apply:

(1) The owner first shall obtain approval from the association to install the electric vehicle charging station and the association shall

approve the installation if the owner agrees in writing to do all of the following:

(A) Comply with the association's architectural standards for the installation of the charging station.

(B) Engage a licensed contractor to install the charging station.

(C) Within 14 days of approval, provide a certificate of insurance that names the association as an additional insured under the owner's insurance policy in the amount set forth in paragraph (3).

(D) Pay for the electricity usage associated with the charging station.

(2) The owner and each successive owner of the charging station shall be responsible for all of the following:

(A) Costs for damage to the charging station, common area, exclusive use common area, or separate interests resulting from the installation, maintenance, repair, removal, or replacement of the charging station.

(B) Costs for the maintenance, repair, and replacement of the charging station until it has been removed and for the restoration of the common area after removal.

(C) The cost of electricity associated with the charging station.

(D) Disclosing to prospective buyers the existence of any charging station of the owner and the related responsibilities of the owner under this section.

(3) The owner and each successive owner of the charging station, at all times, shall maintain a liability coverage policy in the amount of one million dollars (\$1,000,000), and shall name the association as a named additional insured under the policy with a right to notice of cancellation.

(4) An owner shall not be required to maintain a liability coverage policy for an existing National Electrical Manufacturers Association standard alternating current power plug.

(g) Except as provided in subdivision (h), installation of an electric vehicle charging station for the exclusive use of an owner in a common area, that is not an exclusive use common area, shall be authorized by the association only if installation in the owner's designated parking space is impossible or unreasonably expensive.

In such cases, the association shall enter into a license agreement with the owner for the use of the space in a common area, and the owner shall comply with all of the requirements in subdivision (f).

(h) The association or owners may install an electric vehicle charging station in the common area for the use of all members of the association and, in that case, the association shall develop appropriate terms of use for the charging station.

(i) An association may create a new parking space where one did not previously exist to facilitate the installation of an electric vehicle charging station.

(j) An association that willfully violates this section shall be liable to the applicant or other party for actual damages, and shall pay a civil penalty to the applicant or other party in an amount not to exceed one thousand dollars (\$1,000).

(k) In any action to enforce compliance with this section, the prevailing plaintiff shall be awarded reasonable attorney's fees.

Comment. With respect to a commercial or industrial common interest development, Section 6713 continues Section 1353.9 without change, except as indicated below.

The following substantive changes are made:

- In paragraphs (f)(3) and (4), the word “homeowner” is deleted or replaced with “owner.”

The following nonsubstantive changes are made:

- A cross-reference in subdivision (a) is updated to reflect the new location of the referenced provision.
- In subdivision (c), the words “as well as” are replaced with “, and.”

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6532 (“common area”), 6534 (“common interest development”), 6546 (“declaration”), 6550 (“exclusive use common area”), 6552 (“governing documents”), 6564 (“separate interest”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4745.

Article 2. Modification of Separate Interest

§ 6714. Improvements to separate interest

6714. (a) Subject to the governing documents and applicable law, a member may do the following:

(1) Make any improvement or alteration within the boundaries of the member's separate interest that does not impair the structural integrity or mechanical systems or lessen the support of any portions of the common interest development.

(2) Modify the member's separate interest, at the member's expense, to facilitate access for persons who are blind, visually handicapped, deaf, or physically disabled, or to alter conditions which could be hazardous to these persons. These modifications may also include modifications of the route from the public way to the door of the separate interest for the purposes of this paragraph if the separate interest is on the ground floor or already accessible by an existing ramp or elevator. The right granted by this paragraph is subject to the following conditions:

(A) The modifications shall be consistent with applicable building code requirements.

(B) The modifications shall be consistent with the intent of otherwise applicable provisions of the governing documents pertaining to safety or aesthetics.

(C) Modifications external to the separate interest shall not prevent reasonable passage by other residents, and shall be removed by the member when the separate interest is no longer occupied by persons requiring those modifications who are blind, visually handicapped, deaf, or physically disabled.

(D) Any member who intends to modify a separate interest pursuant to this paragraph shall submit plans and specifications to the association for review to determine whether the modifications will comply with the provisions of this paragraph. The association shall not deny approval of the proposed modifications under this paragraph without good cause.

(b) Any change in the exterior appearance of a separate interest shall be in accordance with the governing documents and applicable provisions of law.

Comment. With respect to a commercial or industrial common interest development, Section 6714 continues Section 1360 without change, except as indicated below.

The following substantive change is made:

- The scope of the provision is broadened to apply to any separate interest, and not just a unit in a condominium project.

The following nonsubstantive changes are made:

- The word “dwelling” is replaced with “separate interest” in subdivision (a)(2)(C). See Section 6564 (“separate interest”).
- The words “his or her” are not continued in subdivision (a)(2)(D).
- The word “owner” is replaced with “member” throughout. See Section 6554 (“member”).

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6534 (“common interest development”), 6552 (“governing documents”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4760.

Article 3. Maintenance

§ 6716. Maintenance responsibility generally

6716. (a) Unless otherwise provided in the declaration of a common interest development, the association is responsible for repairing, replacing, or maintaining the common area, other than exclusive use common area, and the owner of each separate interest is responsible for maintaining that separate interest and any exclusive use common area appurtenant to the separate interest.

(b) The costs of temporary relocation during the repair and maintenance of the areas within the responsibility of the association shall be borne by the owner of the separate interest affected.

Comment. With respect to a commercial or industrial common interest development, subdivision (a) of Section 6716 continues Section 1364(a) without change, except as indicated below.

The following nonsubstantive change is made:

- The phrase “common areas” is singularized.

With respect to a commercial or industrial common interest development, subdivision (b) continues Section 1364(c) without change.

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6532 (“common area”), 6534 (“common interest development”), 6546 (“declaration”), 6550 (“exclusive use common area”), 6564 (“separate interest”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4775.

§ 6718. Wood-destroying pests or organisms

6718. (a) In a condominium project or stock cooperative, unless otherwise provided in the declaration, the association is responsible for the repair and maintenance of the common area occasioned by the presence of wood-destroying pests or organisms.

(b) In a planned development, unless a different maintenance scheme is provided in the declaration, each owner of a separate interest is responsible for the repair and maintenance of that separate interest as may be occasioned by the presence of wood-destroying pests or organisms. Upon approval of the majority of all members of the association, pursuant to Section 6522, that responsibility may be delegated to the association, which shall be entitled to recover the cost thereof as a special assessment.

Comment. With respect to a commercial or industrial common interest development, subdivision (a) of Section 6718 continues Section 1364(b)(1) without change, except as indicated below.

The following nonsubstantive changes are made:

- A reference to a “community apartment project” is not continued.
- A superfluous cross-reference to governing definitions is not continued.

With respect to a commercial or industrial common interest development, subdivision (b) continues Section 1364(b)(2) without change, except as indicated below.

The following nonsubstantive changes are made:

- A superfluous cross-reference to a governing definition is not continued.
- A cross-reference to Section 6522 is added.
- The last sentence is revised to avoid use of the word “such.”

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6532 (“common area”), 6542 (“condominium project”), 6546 (“declaration”), 6554 (“member”), 6562

(“planned development”), 6564 (“separate interest”), 6566 (“stock cooperative”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4780.

§ 6720. Temporary removal of occupant to perform treatment of wood-destroying pests

6720. (a) The association may cause the temporary, summary removal of any occupant of a common interest development for such periods and at such times as may be necessary for prompt, effective treatment of wood-destroying pests or organisms.

(b) The association shall give notice of the need to temporarily vacate a separate interest to the occupants and to the owners, not less than 15 days nor more than 30 days prior to the date of the temporary relocation. The notice shall state the reason for the temporary relocation, the date and time of the beginning of treatment, the anticipated date and time of termination of treatment, and that the occupants will be responsible for their own accommodations during the temporary relocation.

(c) Notice by the association shall be deemed complete upon either:

(1) Personal delivery of a copy of the notice to the occupants, and if an occupant is not the owner, individual delivery pursuant to Section 6514, of a copy of the notice to the owner.

(2) Individual delivery pursuant to Section 6514 to the occupant at the address of the separate interest, and if the occupant is not the owner, individual delivery pursuant to Section 6514, of a copy of the notice to the owner.

(d) For purposes of this section, “occupant” means an owner, resident, guest, invitee, tenant, lessee, sublessee, or other person in possession of the separate interest.

Comment. With respect to a commercial or industrial common interest development, Section 6720 continues Section 1364(d)-(e) without change, except as indicated below.

The following substantive change is made:

- The provision is revised to incorporate the “individual delivery” notice procedure.

The following nonsubstantive changes are made:

- Subdivision (c) is revised to improve its clarity.
- A typographical error is corrected in subdivision (d).

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6534 (“common interest development”), 6564 (“separate interest”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4785.

§ 6722. Exclusive use communication wiring

6722. Notwithstanding the provisions of the declaration, a member is entitled to reasonable access to the common area for the purpose of maintaining the internal and external telephone wiring made part of the exclusive use common area of the member’s separate interest pursuant to subdivision (c) of Section 6550. The access shall be subject to the consent of the association, whose approval shall not be unreasonably withheld, and which may include the association’s approval of telephone wiring upon the exterior of the common area, and other conditions as the association determines reasonable.

Comment. With respect to a commercial or industrial common interest development, Section 6722 continues Section 1364(f) without change, except as indicated below.

The following nonsubstantive changes are made:

- A cross-reference is updated to reflect the new location of the referenced provision.
- The word “owner” is replaced with “member.” See Section 6554 (“member”).
- The phrase “common areas” is singularized.

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6532 (“common area”), 6546 (“declaration”), 6550 (“exclusive use common area”), 6564 (“separate interest”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4790.

CHAPTER 6. ASSOCIATION GOVERNANCE

Article 1. Association Existence and Powers

§ 6750. Association

6750. A common interest development shall be managed by an association that may be incorporated or unincorporated. The association may be referred to as an owners' association or a community association.

Comment. With respect to a commercial or industrial common interest development, Section 6750 continues Section 1363(a) without change, except as indicated below.

The following nonsubstantive change is made:

- Use of the term “owners' association” to describe the association is expressly authorized.

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6534 (“common interest development”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4800.

§ 6752. Association powers

6752. (a) Unless the governing documents provide otherwise, and regardless of whether the association is incorporated or unincorporated, the association may exercise the powers granted to a nonprofit mutual benefit corporation, as enumerated in Section 7140 of the Corporations Code, except that an unincorporated association may not adopt or use a corporate seal or issue membership certificates in accordance with Section 7313 of the Corporations Code.

(b) The association, whether incorporated or unincorporated, may exercise the powers granted to an association in this act.

Comment. With respect to a commercial or industrial common interest development, Section 6752 continues Section 1363(c) without change, except as indicated below.

The following nonsubstantive changes are made:

- The provision is divided into subdivisions for ease of reference.

- The word “title” is replaced with “act.”

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6552 (“governing documents”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 4805.

Article 2. Record Keeping

§ 6756. Mailing-related requests

6756. To be effective, any of the following requests shall be delivered in writing to the association, pursuant to Section 6512:

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

(b) A request to add or remove a second address for delivery of documents to the member pursuant to Section 6814.

Comment. Section 6756 is new. It requires that the specified requests be written and delivered to the association pursuant to Section 6512.

See also Sections 6528 (“association”), 6554 (“member”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 5260.

Article 3. Conflict of Interest

§ 6758. Interested director

6758. (a) Notwithstanding any other law, and regardless of whether an association is incorporated or unincorporated, the provisions of Sections 7233 and 7234 of the Corporations Code shall apply to any contract or other transaction authorized, approved, or ratified by the board or a committee of the board.

(b) A director or member of a committee shall not vote on any of the following matters:

(1) Discipline of the director or committee member.

(2) An assessment against the director or committee member for damage to the common area or facilities.

(3) A request, by the director or committee member, for a payment plan for overdue assessments.

(4) A decision whether to foreclose on a lien on the separate interest of the director or committee member.

(5) Review of a proposed physical change to the separate interest of the director or committee member.

(6) A grant of exclusive use common area to the director or committee member.

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

Comment. With respect to a commercial or industrial common interest development, subdivision (a) of Section 6758 continues the substance of Section 1365.6, except as indicated below.

The following nonsubstantive change is made:

- The reference to Corporations Code Section 310, which governs the General Corporation Law, is replaced with a reference to Corporations Code Sections 7233 and 7234, which state equivalent rules for nonprofit mutual benefit corporations.

Subdivisions (b) and (c) are new. The “discipline” referenced in subdivision (b)(1) may include discipline for a violation of the governing documents, this act, or a fiduciary duty.

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6530 (“board”), 6532 (“common area”), 6548 (“director”), 6550 (“exclusive use common area”), 6552 (“governing documents”), 6564 (“separate interest”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 5350.

Article 4. Government Assistance

§ 6760. State registry

6760. (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:

(1) A statement that the association is formed to manage a common interest development under the Commercial and Industrial Common Interest Development Act.

(2) The name of the association.

(3) The street address of the business or corporate office of the association, if any.

(4) The street address of the association's onsite office if different from the street address of the business or corporate office, or if there is no onsite office, the street address of the responsible officer or managing agent of the association.

(5) The name, address, and either the daytime telephone number or e-mail address of the president of the association, other than the address, telephone number, or e-mail address of the association's onsite office or managing agent.

(6) The name, street address, and daytime telephone number of the association's managing agent, if any.

(7) The county, and, if in an incorporated area, the city in which the development is physically located. If the boundaries of the development are physically located in more than one county, each of the counties in which it is located.

(8) If the development is in an unincorporated area, the city closest in proximity to the development.

(9) The front street and nearest cross street of the physical location of the development.

(10) The type of common interest development managed by the association.

(11) The number of separate interests in the development.

(b) The association shall submit the information required by this section as follows:

(1) By incorporated associations, within 90 days after the filing of its original articles of incorporation, and thereafter at the time the association files its statement of principal business activity with the Secretary of State pursuant to Section 8210 of the Corporations Code.

(2) By unincorporated associations, in July of 2003, and in that same month biennially thereafter. Upon changing its status to that

of a corporation, the association shall comply with the filing deadlines in paragraph (1).

(c) The association shall notify the Secretary of State of any change in the street address of the association's onsite office or of the responsible officer or managing agent of the association in the form and for a fee prescribed by the Secretary of State, within 60 days of the change.

(d) The penalty for an incorporated association's noncompliance with the initial or biennial filing requirements of this section shall be suspension of the association's rights, privileges, and powers as a corporation and monetary penalties, to the same extent and in the same manner as suspension and monetary penalties imposed pursuant to Section 8810 of the Corporations Code.

(e) The statement required by this section may be filed, notwithstanding suspension of the corporate powers, rights, and privileges under this section or under provisions of the Revenue and Taxation Code. Upon the filing of a statement under this section by a corporation that has suffered suspension under this section, the Secretary of State shall certify that fact to the Franchise Tax Board and the corporation may thereupon be relieved from suspension, unless the corporation is held in suspension by the Franchise Tax Board by reason of Section 23301, 23301.5, or 23775 of the Revenue and Taxation Code.

(f) The Secretary of State shall make the information submitted pursuant to paragraph (5) of subdivision (a) available only for governmental purposes and only to Members of the Legislature and the Business, Transportation and Housing Agency, upon written request. All other information submitted pursuant to this section shall be subject to public inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). The information submitted pursuant to this section shall be made available for governmental or public inspection.

(g) Whenever any form is filed pursuant to this section, it supersedes any previously filed form.

(h) The Secretary of State may destroy or otherwise dispose of any form filed pursuant to this section after it has been superseded by the filing of a new form.

Comment. With respect to a commercial or industrial common interest development, Section 6760 continues Section 1363.6 without change, except as indicated below.

The following substantive change is made:

- A reference to this act is substituted for a reference to the Davis-Stirling Common Interest Development Act.

The following nonsubstantive changes are made:

- The words “of the association” at the end of Section 1363.6(a)(5) are not continued.
- Superfluous references to definition sections are not continued.
- In paragraph (a)(7), a comma is added after the word “and.”
- Obsolete transitional dates are not continued in subdivisions (d) and (f).
- The words “as the case may be” are not continued in subdivision (f).
- In subdivision (f), a comma is deleted after “California Public Records Act” and parentheses are added around the following statutory reference to that act.

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6534 (“common interest development”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 5405.

CHAPTER 7. ASSESSMENTS AND ASSESSMENT COLLECTION

Article 1. Establishment and Imposition of Assessments

§ 6800. Levy of assessment

6800. The association shall levy regular and special assessments sufficient to perform its obligations under the governing documents and this act.

Comment. With respect to a commercial or industrial common interest development, Section 6800 continues the first sentence of Section 1366(a) without change, except as indicated below.

The following nonsubstantive changes are made:

- The word “title” is replaced with “act.”
- A superfluous reference to the remainder of Section 1366 is deleted.

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6552 (“governing documents”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 5600.

§ 6804. Exemption from execution

6804. (a) Regular assessments imposed or collected to perform the obligations of an association under the governing documents or this act shall be exempt from execution by a judgment creditor of the association only to the extent necessary for the association to perform essential services, such as paying for utilities and insurance. In determining the appropriateness of an exemption, a court shall ensure that only essential services are protected under this subdivision.

(b) This exemption shall not apply to any consensual pledges, liens, or encumbrances that have been approved by a majority of a quorum of members, pursuant to Section 6524, at a member meeting or election, or to any state tax lien, or to any lien for labor or materials supplied to the common area.

Comment. With respect to a commercial or industrial common interest development, Section 6804 continues Section 1366(c) without change, except as indicated below.

The following nonsubstantive changes are made:

- The provision is divided into subdivisions for ease of reference.
- A reference to approval of a majority of members casting a vote at a meeting at which a quorum is established is replaced with a reference to the standard provision on approval by a majority of a quorum of members (Section 6524).
- Quorum-related language from Section 1366(b)-(c) is not continued.

- The word “title” is replaced with “act.”

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6532 (“common area”), 6552 (“governing documents”), 6554 (“member”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 5620.

Article 2. Assessment Payment and Delinquency

§ 6808. Assessment debt and delinquency

6808. (a) A regular or special assessment and any late charges, reasonable fees and costs of collection, reasonable attorney’s fees, if any, and interest, if any, as determined in accordance with subdivision (b), shall be a debt of the owner of the separate interest at the time the assessment or other sums are levied.

(b) Associations are hereby exempted from interest-rate limitations imposed by Article XV of the California Constitution, subject to the limitations of this section.

Comment. With respect to a commercial or industrial common interest development, subdivision (a) of Section 6808 continues the first sentence of Section 1367.1(a) without change, except as indicated below.

The following nonsubstantive change is made:

- A cross-reference is updated to reflect the new location of the referenced provision.

With respect to a commercial or industrial common interest development, subdivision (b) continues Section 1366(f) without change.

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6564 (“separate interest”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 5650.

§ 6810. Payments

6810. (a) When an owner of a separate interest makes a payment toward an assessment, the owner may request a receipt and the association shall provide it. The receipt shall indicate the date of payment and the person who received it.

(b) The association shall provide a mailing address for overnight payment of assessments.

Comment. With respect to a commercial or industrial common interest development, Section 6810 continues the substance of Section 1367.1(b), except as indicated below.

The following substantive change is made:

- The first sentence of Section 1367.1(b) is not continued.

The following nonsubstantive change is made:

- The provision is divided into subdivisions for ease of reference.

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6564 (“separate interest”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 5655.

§ 6812. Pre-lien notice

6812. At least 30 days prior to recording a lien upon the separate interest of the owner of record to collect a debt that is past due under Section 6808, the association shall notify the owner of record in writing by certified mail of the following:

(a) A general description of the collection and lien enforcement procedures of the association and the method of calculation of the amount, a statement that the owner of the separate interest has the right to inspect the association records pursuant to Section 8333 of the Corporations Code, and the following statement in 14-point boldface type, if printed, or in capital letters, if typed:

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

(b) An itemized statement of the charges owed by the owner, including items on the statement which indicate the amount of any delinquent assessments, the fees and reasonable costs of collection, reasonable attorney’s fees, any late charges, and interest, if any.

(c) A statement that the owner shall not be liable to pay the charges, interest, and costs of collection, if it is determined the assessment was paid on time to the association.

Comment. With respect to a commercial or industrial common interest development, Section 6812 continues the second sentence of

Section 1367.1(a), and paragraphs (1) to (3) of that provision, inclusive, without change, except as indicated below.

The following nonsubstantive change is made:

- A cross-reference is updated to reflect the new location of the referenced provision.

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6564 (“separate interest”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 5660.

§ 6814. Notice of delinquent assessment

6814. (a) The amount of the assessment, plus any costs of collection, late charges, and interest assessed in accordance with subdivision (b) of Section 6808, shall be a lien on the owner’s separate interest in the common interest development from and after the time the association causes to be recorded with the county recorder of the county in which the separate interest is located, a notice of delinquent assessment, which shall state the amount of the assessment and other sums imposed in accordance with subdivision (b) of Section 6808, a legal description of the owner’s separate interest in the common interest development against which the assessment and other sums are levied, and the name of the record owner of the separate interest in the common interest development against which the lien is imposed.

(b) The itemized statement of the charges owed by the owner described in subdivision (b) of Section 6812 shall be recorded together with the notice of delinquent assessment.

(c) In order for the lien to be enforced by nonjudicial foreclosure as provided in Sections 6820 and 6822, the notice of delinquent assessment shall state the name and address of the trustee authorized by the association to enforce the lien by sale.

(d) The notice of delinquent assessment shall be signed by the person designated in the declaration or by the association for that purpose, or if no one is designated, by the president of the association.

(e) A copy of the recorded notice of delinquent assessment shall be mailed by certified mail to every person whose name is shown

as an owner of the separate interest in the association's records, and the notice shall be mailed no later than 10 calendar days after recordation.

Comment. With respect to a commercial or industrial common interest development, Section 6814 continues the first five sentences of Section 1367.1(d) without change, except as indicated below.

The following nonsubstantive change is made:

- Cross-references are updated to reflect the new locations of the referenced provisions.

For further information, see Section 6500 Comment.

See also Sections 6528 ("association"), 6534 ("common interest development"), 6546 ("declaration"), 6560 ("person"), 6564 ("separate interest").

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 5675.

§ 6816. Lien priority

6816. A lien created pursuant to Section 6814 shall be prior to all other liens recorded subsequent to the notice of delinquent assessment, except that the declaration may provide for the subordination thereof to any other liens and encumbrances.

Comment. With respect to a commercial or industrial common interest development, Section 6816 continues Section 1367.1(f) without change, except as indicated below.

The following nonsubstantive changes are made:

- The words "notice of assessment" are replaced with the more specific "notice of delinquent assessment."
- A cross-reference is updated to reflect the new location of the referenced provision.

For further information, see Section 6500 Comment.

See also Section 6546 ("declaration").

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 5680.

§ 6818. Lien release

6818. (a) Within 21 days of the payment of the sums specified in the notice of delinquent assessment, the association shall record or cause to be recorded in the office of the county recorder in which

the notice of delinquent assessment is recorded a lien release or notice of rescission and provide the owner of the separate interest a copy of the lien release or notice that the delinquent assessment has been satisfied.

(b) If it is determined that a lien previously recorded against the separate interest was recorded in error, the party who recorded the lien shall, within 21 calendar days, record or cause to be recorded in the office of the county recorder in which the notice of delinquent assessment is recorded a lien release or notice of rescission and provide the owner of the separate interest with a declaration that the lien filing or recording was in error and a copy of the lien release or notice of rescission.

Comment. With respect to a commercial or industrial common interest development, subdivision (a) of Section 6818 continues the sixth sentence of Section 1367.1(d) without change.

With respect to a commercial or industrial common interest development, subdivision (b) continues Section 1367.1(i) without change.

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6564 (“separate interest”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 5685.

§ 6819. Procedural noncompliance

6819. An association that fails to comply with the procedures set forth in this section shall, prior to recording a lien, recommence the required notice process. Any costs associated with recommencing the notice process shall be borne by the association and not by the owner of a separate interest.

Comment. With respect to a commercial or industrial common interest development, Section 6819 continues Section 1367.1(l) without change, except as indicated below.

The following nonsubstantive change is made:

- The word “section” is replaced with “article.”

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6564 (“separate interest”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 5690.

Article 3. Assessment Collection

§ 6820. Collection generally

6820. (a) Except as otherwise provided in this article, after the expiration of 30 days following the recording of a lien created pursuant to Section 6814, the lien may be enforced in any manner permitted by law, including sale by the court, sale by the trustee designated in the notice of delinquent assessment, or sale by a trustee substituted pursuant to Section 2934a.

(b) Nothing in Article 2 (commencing with Section 6808) or in subdivision (a) of Section 726 of the Code of Civil Procedure prohibits actions against the owner of a separate interest to recover sums for which a lien is created pursuant to Article 2 (commencing with Section 6808) or prohibits an association from taking a deed in lieu of foreclosure.

Comment. With respect to a commercial or industrial common interest development, subdivision (a) of Section 6820 continues the substance of the second sentence of Section 1367.1(g), except as indicated below.

The following nonsubstantive changes are made:

- The introductory clause is broadened to recognize the application of all restrictions on collection that are provided in this article. See, e.g., Section 6826 (limitation on assignment).
- Cross-references are updated to reflect the new locations of the referenced provisions.

With respect to a commercial or industrial common interest development, subdivision (b) continues Section 1367.1(h) without change, except as indicated below.

The following nonsubstantive change is made:

- Cross-references are updated to reflect the new locations of the referenced provisions.

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6564 (“separate interest”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 5700.

§ 6822. Foreclosure

6822. (a) Any sale by the trustee shall be conducted in accordance with Sections 2924, 2924b, and 2924c applicable to the exercise of powers of sale in mortgages and deeds of trust.

(b) In addition to the requirements of Section 2924, the association shall serve a notice of default on the person named as the owner of the separate interest in the association's records or, if that person has designated a legal representative pursuant to this subdivision, on that legal representative. Service shall be in accordance with the manner of service of summons in Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure. An owner may designate a legal representative in a writing that is mailed to the association in a manner that indicates that the association has received it.

(c) The fees of a trustee may not exceed the amounts prescribed in Sections 2924c and 2924d, plus the cost of service for the notice of default pursuant to subdivision (b).

Comment. With respect to a commercial or industrial common interest development, subdivision (a) of Section 6822 continues the third sentence of Section 1367.1(g) without change.

With respect to a commercial or industrial common interest development, subdivision (b) continues the substance of Section 1367.1(j).

With respect to a commercial or industrial common interest development, subdivision (c) continues the fourth sentence and paragraph (1) of Section 1367.1(g), without change.

For further information, see Section 6500 Comment.

See also Sections 6528 ("association"), 6564 ("separate interest").

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 5710.

§ 6824. Limitations on authority to foreclose liens for monetary penalties and damage to the common area

6824. (a) A monetary charge imposed by the association as a means of reimbursing the association for costs incurred by the association in the repair of damage to common area and facilities caused by a member or the member's guest or tenant may become a lien against the member's separate interest enforceable by the

sale of the interest under Sections 2924, 2924b, and 2924c, provided the authority to impose a lien is set forth in the governing documents.

(b) A monetary penalty imposed by the association as a disciplinary measure for failure of a member to comply with the governing documents, except for the late payments, may not be characterized nor treated in the governing documents as an assessment that may become a lien against the member's separate interest enforceable by the sale of the interest under Sections 2924, 2924b, and 2924c.

Comment. With respect to a commercial or industrial common interest development, subdivision (a) of Section 6824 continues the seventh sentence of Section 1367.1(d) without change, except as indicated below.

The following nonsubstantive change is made:

- The phrase "common areas" is singularized.

With respect to a commercial or industrial common interest development, subdivision (b) continues Section 1367.1(e) without change, except as indicated below.

The following nonsubstantive changes are made:

- The introductory clause "except as indicated in subdivision (d)" is not continued.
- The words "governing instruments" are replaced with "governing documents." See Section 6552 ("governing documents").
- The words "subdivision separate interest" are replaced with "separate interest." See Section 6564 ("separate interest").

For further information, see Section 6500 Comment.

See also Sections 6528 ("association"), 6532 ("common area"), 6552 ("governing documents"), 6554 ("member").

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 5725.

§ 6826. Assignment or pledge

6826. (a) An association may not voluntarily assign or pledge the association's right to collect payments or assessments, or to enforce or foreclose a lien to a third party, except when the assignment or pledge is made to a financial institution or lender chartered or licensed under federal or state law, when acting within

the scope of that charter or license, as security for a loan obtained by the association.

(b) Nothing in subdivision (a) restricts the right or ability of an association to assign any unpaid obligations of a former member to a third party for purposes of collection.

Comment. With respect to a commercial or industrial common interest development, Section 6826 continues the first sentence of Section 1367.1(g) without change, except as indicated below.

The following nonsubstantive changes are made:

- The provision is divided into subdivisions for ease of reference.
- An introductory clause is added in subdivision (b) to make the relationship between the two provisions clearer.

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6554 (“member”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 5735.

§ 6828. Application of article

6828. (a) Except as otherwise provided, this article applies to a lien created on or after January 1, 2014.

(b) A lien created before January 1, 2014, is governed by the law in existence at the time the lien was created.

Comment. Section 6828 is new. A lien created on or after January 1, 1986, and before January 1, 2003, is governed by Section 1367. See 2002 Cal. Stat. ch. 111, § 7. A lien created on or after January 1, 2003 and before the operative date of the act that added this section, is governed by Section 1367.1 and Section 1367.4.

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 5740.

CHAPTER 8. INSURANCE AND LIABILITY

§ 6840. Limitation of member liability

6840. (a) It is the intent of the Legislature to offer civil liability protection to owners of the separate interests in a common interest development that have common area owned in tenancy-in-common

if the association carries a certain level of prescribed insurance that covers a cause of action in tort.

(b) Any cause of action in tort against any owner of a separate interest arising solely by reason of an ownership interest as a tenant in common in the common area of a common interest development shall be brought only against the association and not against the individual owners of the separate interests, if both of the insurance requirements in paragraphs (1) and (2) are met:

(1) The association maintained and has in effect for this cause of action, one or more policies of insurance that include coverage for general liability of the association.

(2) The coverage described in paragraph (1) is in the following minimum amounts:

(A) At least two million dollars (\$2,000,000) if the common interest development consists of 100 or fewer separate interests.

(B) At least three million dollars (\$3,000,000) if the common interest development consists of more than 100 separate interests.

Comment. With respect to a commercial or industrial common interest development, Section 6840 continues Section 1365.9 without change, except as indicated below.

The following nonsubstantive changes are made:

- A superfluous cross-reference to a governing definition is not continued.
- The phrase “common areas” is singularized.
- In subdivision (b)(1), the word “which” is replaced with “that.”

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6532 (“common area”), 6534 (“common interest development”), 6564 (“separate interest”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 5805.

CHAPTER 9. DISPUTE RESOLUTION AND ENFORCEMENT

Article 1. Disciplinary Action

§ 6850. Schedule of monetary penalties

6850. (a) If an association adopts or has adopted a policy imposing any monetary penalty, including any fee, on any association member for a violation of the governing documents, including any monetary penalty relating to the activities of a guest or tenant of the member, the board shall adopt and distribute to each member, by individual notice, a schedule of the monetary penalties that may be assessed for those violations, which shall be in accordance with authorization for member discipline contained in the governing documents.

(b) Any new or revised monetary penalty that is adopted after complying with subdivision (a) may be included in a supplement that is delivered to the members individually, pursuant to Section 6553.

(c) A monetary penalty for a violation of the governing documents shall not exceed the monetary penalty stated in the schedule of monetary penalties or supplement that is in effect at the time of the violation.

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

Comment. With respect to a commercial or industrial common interest development, subdivision (a) of Section 6850 continues the first sentence of Section 1363(f) without change, except as indicated below.

The following substantive changes are made:

- A reference to delivery by personal delivery or first class mail is changed to incorporate the “individual notice” procedure.
- The word “invitee” is replaced with “tenant,” to make clear that the provision applies to tenants.

The following nonsubstantive changes are made:

- A reference to the “rules of the association” is superfluous and is not continued. The term “governing documents” encompasses rules. See Section 6552 (“governing documents”).
- The words “board of directors” are replaced with “board.” See Section 6530 (“board”).

Subdivisions (b)-(d) are new.

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6553 (“individual notice”), 6554 (“member”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 5850.

§ 6854. No effect on authority of board

6854. Nothing in Section 6850 shall be construed to create, expand, or reduce the authority of the board to impose monetary penalties on a member for a violation of the governing documents.

Comment. With respect to a commercial or industrial common interest development, Section 6854 continues the substance of Section 1363(i) without substantive change, except as indicated below.

The following nonsubstantive changes are made:

- The words “board of directors of the association” are replaced with “board.” See Section 6530 (“board”).
- The words “or rules of the association” are not continued.
- The words “an association member” are replaced with “member.” See Section 6554 (“member”).
- The reference to Section 6850 is narrower than the reference in Section 1363(i), which encompasses the entirety of Section 1363.

For further information, see Section 6500 Comment.

See also Section 6552 (“governing documents” includes the operating rules of the association).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 5865.

Article 2. Civil Actions

§ 6856. Enforcement of governing documents

6856. (a) The covenants and restrictions in the declaration shall be enforceable equitable servitudes, unless unreasonable, and shall

inure to the benefit of and bind all owners of separate interests in the development. Unless the declaration states otherwise, these servitudes may be enforced by any owner of a separate interest or by the association, or by both.

(b) A governing document other than the declaration may be enforced by the association against an owner of a separate interest or by an owner of a separate interest against the association.

Comment. With respect to a commercial or industrial common interest development, Section 6856 continues Section 1354(a) and (b) without change.

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6546 (“declaration”), 6552 (“governing documents”), 6564 (“separate interest”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 5975.

§ 6858. Standing

6858. An association has standing to institute, defend, settle, or intervene in litigation, arbitration, mediation, or administrative proceedings in its own name as the real party in interest and without joining with it the members, in matters pertaining to the following:

(a) Enforcement of the governing documents.

(b) Damage to the common area.

(c) Damage to a separate interest that the association is obligated to maintain or repair.

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

Comment. With respect to a commercial or industrial common interest development, Section 6858 continues Section 1368.3 without change, except as indicated below.

The following nonsubstantive changes are made:

- The word “owner” is replaced with “member.” See Section 6554 (“member”).
- The words “established to manage a common interest development” are not continued.

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6532 (“common area”), 6552 (“governing documents”), 6564 (“separate interest”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 5980.

§ 6860. Comparative fault

6860. (a) In an action maintained by an association pursuant to subdivision (b), (c), or (d) of Section 6858, the amount of damages recovered by the association shall be reduced by the amount of damages allocated to the association or its managing agents in direct proportion to their percentage of fault based upon principles of comparative fault. The comparative fault of the association or its managing agents may be raised by way of defense, but shall not be the basis for a cross-action or separate action against the association or its managing agents for contribution or implied indemnity, where the only damage was sustained by the association or its members. It is the intent of the Legislature in enacting this subdivision to require that comparative fault be pleaded as an affirmative defense, rather than a separate cause of action, where the only damage was sustained by the association or its members.

(b) In an action involving damages described in subdivision (b), (c), or (d) of Section 6858, the defendant or cross-defendant may allege and prove the comparative fault of the association or its managing agents as a setoff to the liability of the defendant or cross-defendant even if the association is not a party to the litigation or is no longer a party whether by reason of settlement, dismissal, or otherwise.

(c) Subdivisions (a) and (b) apply to actions commenced on or after January 1, 1993.

(d) Nothing in this section affects a person’s liability under Section 1431, or the liability of the association or its managing agent for an act or omission that causes damages to another.

Comment. With respect to a commercial or industrial common interest development, Section 6860 continues Section 1368.4 without change.

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6554 (“member”), 6560 (“person”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 5985.

CHAPTER 10. CONSTRUCTION DEFECT LITIGATION

§ 6870. Actions for damages

6870. (a) Before an association files a complaint for damages against a builder, developer, or general contractor (respondent) of a common interest development based upon a claim for defects in the design or construction of the common interest development, all of the requirements of this section shall be satisfied with respect to the builder, developer, or general contractor.

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

- (1) The name and location of the project.
- (2) An initial list of defects sufficient to apprise the respondent of the general nature of the defects at issue.
- (3) A description of the results of the defects, if known.
- (4) A summary of the results of a survey or questionnaire distributed to owners to determine the nature and extent of defects,

if a survey has been conducted or a questionnaire has been distributed.

(5) Either a summary of the results of testing conducted to determine the nature and extent of defects or the actual test results, if that testing has been conducted.

(c) Service of the notice shall commence a period, not to exceed 180 days, during which the association, the respondent, and all other participating parties shall try to resolve the dispute through the processes set forth in this section. This 180-day period may be extended for one additional period, not to exceed 180 days, only upon the mutual agreement of the association, the respondent, and any parties not deemed peripheral pursuant to paragraph (3) of subdivision (e). Any extensions beyond the first extension shall require the agreement of all participating parties. Unless extended, the dispute resolution process prescribed by this section shall be deemed completed. All extensions shall continue the tolling period described in subdivision (b).

(d) Within 25 days of the date the association serves the Notice of Commencement of Legal Proceedings, the respondent may request in writing to meet and confer with the board. Unless the respondent and the association otherwise agree, there shall be not more than one meeting, which shall take place no later than 10 days from the date of the respondent's written request, at a mutually agreeable time and place. The meeting may be conducted in executive session, excluding the association's members. The discussions at the meeting are privileged communications and are not admissible in evidence in any civil action, unless the association and the respondent consent in writing to their admission.

(e) Upon receipt of the notice, the respondent shall, within 60 days, comply with the following:

(1) The respondent shall provide the association with access to, for inspection and copying of, all plans and specifications, subcontracts, and other construction files for the project that are reasonably calculated to lead to the discovery of admissible evidence regarding the defects claimed. The association shall provide the respondent with access to, for inspection and copying

of, all files reasonably calculated to lead to the discovery of admissible evidence regarding the defects claimed, including all reserve studies, maintenance records and any survey questionnaires, or results of testing to determine the nature and extent of defects. To the extent any of the above documents are withheld based on privilege, a privilege log shall be prepared and submitted to all other parties. All other potentially responsible parties shall have the same rights as the respondent regarding the production of documents upon receipt of written notice of the claim, and shall produce all relevant documents within 60 days of receipt of the notice of the claim.

(2) The respondent shall provide written notice by certified mail to all subcontractors, design professionals, their insurers, and the insurers of any additional insured whose identities are known to the respondent or readily ascertainable by review of the project files or other similar sources and whose potential responsibility appears on the face of the notice. This notice to subcontractors, design professionals, and insurers shall include a copy of the Notice of Commencement of Legal Proceedings, and shall specify the date and manner by which the parties shall meet and confer to select a dispute resolution facilitator pursuant to paragraph (1) of subdivision (f), advise the recipient of its obligation to participate in the meet and confer or serve a written acknowledgment of receipt regarding this notice, advise the recipient that it will waive any challenge to selection of the dispute resolution facilitator if it elects not to participate in the meet and confer, advise the recipient that it may seek the assistance of an attorney, and advise the recipient that it should contact its insurer, if any. Any subcontractor or design professional, or insurer for that subcontractor, design professional, or additional insured, who receives written notice from the respondent regarding the meet and confer shall, prior to the meet and confer, serve on the respondent a written acknowledgment of receipt. That subcontractor or design professional shall, within 10 days of service of the written acknowledgment of receipt, provide to the association and the respondent a Statement of Insurance that includes both of the following:

(A) The names, addresses, and contact persons, if known, of all insurance carriers, whether primary or excess and regardless of whether a deductible or self-insured retention applies, whose policies were in effect from the commencement of construction of the subject project to the present and which potentially cover the subject claims.

(B) The applicable policy numbers for each policy of insurance provided.

(3) Any subcontractor or design professional, or insurer for that subcontractor, design professional, or additional insured, who so chooses, may, at any time, make a written request to the dispute resolution facilitator for designation as a peripheral party. That request shall be served contemporaneously on the association and the respondent. If no objection to that designation is received within 15 days, or upon rejection of that objection, the dispute resolution facilitator shall designate that subcontractor or design professional as a peripheral party, and shall thereafter seek to limit the attendance of that subcontractor or design professional only to those dispute resolution sessions deemed peripheral party sessions or to those sessions during which the dispute resolution facilitator believes settlement as to peripheral parties may be finalized. Nothing in this subdivision shall preclude a party who has been designated a peripheral party from being reclassified as a nonperipheral party, nor shall this subdivision preclude a party designated as a nonperipheral party from being reclassified as a peripheral party after notice to all parties and an opportunity to object. For purposes of this subdivision, a peripheral party is a party having total claimed exposure of less than twenty-five thousand dollars (\$25,000).

(f)(1) Within 20 days of sending the notice set forth in paragraph (2) of subdivision (e), the association, respondent, subcontractors, design professionals, and their insurers who have been sent a notice as described in paragraph (2) of subdivision (e) shall meet and confer in an effort to select a dispute resolution facilitator to preside over the mandatory dispute resolution process prescribed by this section. Any subcontractor or design professional who has been given timely notice of this meeting but who does not

participate, waives any challenge he or she may have as to the selection of the dispute resolution facilitator. The role of the dispute resolution facilitator is to attempt to resolve the conflict in a fair manner. The dispute resolution facilitator shall be sufficiently knowledgeable in the subject matter and be able to devote sufficient time to the case. The dispute resolution facilitator shall not be required to reside in or have an office in the county in which the project is located. The dispute resolution facilitator and the participating parties shall agree to a date, time, and location to hold a case management meeting of all parties and the dispute resolution facilitator, to discuss the claims being asserted and the scheduling of events under this section. The case management meeting with the dispute resolution facilitator shall be held within 100 days of service of the Notice of Commencement of Legal Proceedings at a location in the county where the project is located. Written notice of the case management meeting with the dispute resolution facilitator shall be sent by the respondent to the association, subcontractors and design professionals, and their insurers who are known to the respondent to be on notice of the claim, no later than 10 days prior to the case management meeting, and shall specify its date, time, and location. The dispute resolution facilitator in consultation with the respondent shall maintain a contact list of the participating parties.

(2) No later than 10 days prior to the case management meeting, the dispute resolution facilitator shall disclose to the parties all matters that could cause a person aware of the facts to reasonably entertain a doubt that the proposed dispute resolution facilitator would be able to resolve the conflict in a fair manner. The facilitator's disclosure shall include the existence of any ground specified in Section 170.1 of the Code of Civil Procedure for disqualification of a judge, any attorney-client relationship the facilitator has or had with any party or lawyer for a party to the dispute resolution process, and any professional or significant personal relationship the facilitator or his or her spouse or minor child living in the household has or had with any party to the dispute resolution process. The disclosure shall also be provided to

any subsequently noticed subcontractor or design professional within 10 days of the notice.

(3) A dispute resolution facilitator shall be disqualified by the court if he or she fails to comply with this subdivision and any party to the dispute resolution process serves a notice of disqualification prior to the case management meeting. If the dispute resolution facilitator complies with this subdivision, he or she shall be disqualified by the court on the basis of the disclosure if any party to the dispute resolution process serves a notice of disqualification prior to the case management meeting.

(4) If the parties cannot mutually agree to a dispute resolution facilitator, then each party shall submit a list of three dispute resolution facilitators. Each party may then strike one nominee from the other parties' list, and petition the court, pursuant to the procedure described in subdivisions (n) and (o), for final selection of the dispute resolution facilitator. The court may issue an order for final selection of the dispute resolution facilitator pursuant to this paragraph.

(5) Any subcontractor or design professional who receives notice of the association's claim without having previously received timely notice of the meet and confer to select the dispute resolution facilitator shall be notified by the respondent regarding the name, address, and telephone number of the dispute resolution facilitator. Any such subcontractor or design professional may serve upon the parties and the dispute resolution facilitator a written objection to the dispute resolution facilitator within 15 days of receiving notice of the claim. Within seven days after service of this objection, the subcontractor or design professional may petition the superior court to replace the dispute resolution facilitator. The court may replace the dispute resolution facilitator only upon a showing of good cause, liberally construed. Failure to satisfy the deadlines set forth in this subdivision shall constitute a waiver of the right to challenge the dispute resolution facilitator.

(6) The costs of the dispute resolution facilitator shall be apportioned in the following manner: one-third to be paid by the association; one-third to be paid by the respondent; and one-third to be paid by the subcontractors and design professionals, as

allocated among them by the dispute resolution facilitator. The costs of the dispute resolution facilitator shall be recoverable by the prevailing party in any subsequent litigation pursuant to Section 1032 of the Code of Civil Procedure, provided however that any nonsettling party may, prior to the filing of the complaint, petition the facilitator to reallocate the costs of the dispute resolution facilitator as they apply to any nonsettling party. The determination of the dispute resolution facilitator with respect to the allocation of these costs shall be binding in any subsequent litigation. The dispute resolution facilitator shall take into account all relevant factors and equities between all parties in the dispute resolution process when reallocating costs.

(7) In the event the dispute resolution facilitator is replaced at any time, the case management statement created pursuant to subdivision (h) shall remain in full force and effect.

(8) The dispute resolution facilitator shall be empowered to enforce all provisions of this section.

(g)(1) No later than the case management meeting, the parties shall begin to generate a data compilation showing the following information regarding the alleged defects at issue:

(A) The scope of the work performed by each potentially responsible subcontractor.

(B) The tract or phase number in which each subcontractor provided goods or services, or both.

(C) The units, either by address, unit number, or lot number, at which each subcontractor provided goods or services, or both.

(2) This data compilation shall be updated as needed to reflect additional information. Each party attending the case management meeting, and any subsequent meeting pursuant to this section, shall provide all information available to that party relevant to this data compilation.

(h) At the case management meeting, the parties shall, with the assistance of the dispute resolution facilitator, reach agreement on a case management statement, which shall set forth all of the elements set forth in paragraphs (1) to (8), inclusive, except that the parties may dispense with one or more of these elements if they agree that it is appropriate to do so. The case management

statement shall provide that the following elements shall take place in the following order:

(1) Establishment of a document depository, located in the county where the project is located, for deposit of documents, defect lists, demands, and other information provided for under this section. All documents exchanged by the parties and all documents created pursuant to this subdivision shall be deposited in the document depository, which shall be available to all parties throughout the prefiling dispute resolution process and in any subsequent litigation. When any document is deposited in the document depository, the party depositing the document shall provide written notice identifying the document to all other parties. The costs of maintaining the document depository shall be apportioned among the parties in the same manner as the costs of the dispute resolution facilitator.

(2) Provision of a more detailed list of defects by the association to the respondent after the association completes a visual inspection of the project. This list of defects shall provide sufficient detail for the respondent to ensure that all potentially responsible subcontractors and design professionals are provided with notice of the dispute resolution process. If not already completed prior to the case management meeting, the Notice of Commencement of Legal Proceedings shall be served by the respondent on all additional subcontractors and design professionals whose potential responsibility appears on the face of the more detailed list of defects within seven days of receipt of the more detailed list. The respondent shall serve a copy of the case management statement, including the name, address, and telephone number of the dispute resolution facilitator, to all the potentially responsible subcontractors and design professionals at the same time.

(3) Nonintrusive visual inspection of the project by the respondent, subcontractors, and design professionals.

(4) Invasive testing conducted by the association, if the association deems appropriate. All parties may observe and photograph any testing conducted by the association pursuant to

this paragraph, but may not take samples or direct testing unless, by mutual agreement, costs of testing are shared by the parties.

(5) Provision by the association of a comprehensive demand which provides sufficient detail for the parties to engage in meaningful dispute resolution as contemplated under this section.

(6) Invasive testing conducted by the respondent, subcontractors, and design professionals, if they deem appropriate.

(7) Allowance for modification of the demand by the association if new issues arise during the testing conducted by the respondent, subcontractor, or design professionals.

(8) Facilitated dispute resolution of the claim, with all parties, including peripheral parties, as appropriate, and insurers, if any, present and having settlement authority. The dispute resolution facilitators shall endeavor to set specific times for the attendance of specific parties at dispute resolution sessions. If the dispute resolution facilitator does not set specific times for the attendance of parties at dispute resolution sessions, the dispute resolution facilitator shall permit those parties to participate in dispute resolution sessions by telephone.

(i) In addition to the foregoing elements of the case management statement described in subdivision (h), upon mutual agreement of the parties, the dispute resolution facilitator may include any or all of the following elements in a case management statement: the exchange of consultant or expert photographs; expert presentations; expert meetings; or any other mechanism deemed appropriate by the parties in the interest of resolving the dispute.

(j) The dispute resolution facilitator, with the guidance of the parties, shall at the time the case management statement is established, set deadlines for the occurrence of each event set forth in the case management statement, taking into account such factors as the size and complexity of the case, and the requirement of this section that this dispute resolution process not exceed 180 days absent agreement of the parties to an extension of time.

(k)(1)(A) At a time to be determined by the dispute resolution facilitator, the respondent may submit to the association all of the following:

(i) A request to meet with the board to discuss a written settlement offer.

(ii) A written settlement offer, and a concise explanation of the reasons for the terms of the offer.

(iii) A statement that the respondent has access to sufficient funds to satisfy the conditions of the settlement offer.

(iv) A summary of the results of testing conducted for the purposes of determining the nature and extent of defects, if this testing has been conducted, unless the association provided the respondent with actual test results.

(B) If the respondent does not timely submit the items required by this subdivision, the association shall be relieved of any further obligation to satisfy the requirements of this subdivision only.

(C) No less than 10 days after the respondent submits the items required by this paragraph, the respondent and the board shall meet and confer about the respondent's settlement offer.

(D) If the board rejects a settlement offer presented at the meeting held pursuant to this subdivision, the board shall hold a meeting open to each member of the association. The meeting shall be held no less than 15 days before the association commences an action for damages against the respondent.

(E) No less than 15 days before this meeting is held, a written notice shall be sent to each member of the association specifying all of the following:

(i) That a meeting will take place to discuss problems that may lead to the filing of a civil action, and the time and place of this meeting.

(ii) The options that are available to address the problems, including the filing of a civil action and a statement of the various alternatives that are reasonably foreseeable by the association to pay for those options and whether these payments are expected to be made from the use of reserve account funds or the imposition of regular or special assessments, or emergency assessment increases.

(iii) The complete text of any written settlement offer, and a concise explanation of the specific reasons for the terms of the offer submitted to the board at the meeting held pursuant to subdivision (d) that was received from the respondent.

(F) The respondent shall pay all expenses attributable to sending the settlement offer to all members of the association. The respondent shall also pay the expense of holding the meeting, not to exceed three dollars (\$3) per association member.

(G) The discussions at the meeting and the contents of the notice and the items required to be specified in the notice pursuant to subparagraph (E) are privileged communications and are not admissible in evidence in any civil action, unless the association consents to their admission.

(H) No more than one request to meet and discuss a written settlement offer may be made by the respondent pursuant to this subdivision.

(I) All defect lists and demands, communications, negotiations, and settlement offers made in the course of the prelitigation dispute resolution process provided by this section shall be inadmissible pursuant to Sections 1119 to 1124, inclusive, of the Evidence Code and all applicable decisional law. This inadmissibility shall not be extended to any other documents or communications which would not otherwise be deemed inadmissible.

(m) Any subcontractor or design professional may, at any time, petition the dispute resolution facilitator to release that party from the dispute resolution process upon a showing that the subcontractor or design professional is not potentially responsible for the defect claims at issue. The petition shall be served contemporaneously on all other parties, who shall have 15 days from the date of service to object. If a subcontractor or design professional is released, and it later appears to the dispute resolution facilitator that it may be a responsible party in light of the current defect list or demand, the respondent shall renounce the party as provided by paragraph (2) of subdivision (e), provide a copy of the current defect list or demand, and direct the party to attend a dispute resolution session at a stated time and location. A party who subsequently appears after having been released by the dispute resolution facilitator shall not be prejudiced by its absence from the dispute resolution process as the result of having been previously released by the dispute resolution facilitator.

(n) Any party may, at any time, petition the superior court in the county where the project is located, upon a showing of good cause, and the court may issue an order, for any of the following, or for appointment of a referee to resolve a dispute regarding any of the following:

(1) To take a deposition of any party to the process, or subpoena a third party for deposition or production of documents, which is necessary to further prelitigation resolution of the dispute.

(2) To resolve any disputes concerning inspection, testing, production of documents, or exchange of information provided for under this section.

(3) To resolve any disagreements relative to the timing or contents of the case management statement.

(4) To authorize internal extensions of timeframes set forth in the case management statement.

(5) To seek a determination that a settlement is a good faith settlement pursuant to Section 877.6 of the Code of Civil Procedure and all related authorities. The page limitations and meet and confer requirements specified in this section shall not apply to these motions, which may be made on shortened notice. Instead, these motions shall be subject to other applicable state law, rules of court, and local rules. A determination made by the court pursuant to this motion shall have the same force and effect as the determination of a postfiling application or motion for good faith settlement.

(6) To ensure compliance, on shortened notice, with the obligation to provide a Statement of Insurance pursuant to paragraph (2) of subdivision (e).

(7) For any other relief appropriate to the enforcement of the provisions of this section, including the ordering of parties, and insurers, if any, to the dispute resolution process with settlement authority.

(o)(1) A petition filed pursuant to subdivision (n) shall be filed in the superior court in the county in which the project is located. The court shall hear and decide the petition within 10 days after filing. The petitioning party shall serve the petition on all parties, including the date, time, and location of the hearing no later than

five business days prior to the hearing. Any responsive papers shall be filed and served no later than three business days prior to the hearing. Any petition or response filed under this section shall be no more than three pages in length.

(2) All parties shall meet with the dispute resolution facilitator, if one has been appointed and confer in person or by the telephone prior to the filing of that petition to attempt to resolve the matter without requiring court intervention.

(p) As used in this section:

(1) “Association” shall have the same meaning as defined in Section 6528.

(2) “Builder” means the declarant, as defined in Section 6544.

(3) “Common interest development” shall have the same meaning as in Section 6534, except that it shall not include developments or projects with less than 20 units.

(q) The alternative dispute resolution process and procedures described in this section shall have no application or legal effect other than as described in this section.

(r) This section shall become operative on July 1, 2002, however it shall not apply to any pending suit or claim for which notice has previously been given.

(s) This section shall become inoperative on July 1, 2017, and, as of January 1, 2018, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2018, deletes or extends the dates on which it becomes inoperative and is repealed.

Comment. With respect to a commercial or industrial common interest development, Section 6870 continues Section 1375 without change, except as indicated below.

The following substantive change is made:

- A reference in Section 1375(d) to a meeting subject to Section 1363.05(b) is replaced with the relevant substance of Section 1363.05(b). Section 1363.05 is not continued in this act.

The following nonsubstantive changes are made:

- Cross-references are updated to reflect the new location of the referenced provisions.
- In subdivision (a), quotation marks are removed before and after the word “respondent.”

- A reference to “homeowner” in paragraph (4) of subdivision (b) is changed to “owner.”
- The words “board of directors” and “board of directors of the association” are replaced throughout with “board.” See Section 6530 (“board”).
- Subdivision (e)(2) is revised to delete references to former Section 1375.05, which was repealed by its own terms on January 1, 2011.
- Subdivision (f)(3) is revised to correct erroneous references to “this paragraph.” The revised provision refers to “this subdivision.”
- In subparagraph (k)(1)(G), the word “paragraph” is replaced with “subparagraph.”
- Subdivision (l) is revised to delete a reference to former Section 1375.05, which was repealed by its own terms on January 1, 2011.

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6534 (“common interest development”), 6554 (“member”), 6560 (“person”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 6000.

§ 6874. Notice of resolution

6874. (a) As soon as is reasonably practicable after the association and the builder have entered into a settlement agreement or the matter has otherwise been resolved regarding alleged defects in the common areas, alleged defects in the separate interests that the association is obligated to maintain or repair, or alleged defects in the separate interests that arise out of, or are integrally related to, defects in the common areas or separate interests that the association is obligated to maintain or repair, where the defects giving rise to the dispute have not been corrected, the association shall, in writing, inform only the members of the association whose names appear on the records of the association that the matter has been resolved, by settlement agreement or other means, and disclose all of the following:

(1) A general description of the defects that the association reasonably believes, as of the date of the disclosure, will be corrected or replaced.

(2) A good faith estimate, as of the date of the disclosure, of when the association believes that the defects identified in paragraph (1) will be corrected or replaced. The association may state that the estimate may be modified.

(3) The status of the claims for defects in the design or construction of the common interest development that were not identified in paragraph (1) whether expressed in a preliminary list of defects sent to each member of the association or otherwise claimed and disclosed to the members of the association.

(b) Nothing in this section shall preclude an association from amending the disclosures required pursuant to subdivision (a), and any amendments shall supersede any prior conflicting information disclosed to the members of the association and shall retain any privilege attached to the original disclosures.

(c) Disclosure of the information required pursuant to subdivision (a) or authorized by subdivision (b) shall not waive any privilege attached to the information.

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

Comment. With respect to a commercial or industrial common interest development, Section 6874 continues Section 1375.1 without change.

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6532 (“common area”), 6534 (“common interest development”), 6554 (“member”), 6564 (“separate interest”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 6100.

§ 6876. Notice of civil action

6876. (a) Not later than 30 days prior to the filing of any civil action by the association against the declarant or other developer of a common interest development for alleged damage to the common areas, alleged damage to the separate interests that the association is obligated to maintain or repair, or alleged damage to the separate interests that arises out of, or is integrally related to, damage to the common areas or separate interests that the association is obligated

to maintain or repair, the board shall provide a written notice to each member of the association who appears on the records of the association when the notice is provided. This notice shall specify all of the following:

(1) That a meeting will take place to discuss problems that may lead to the filing of a civil action.

(2) The options, including civil actions, that are available to address the problems.

(3) The time and place of this meeting.

(b) Notwithstanding subdivision (a), if the association has reason to believe that the applicable statute of limitations will expire before the association files the civil action, the association may give the notice, as described above, within 30 days after the filing of the action.

Comment. With respect to a commercial or industrial common interest development, Section 6876 continues Section 1368.5 without change, except as indicated below.

The following nonsubstantive change is made:

- The words “board of directors of the association” are replaced with “board.” See Section 6530 (“board”).

For further information, see Section 6500 Comment.

See also Sections 6528 (“association”), 6532 (“common area”), 6534 (“common interest development”), 6544 (“declarant”), 6554 (“member”), 6564 (“separate interest”).

For a similar provision in the Davis-Stirling Common Interest Development Act, see Section 6150.

CONFORMING REVISIONS

BUSINESS AND PROFESSIONS CODE

Bus. & Prof. Code § 10153.2 (as operative Jan. 1, 2014)

(amended). Course requirements for real estate broker license

SEC. _____. Section 10153.2 of the Business and Professions Code, as it reads in Section 2 of Chapter 181 of the Statutes of 2012, is amended to read:

10153.2. (a) An applicant to take the examination for an original real estate broker license shall also submit evidence, satisfactory to the commissioner, of successful completion, at an accredited institution, of:

(1) A three-semester unit course, or the quarter equivalent thereof, in each of the following:

- (A) Real estate practice.
- (B) Legal aspects of real estate.
- (C) Real estate appraisal.
- (D) Real estate financing.
- (E) Real estate economics or accounting.

(2) A three-semester unit course, or the quarter equivalent thereof, in three of the following:

- (A) Advanced legal aspects of real estate.
- (B) Advanced real estate finance.
- (C) Advanced real estate appraisal.
- (D) Business law.
- (E) Escrows.
- (F) Real estate principles.
- (G) Property management.
- (H) Real estate office administration.
- (I) Mortgage loan brokering and lending.
- (J) Computer applications in real estate.

(K) On and after July 1, 2004, California law that relates to common interest developments, including, but not limited to, topics addressed in the Davis-Stirling Common Interest Development Act (Part 5 (commencing with Section 4000) of Division 4 of the Civil Code) and in the Commercial and Industrial

Common Interest Development Act (Part 5.3 (commencing with Section 6500) of Division 4 of the Civil Code).

(b) The commissioner shall waive the requirements of this section for an applicant who is a member of the State Bar of California and shall waive the requirements for which an applicant has successfully completed an equivalent course of study as determined under Section 10153.5.

(c) The commissioner shall extend credit under this section for any course completed to satisfy requirements of Section 10153.3 or 10153.4.

Comment. Section 10153.2 is amended to add a cross-reference to Part 5.3 (commencing with Section 6500) of Division 4 of the Civil Code, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

Bus. & Prof. Code § 11003 (as operative Jan. 1, 2014) (amended).

“Planned development”

SEC. _____. Section 11003 of the Business and Professions Code, as it reads in Section 4 of Chapter 181 of the Statutes of 2012, is amended to read:

11003. “Planned development” has the same meaning as specified in Section 4175 or in Section 6562 of the Civil Code.

Comment. Section 11003 is amended to add a cross-reference to Civil Code Section 6562, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

Bus. & Prof. Code § 11003.2 (as operative Jan. 1, 2014) (amended). “Stock cooperative”

SEC. _____. Section 11003.2 of the Business and Professions Code, as it reads in Section 5 of Chapter 181 of the Statutes of 2012, is amended to read:

11003.2. “Stock cooperative” has the same meaning as specified in Section 4190 or in Section 6566 of the Civil Code, except that, as used in this chapter, a “stock cooperative” does not include a limited-equity housing cooperative.

Comment. Section 11003.2 is amended to add a cross-reference to Civil Code Section 6566, reflecting the enactment of the Commercial

and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

Bus. & Prof. Code § 11004.5 (as operative Jan. 1, 2014)
(amended). Further definition of “subdivided lands” and
“subdivision”

SEC. _____. Section 11004.5 of the Business and Professions Code, as it reads in Section 7 of Chapter 181 of the Statutes of 2012, is amended to read:

11004.5. In addition to any provisions of Section 11000, the reference in this code to “subdivided lands” and “subdivision” shall include all of the following:

(a) Any planned development, as defined in Section 11003, containing five or more lots.

(b) Any community apartment project, as defined by Section 11004, containing five or more apartments.

(c) Any condominium project containing five or more condominiums, as defined in Section 783 of the Civil Code.

(d) Any stock cooperative as defined in Section 11003.2, including any legal or beneficial interests therein, having or intended to have five or more shareholders.

(e) Any limited-equity housing cooperative, as defined in Section 11003.4.

(f) In addition, the following interests shall be subject to this chapter and the regulations of the commissioner adopted pursuant thereto:

(1) Any accompanying memberships or other rights or privileges created in, or in connection with, any of the forms of development referred to in subdivision (a), (b), (c), (d), or (e) by any deeds, conveyances, leases, subleases, assignments, declarations of restrictions, articles of incorporation, bylaws, or contracts applicable thereto.

(2) Any interests or memberships in any owners’ association as defined in Section 4080 or 6528 of the Civil Code, created in connection with any of the forms of the development referred to in subdivision (a), (b), (c), (d), or (e).

(g) Notwithstanding this section, time-share plans, exchange programs, incidental benefits, and short-term product subject to Chapter 2 (commencing with Section 11210) are not “subdivisions” or “subdivided lands” subject to this chapter.

Comment. Section 11004.5 is amended to add a cross-reference to Civil Code Section 6528, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

Bus. & Prof. Code § 23426.5 (as operative Jan. 1, 2014)
(amended). Tennis club

SEC. _____. Section 23426.5 of the Business and Professions Code, as it reads in Section 17 of Chapter 181 of the Statutes of 2012, is amended to read:

23426.5. (a) For purposes of this article, “club” also means any tennis club that maintains not less than four regulation tennis courts, together with the necessary facilities and clubhouse, has members paying regular monthly dues, has been in existence for not less than 45 years, and is not associated with a common interest development as defined in Section 4100 or 6534 of the Civil Code, a community apartment project as defined in Section 11004 of this code, a project consisting of condominiums as defined in Section 783 of the Civil Code, or a mobilehome park as defined in Section 18214 of the Health and Safety Code.

(b) It shall be unlawful for any club licensed pursuant to this section to make any discrimination, distinction, or restriction against any person on account of age or any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code.

Comment. Section 23426.5 is amended to add a cross-reference to Civil Code Section 6534, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

**Bus. & Prof. Code § 23428.20 (as operative Jan. 1, 2014)
(amended). Further definition of “club”**

SEC. _____. Section 23428.20 of the Business and Professions Code, as it reads in Section 18 of Chapter 181 of the Statutes of 2012, is amended to read:

23428.20. (a) For the purposes of this article, “club” also means any bona fide nonprofit corporation that has been in existence for not less than nine years, has more than 8,500 memberships issued and outstanding to owners of condominiums and owners of memberships in stock cooperatives, and owns, leases, operates, or maintains recreational facilities for its members.

(b) For the purposes of this article, “club” also means any bona fide nonprofit corporation that was formed as a condominium homeowners’ association, has at least 250 members, has served daily meals to its members and guests for a period of not less than 12 years, owns or leases, operates, and maintains a clubroom or rooms for its membership, has an annual fee of not less than nine hundred dollars (\$900) per year per member, and has as a condition of membership that one member of each household be at least 54 years old.

(c) Section 23399 and the numerical limitation of Section 23430 shall not apply to a club defined in this section.

(d) No license shall be issued pursuant to this section to any club that withholds membership or denies facilities or services to any person on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code.

(e) Notwithstanding subdivision (d), with respect to familial status, subdivision (d) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in subdivision (d) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51, ~~and Section~~ Sections 4760 and 6714

of the Civil Code, and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to subdivision (d).

Comment. Section 23428.20 is amended to add a cross-reference to Civil Code Section 6714, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

CIVIL CODE

Civ. Code § 714 (as operative Jan. 1, 2014) (amended).

Unenforceability of restrictions on use of solar energy system

SEC. _____. Section 714 of the Civil Code, as it reads in Section 20 of Chapter 181 of the Statutes of 2012, is amended to read:

714. (a) Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of, or any interest in, real property, and any provision of a governing document, as defined in Section 4150 or in Section 6552, that effectively prohibits or restricts the installation or use of a solar energy system is void and unenforceable.

(b) This section does not apply to provisions that impose reasonable restrictions on solar energy systems. However, it is the policy of the state to promote and encourage the use of solar energy systems and to remove obstacles thereto. Accordingly, reasonable restrictions on a solar energy system are those restrictions that do not significantly increase the cost of the system or significantly decrease its efficiency or specified performance, or that allow for an alternative system of comparable cost, efficiency, and energy conservation benefits.

(c)(1) A solar energy system shall meet applicable health and safety standards and requirements imposed by state and local permitting authorities.

(2) A solar energy system for heating water shall be certified by the Solar Rating Certification Corporation (SRCC) or other nationally recognized certification agencies. SRCC is a nonprofit third party supported by the United States Department of Energy.

The certification shall be for the entire solar energy system and installation.

(3) A solar energy system for producing electricity shall also meet all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability.

(d) For the purposes of this section:

(1)(A) For solar domestic water heating systems or solar swimming pool heating systems that comply with state and federal law, “significantly” means an amount exceeding 20 percent of the cost of the system or decreasing the efficiency of the solar energy system by an amount exceeding 20 percent, as originally specified and proposed.

(B) For photovoltaic systems that comply with state and federal law, “significantly” means an amount not to exceed two thousand dollars (\$2,000) over the system cost as originally specified and proposed, or a decrease in system efficiency of an amount exceeding 20 percent as originally specified and proposed.

(2) “Solar energy system” has the same meaning as defined in paragraphs (1) and (2) of subdivision (a) of Section 801.5.

(e)(1) Whenever approval is required for the installation or use of a solar energy system, the application for approval shall be processed and approved by the appropriate approving entity in the same manner as an application for approval of an architectural modification to the property, and shall not be willfully avoided or delayed.

(2) For an approving entity that is ~~a homeowners’~~ an association, as defined in Section 4080 or in Section 6528, and that is not a public entity, both of the following shall apply:

(A) The approval or denial of an application shall be in writing.

(B) If an application is not denied in writing within 60 days from the date of receipt of the application, the application shall be deemed approved, unless that delay is the result of a reasonable request for additional information.

(f) Any entity, other than a public entity, that willfully violates this section shall be liable to the applicant or other party for actual damages occasioned thereby, and shall pay a civil penalty to the applicant or other party in an amount not to exceed one thousand dollars (\$1,000).

(g) In any action to enforce compliance with this section, the prevailing party shall be awarded reasonable attorney's fees.

(h)(1) A public entity that fails to comply with this section may not receive funds from a state-sponsored grant or loan program for solar energy. A public entity shall certify its compliance with the requirements of this section when applying for funds from a state-sponsored grant or loan program.

(2) A local public entity may not exempt residents in its jurisdiction from the requirements of this section.

Comment. Subdivision (a) of Section 714 is amended to add a cross-reference to Section 6552, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

Paragraph (2) of subdivision (e) is amended to add a cross-reference to Section 6528, and to make a conforming terminological change, for the same reason.

Civ. Code § 714.1 (as operative Jan. 1, 2014) (amended).

Permissible restrictions by common interest development association

SEC. _____. Section 714.1 of the Civil Code, as it reads in Section 21 of Chapter 181 of the Statutes of 2012, is amended to read:

714.1. Notwithstanding Section 714, any association, as defined in Section 4080 or 6528, may impose reasonable provisions which:

(a) Restrict the installation of solar energy systems installed in common areas, as defined in Section 4095 or 6532, to those systems approved by the association.

(b) Require the owner of a separate interest, as defined in Section 4185 or 6564, to obtain the approval of the association for the installation of a solar energy system in a separate interest owned by another.

(c) Provide for the maintenance, repair, or replacement of roofs or other building components.

(d) Require installers of solar energy systems to indemnify or reimburse the association or its members for loss or damage caused by the installation, maintenance, or use of the solar energy system.

Comment. Section 714.1 is amended to add cross-references to Sections 6528, 6532, and 6534, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

Civ. Code § 782 (as operative Jan. 1, 2014) (amended).

Discriminatory provision in deed of real property

SEC. _____. Section 782 of the Civil Code, as it reads in Section 22 of Chapter 181 of the Statutes of 2012, is amended to read:

782. (a) Any provision in any deed of real property in California, whether executed before or after the effective date of this section, that purports to restrict the right of any persons to sell, lease, rent, use, or occupy the property to persons having any characteristic listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 and Section 12955.2 of the Government Code, by providing for payment of a penalty, forfeiture, reverter, or otherwise, is void.

(b) Notwithstanding subdivision (a), with respect to familial status, subdivision (a) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5, relating to housing for senior citizens. Subdivision (d) of Section 51, ~~and Section~~ Sections 4760 and 6714 of this code, and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to subdivision (a).

Comment. Section 782 is amended to add a cross-reference to Section 6714, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

Civ. Code § 782.5 (as operative Jan. 1, 2014) (amended). Revision of instrument to omit provision that restricts rights based on race or color

SEC. _____. Section 782.5 of the Civil Code, as it reads in Section 23 of Chapter 181 of the Statutes of 2012, is amended to read:

782.5. (a) Any deed or other written instrument that relates to title to real property, or any written covenant, condition, or restriction annexed or made a part of, by reference or otherwise, any deed or instrument that relates to title to real property, which contains any provision that purports to forbid, restrict, or condition the right of any person or persons to sell, buy, lease, rent, use, or occupy the property on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, with respect to any person or persons, shall be deemed to be revised to omit that provision.

(b) Notwithstanding subdivision (a), with respect to familial status, subdivision (a) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5, relating to housing for senior citizens. Subdivision (d) of Section 51, ~~and Section~~ Sections 4760 and 6714 of this code, and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to subdivision (a).

(c) This section shall not be construed to limit or expand the powers of a court to reform a deed or other written instrument.

Comment. Subdivision (b) of Section 782.5 is amended to add a cross-reference to Section 6714, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

**Civ. Code § 783 (as operative Jan. 1, 2014) (amended).
“Condominium”**

SEC. _____. Section 783 of the Civil Code, as it reads in Section 24 of Chapter 181 of the Statutes of 2012, is amended to read:

783. A condominium is an estate in real property described in Section 4125 or in Section 6542. A condominium may, with respect to the duration of its enjoyment, be either (1) an estate of inheritance or perpetual estate, (2) an estate for life, (3) an estate for years, such as a leasehold or a subleasehold, or (4) any combination of the foregoing.

Comment. Section 783 is amended to add a cross-reference to Section 6542, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

Civ. Code § 783.1 (as operative Jan. 1, 2014) (amended). Separate and correlative interests as interests in real property

SEC. _____. Section 783.1 of the Civil Code, as it reads in Section 25 of Chapter 181 of the Statutes of 2012, is amended to read:

783.1. In a stock cooperative, as defined in Section 4190 or in Section 6566, both the separate interest, as defined in paragraph (4) of subdivision (a) of Section 4185 or in paragraph (3) of subdivision (a) of Section 6564, and the correlative interest in the stock cooperative corporation, however designated, are interests in real property.

Comment. Section 783.1 is amended to add cross-references to Sections 6564(a)(4) and 6566, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

Civ. Code § 1098 (as operative Jan. 1, 2014) (amended). Transfer fee defined

SEC. _____. Section 1098 of the Civil Code, as it reads in Section 32 of Chapter 181 of the Statutes of 2012, is amended to read:

1098. A “transfer fee” is any fee payment requirement imposed within a covenant, restriction, or condition contained in any deed, contract, security instrument, or other document affecting the transfer or sale of, or any interest in, real property that requires a fee be paid upon transfer of the real property. A transfer fee does not include any of the following:

- (a) Fees or taxes imposed by a governmental entity.
- (b) Fees pursuant to mechanics’ liens.

(c) Fees pursuant to court-ordered transfers, payments, or judgments.

(d) Fees pursuant to property agreements in connection with a legal separation or dissolution of marriage.

(e) Fees, charges, or payments in connection with the administration of estates or trusts pursuant to Division 7 (commencing with Section 7000), Division 8 (commencing with Section 13000), or Division 9 (commencing with Section 15000) of the Probate Code.

(f) Fees, charges, or payments imposed by lenders or purchasers of loans, as these entities are described in subdivision (c) of Section 10232 of the Business and Professions Code.

(g) Assessments, charges, penalties, or fees authorized by the Davis-Stirling Common Interest Development Act (Part 5 (commencing with Section 4000) of Division 4) or by the Commercial and Industrial Common Interest Development Act (Part 5.3 (commencing with Section 6500) of Division 4).

(h) Fees, charges, or payments for failing to comply with, or for transferring the real property prior to satisfying, an obligation to construct residential improvements on the real property.

(i) Any fee reflected in a document recorded against the property on or before December 31, 2007, that is separate from any covenants, conditions, and restrictions, and that substantially complies with subdivision (a) of Section 1098.5 by providing a prospective transferee notice of the following:

(1) Payment of a transfer fee is required.

(2) The amount or method of calculation of the fee.

(3) The date or circumstances under which the transfer fee payment requirement expires, if any.

(4) The entity to which the fee will be paid.

(5) The general purposes for which the fee will be used.

Comment. Subdivision (g) of Section 1098 is amended to add a cross-reference to Part 5.3 (commencing with Section 6500) of Division 4, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

Civ. Code § 1133 (as operative Jan. 1, 2014) (amended). Sale or lease of subdivision lot subject to blanket encumbrance

SEC. _____. Section 1133 of the Civil Code, as it reads in Section 35 of Chapter 181 of the Statutes of 2012, is amended to read:

1133. (a) If a lot, parcel, or unit of a subdivision is subject to a blanket encumbrance, as defined in Section 11013 of the Business and Professions Code, but is exempt from a requirement of compliance with Section 11013.2 of the Business and Professions Code, the subdivider, his or her agent, or representative, shall not sell, or lease for a term exceeding five years, the lot, parcel, or unit, nor cause it to be sold, or leased for a term exceeding five years, until the prospective purchaser or lessee of the lot, parcel, or unit has been furnished with and has signed a true copy of the following notice:

BUYER/LESSEE IS AWARE OF THE FACT THAT THE LOT, PARCEL, OR UNIT WHICH HE OR SHE IS PROPOSING TO PURCHASE OR LEASE IS SUBJECT TO A DEED OF TRUST, MORTGAGE, OR OTHER LIEN KNOWN AS A “BLANKET ENCUMBRANCE.”

IF BUYER/LESSEE PURCHASES OR LEASES THIS LOT, PARCEL, OR UNIT, HE OR SHE COULD LOSE THAT INTEREST THROUGH FORECLOSURE OF THE BLANKET ENCUMBRANCE OR OTHER LEGAL PROCESS EVEN THOUGH BUYER/LESSEE IS NOT DELINQUENT IN HIS OR HER PAYMENTS OR OTHER OBLIGATIONS UNDER THE MORTGAGE, DEED OF TRUST, OR LEASE.

Date

Signature of Buyer or Lessee

(b) “Subdivision,” as used in subdivision (a), means improved or unimproved land that is divided or proposed to be divided for the purpose of sale, lease, or financing, whether immediate or future, into two or more lots, parcels, or units and includes a condominium project, as defined in Section 4125 or in Section 6542, a community apartment project, as defined in Section 4105, a stock cooperative, as defined in Section 4190 or in Section 6566,

and a limited equity housing cooperative, as defined in Section 4190.

(c) The failure of the buyer or lessee to sign the notice shall not invalidate any grant, conveyance, lease, or encumbrance.

(d) Any person or entity who willfully violates the provisions of this section shall be liable to the purchaser of a lot or unit which is subject to the provisions of this section for actual damages, and, in addition thereto, shall be guilty of a public offense punishable by a fine in an amount not to exceed five hundred dollars (\$500). In an action to enforce the liability or fine, the prevailing party shall be awarded reasonable attorney's fees.

Comment. Subdivision (b) of Section 1133 is amended to add cross-references to Sections 6542 and 6566, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

Civ. Code § 1633.3 (as operative Jan. 1, 2014) (amended).

Transactions governed by title

SEC. _____. Section 1633.3 of the Civil Code, as it reads in Section 36 of Chapter 181 of the Statutes of 2012, is amended to read:

1633.3. (a) Except as otherwise provided in subdivisions (b) and (c), this title applies to electronic records and electronic signatures relating to a transaction.

(b) This title does not apply to transactions subject to the following laws:

(1) A law governing the creation and execution of wills, codicils, or testamentary trusts.

(2) Division 1 (commencing with Section 1101) of the Uniform Commercial Code, except Sections 1107 and 1206.

(3) Divisions 3 (commencing with Section 3101), 4 (commencing with Section 4101), 5 (commencing with Section 5101), 8 (commencing with Section 8101), 9 (commencing with Section 9101), and 11 (commencing with Section 11101) of the Uniform Commercial Code.

(4) A law that requires that specifically identifiable text or disclosures in a record or a portion of a record be separately

signed, including initialed, from the record. However, this paragraph does not apply to Section 1677 or 1678 of this code or Section 1298 of the Code of Civil Procedure.

(c) This title does not apply to any specific transaction described in Section 17511.5 of the Business and Professions Code, Section 56.11, 56.17, 798.14, 1133, or 1134 of, Section 1689.6, 1689.7, or 1689.13 of, Chapter 2.5 (commencing with Section 1695) of Title 5 of Part 2 of Division 3 of, Section 1720, 1785.15, 1789.14, 1789.16, 1789.33, or 1793.23 of, Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3 of, Section 1861.24, 1862.5, 1917.712, 1917.713, 1950.5, 1950.6, 1983, 2924b, 2924c, 2924f, 2924i, 2924j, 2924.3, or 2937 of, Article 1.5 (commencing with Section 2945) of Chapter 2 of Title 14 of Part 4 of Division 3 of, Section 2954.5 or 2963 of, Chapter 2b (commencing with Section 2981) or 2d (commencing with Section 2985.7) of Title 14 of Part 4 of Division 3 of, Section 3071.5 of, ~~or~~ Part 5 (commencing with Section 4000) of Division 4 of, or Part 5.3 (commencing with Section 6500) of Division 4 of, the Civil Code, subdivision (b) of Section 18608 or Section 22328 of the Financial Code, Section 1358.15, 1365, 1368.01, 1368.1, 1371, or 18035.5 of the Health and Safety Code, Section 662, 663, 664, 667.5, 673, 677, 678, 678.1, 786, 10086, 10113.7, 10127.7, 10127.9, 10127.10, 10197, 10199.44, 10199.46, 10235.16, 10235.40, 10509.4, 10509.7, 11624.09, or 11624.1 of the Insurance Code, Section 779.1, 10010.1, or 16482 of the Public Utilities Code, or Section 9975 or 11738 of the Vehicle Code. An electronic record may not be substituted for any notice that is required to be sent pursuant to Section 1162 of the Code of Civil Procedure. Nothing in this subdivision shall be construed to prohibit the recordation of any document with a county recorder by electronic means.

(d) This title applies to an electronic record or electronic signature otherwise excluded from the application of this title under subdivision (b) when used for a transaction subject to a law other than those specified in subdivision (b).

(e) A transaction subject to this title is also subject to other applicable substantive law.


(f) The exclusion of a transaction from the application of this title under subdivision (b) or (c) shall be construed only to exclude the transaction from the application of this title, but shall not be construed to prohibit the transaction from being conducted by electronic means if the transaction may be conducted by electronic means under any other applicable law.

Comment. Subdivision (c) of Section 1633.3 is amended to add a cross-reference to Part 5.3 (commencing with Section 6500) of Division 4, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

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:

 Note. A table has been omitted to conserve resources.
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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 1351~~ Section 4080 or in Section 6528, the association may cause to be filed in the office of the recorder in the county in which the separate interests are situated a request that a mortgagee, trustee, or other person authorized to record a notice of default regarding any of those separate interests mail to the association a copy of any trustee's deed upon sale concerning a separate interest. The request shall include a legal description or the assessor's parcel number of all the separate interests. A request recorded pursuant to this subdivision shall include the name and address of the association and a statement that it is ~~a homeowners'~~ an association as defined in Section 4080 or in Section 6528. Subsequent requests of an association shall supersede prior requests. A request pursuant to this subdivision shall be recorded before the filing of a notice of default. The mortgagee, trustee, or other authorized person shall mail the requested information to the association within 15 business days following the date of the trustee's sale. Failure to mail the request, pursuant to this subdivision, shall not affect the title to real property.

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

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

(h) “Business day,” as used in this section, has the meaning specified in Section 9.

Comment. Subdivision (f) of Section 2924b is amended to add a cross-reference to Section 6528, and to make a conforming terminological change, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

Civ. Code § 2955.1 (as operative Jan. 1, 2014) (amended).

Disclosures regarding earthquake insurance requirements

SEC. _____. Section 2955.1 of the Civil Code, as it reads in Section 41 of Chapter 181 of the Statutes of 2012, is amended to read:

2955.1. (a) Any lender originating a loan secured by the borrower’s separate interest in a condominium project, as defined in Section 4125 or in Section 6542, which requires earthquake insurance or imposes a fee or any other condition in lieu thereof pursuant to an underwriting requirement imposed by an institutional third-party purchaser shall disclose all of the following to the potential borrower:

(1) That the lender or the institutional third party in question requires earthquake insurance or imposes a fee or any other condition in lieu thereof pursuant to an underwriting requirement imposed by an institutional third party purchaser.

(2) That not all lenders or institutional third parties require earthquake insurance or impose a fee or any other condition in lieu thereof pursuant to an underwriting requirement imposed by an institutional third party purchaser.

(3) Earthquake insurance may be required on the entire condominium project.

(4) That lenders or institutional third parties may also require that a condominium project maintain, or demonstrate an ability to maintain, financial reserves in the amount of the earthquake insurance deductible.

(b) For the purposes of this section, “institutional third party” means the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Government National Mortgage Association, and other substantially similar institutions, whether public or private.

(c) The disclosure required by this section shall be made in writing by the lender as soon as reasonably practicable.

Comment. Section 2955.1 is amended to add a cross-reference to Section 6542, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

CODE OF CIVIL PROCEDURE

Code Civ. Proc. § 86 (as operative Jan. 1, 2014) (amended).

Specific cases and proceedings that are limited civil cases

SEC. _____. Section 86 of the Code of Civil Procedure, as it reads in Section 42 of Chapter 181 of the Statutes of 2012, is amended to read:

86. (a) The following civil cases and proceedings are limited civil cases:

(1) A case at law in which the demand, exclusive of interest, or the value of the property in controversy amounts to twenty-five thousand dollars (\$25,000) or less. This paragraph does not apply to a case that involves the legality of any tax, impost, assessment, toll, or municipal fine, except an action to enforce payment of delinquent unsecured personal property taxes if the legality of the tax is not contested by the defendant.

(2) An action for dissolution of partnership where the total assets of the partnership do not exceed twenty-five thousand dollars (\$25,000); an action of interpleader where the amount of money or the value of the property involved does not exceed twenty-five thousand dollars (\$25,000).

(3) An action to cancel or rescind a contract when the relief is sought in connection with an action to recover money not exceeding twenty-five thousand dollars (\$25,000) or property of a value not exceeding twenty-five thousand dollars (\$25,000), paid or delivered under, or in consideration of, the contract; an action to revise a contract where the relief is sought in an action upon the contract if the action otherwise is a limited civil case.

(4) A proceeding in forcible entry or forcible or unlawful detainer where the whole amount of damages claimed is twenty-five thousand dollars (\$25,000) or less.

(5) An action to enforce and foreclose a lien on personal property where the amount of the lien is twenty-five thousand dollars (\$25,000) or less.

(6) An action to enforce and foreclose, or a petition to release, a lien arising under the provisions of Chapter 4 (commencing with Section 8400) of Title 2 of Part 6 of Division 4 of the Civil Code, or to enforce and foreclose an assessment lien on a common interest development as defined in Section 4100 or 6534 of the Civil Code, where the amount of the liens is twenty-five thousand dollars (\$25,000) or less. However, if an action to enforce the lien affects property that is also affected by a similar pending action that is not a limited civil case, or if the total amount of liens sought to be foreclosed against the same property aggregates an amount in excess of twenty-five thousand dollars (\$25,000), the action is not a limited civil case.

(7) An action for declaratory relief when brought pursuant to either of the following:

(A) By way of cross-complaint as to a right of indemnity with respect to the relief demanded in the complaint or a cross-complaint in an action or proceeding that is otherwise a limited civil case.

(B) To conduct a trial after a nonbinding fee arbitration between an attorney and client, pursuant to Article 13 (commencing with Section 6200) of Chapter 4 of Division 3 of the Business and Professions Code, where the amount in controversy is twenty-five thousand dollars (\$25,000) or less.

(8) An action to issue a temporary restraining order or preliminary injunction; to take an account, where necessary to preserve the property or rights of any party to a limited civil case; to make any order or perform any act, pursuant to Title 9 (commencing with Section 680.010) of Part 2 (enforcement of judgments) in a limited civil case; to appoint a receiver pursuant to Section 564 in a limited civil case; to determine title to personal property seized in a limited civil case.

(9) An action under Article 3 (commencing with Section 708.210) of Chapter 6 of Division 2 of Title 9 of Part 2 for the recovery of an interest in personal property or to enforce the liability of the debtor of a judgment debtor where the interest claimed adversely is of a value not exceeding twenty-five thousand dollars (\$25,000) or the debt denied does not exceed twenty-five thousand dollars (\$25,000).

(10) An arbitration-related petition filed pursuant to either of the following:

(A) Article 2 (commencing with Section 1292) of Chapter 5 of Title 9 of Part 3, except for uninsured motorist arbitration proceedings in accordance with Section 11580.2 of the Insurance Code, if the petition is filed before the arbitration award becomes final and the matter to be resolved by arbitration is a limited civil case under paragraphs (1) to (9), inclusive, of subdivision (a) or if the petition is filed after the arbitration award becomes final and the amount of the award and all other rulings, pronouncements, and decisions made in the award are within paragraphs (1) to (9), inclusive, of subdivision (a).

(B) To confirm, correct, or vacate a fee arbitration award between an attorney and client that is binding or has become binding, pursuant to Article 13 (commencing with Section 6200) of Chapter 4 of Division 3 of the Business and Professions Code,

where the arbitration award is twenty-five thousand dollars (\$25,000) or less.

(b) The following cases in equity are limited civil cases:

(1) A case to try title to personal property when the amount involved is not more than twenty-five thousand dollars (\$25,000).

(2) A case when equity is pleaded as a defensive matter in any case that is otherwise a limited civil case.

(3) A case to vacate a judgment or order of the court obtained in a limited civil case through extrinsic fraud, mistake, inadvertence, or excusable neglect.

Comment. Paragraph (6) of subdivision (a) of Section 86 is amended to add a cross-reference to Civil Code Section 6534, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

Code Civ. Proc. § 116.540 (as operative Jan. 1, 2014) (amended).

Participation by individuals other than plaintiff and defendant

SEC. _____. Section 116.540 of the Code of Civil Procedure, as it reads in Section 43 of Chapter 181 of the Statutes of 2012, is amended to read:

116.540. (a) Except as permitted by this section, no individual other than the plaintiff and the defendant may take part in the conduct or defense of a small claims action.

(b) Except as additionally provided in subdivision (i), a corporation may appear and participate in a small claims action only through a regular employee, or a duly appointed or elected officer or director, who is employed, appointed, or elected for purposes other than solely representing the corporation in small claims court.

(c) A party who is not a corporation or a natural person may appear and participate in a small claims action only through a regular employee, or a duly appointed or elected officer or director, or in the case of a partnership, a partner, engaged for purposes other than solely representing the party in small claims court.

(d) If a party is an individual doing business as a sole proprietorship, the party may appear and participate in a small

claims action by a representative and without personally appearing if both of the following conditions are met:

(1) The claim can be proved or disputed by evidence of an account that constitutes a business record as defined in Section 1271 of the Evidence Code, and there is no other issue of fact in the case.

(2) The representative is a regular employee of the party for purposes other than solely representing the party in small claims actions and is qualified to testify to the identity and mode of preparation of the business record.

(e) A plaintiff is not required to personally appear, and may submit declarations to serve as evidence supporting his or her claim or allow another individual to appear and participate on his or her behalf, if (1) the plaintiff is serving on active duty in the United States Armed Forces outside this state, (2) the plaintiff was assigned to his or her duty station after his or her claim arose, (3) the assignment is for more than six months, (4) the representative is serving without compensation, and (5) the representative has appeared in small claims actions on behalf of others no more than four times during the calendar year. The defendant may file a claim in the same action in an amount not to exceed the jurisdictional limits stated in Sections 116.220, 116.221, and 116.231.

(f) A party incarcerated in a county jail, a Department of Corrections and Rehabilitation facility, or a Division of Juvenile Facilities facility is not required to personally appear, and may submit declarations to serve as evidence supporting his or her claim, or may authorize another individual to appear and participate on his or her behalf if that individual is serving without compensation and has appeared in small claims actions on behalf of others no more than four times during the calendar year.

(g) A defendant who is a nonresident owner of real property may defend against a claim relating to that property without personally appearing by (1) submitting written declarations to serve as evidence supporting his or her defense, (2) allowing another individual to appear and participate on his or her behalf if that individual is serving without compensation and has appeared in small claims actions on behalf of others no more than four times

during the calendar year, or (3) taking the action described in both (1) and (2).

(h) A party who is an owner of rental real property may appear and participate in a small claims action through a property agent under contract with the owner to manage the rental of that property, if (1) the owner has retained the property agent principally to manage the rental of that property and not principally to represent the owner in small claims court, and (2) the claim relates to the rental property.

(i) A party that is an association created to manage a common interest development, as defined in Section 4100, or in Sections 6528 and 6534, of the Civil Code, may appear and participate in a small claims action through an agent, a management company representative, or bookkeeper who appears on behalf of that association.

(j) At the hearing of a small claims action, the court shall require any individual who is appearing as a representative of a party under subdivisions (b) to (i), inclusive, to file a declaration stating (1) that the individual is authorized to appear for the party, and (2) the basis for that authorization. If the representative is appearing under subdivision (b), (c), (d), (h), or (i), the declaration also shall state that the individual is not employed solely to represent the party in small claims court. If the representative is appearing under subdivision (e), (f), or (g), the declaration also shall state that the representative is serving without compensation, and has appeared in small claims actions on behalf of others no more than four times during the calendar year.

(k) A husband or wife who sues or who is sued with his or her spouse may appear and participate on behalf of his or her spouse if (1) the claim is a joint claim, (2) the represented spouse has given his or her consent, and (3) the court determines that the interests of justice would be served.

(l) If the court determines that a party cannot properly present his or her claim or defense and needs assistance, the court may in its discretion allow another individual to assist that party.

(m) Nothing in this section shall operate or be construed to authorize an attorney to participate in a small claims action except as expressly provided in Section 116.530.

Comment. Subdivision (i) of Section 116.540 is amended to add cross-references to Civil Code Sections 6528 and 6534, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

GOVERNMENT CODE

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 or 6760 of the Civil Code to register the

common interest development that it manages: An amount not to exceed thirty dollars (\$30).

(2) Filing an amended statement by a community association in accordance with Section ~~4363.6~~ 5405 or 6760 of the Civil Code: No fee.

Comment. Section 12191 is amended to add cross-references to Civil Code Section 6760, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

Gov't Code § 12956.1 (as operative Jan. 1, 2014) (amended).

Restrictive covenant based on discriminatory grounds

SEC. _____. Section 12956.1 of the Government Code, as it reads in Section 49 of Chapter 181 of the Statutes of 2012, is amended to read:

12956.1. (a) As used in this section, “association,” “governing documents,” and “declaration” have the same meanings as set forth in Sections 4080, 4135, and 4150, or in Sections 6528, 6546, and 6552, of the Civil Code.

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

“If this document contains any restriction based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, genetic information, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government Code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.”

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

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

Comment. Section 12956.1 is amended to add cross-references to Civil Code Sections 6528, 6546, and 6552, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

Gov't Code § 12956.2 (as operative Jan. 1, 2014) (amended).

Restrictive Covenant Modification

SEC. _____. Section 12956.2 of the Government Code, as it reads in Section 50 of Chapter 181 of the Statutes of 2012, is amended to read:

12956.2. (a) A person who holds an ownership interest of record in property that he or she believes is the subject of an unlawfully restrictive covenant in violation of subdivision (l) of Section 12955 may record a document titled Restrictive Covenant Modification. The county recorder may choose to waive the fee prescribed for recording and indexing instruments pursuant to Section 27361 in the case of the modification document provided for in this section. The modification document shall include a complete copy of the original document containing the unlawfully restrictive language with the unlawfully restrictive language stricken.

(b) Before recording the modification document, the county recorder shall submit the modification document and the original document to the county counsel who shall determine whether the original document contains an unlawful restriction based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry. The county counsel shall return the documents and inform the county recorder of its determination. The county recorder shall refuse to record the modification

document if the county counsel finds that the original document does not contain an unlawful restriction as specified in this paragraph.

(c) The modification document shall be indexed in the same manner as the original document being modified. It shall contain a recording reference to the original document in the form of a book and page or instrument number, and date of the recording.

(d) Subject to covenants, conditions, and restrictions that were recorded after the recording of the original document that contains the unlawfully restrictive language and subject to covenants, conditions, and restrictions that will be recorded after the Restrictive Covenant Modification, the restrictions in the Restrictive Covenant Modification, once recorded, are the only restrictions having effect on the property. The effective date of the terms and conditions of the modification document shall be the same as the effective date of the original document.

(e) The county recorder shall make available to the public Restrictive Covenant Modification forms.

(f) If the holder of an ownership interest of record in property causes to be recorded a modified document pursuant to this section that contains modifications not authorized by this section, the county recorder shall not incur liability for recording the document. The liability that may result from the unauthorized recordation is the sole responsibility of the holder of the ownership interest of record who caused the modified recordation.


(g) This section does not apply to persons holding an ownership interest in property that is part of a common interest development as defined in Section 4100 or in Section 6534 of the Civil Code if the board of directors of that common interest development is subject to the requirements of subdivision (b) of Section 4225 or of Section 6606 of the Civil Code.

Comment. Subdivision (g) of Section 12956.2 is amended to add cross-references to Civil Code Sections 6534 and 6606, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

Gov't Code § 53341.5 (as operative Jan. 1, 2014) (amended). Lot, parcel, or unit of subdivision subject to special tax

SEC. _____. Section 53341.5 of the Government Code, as it reads in Section 51 of Chapter 181 of the Statutes of 2012, is amended to read:

53341.5. (a) If a lot, parcel, or unit of a subdivision is subject to a special tax levied pursuant to this chapter, the subdivider, his or her agent, or representative, shall not sell, or lease for a term exceeding five years, or permit a prospective purchaser or lessor to sign a contract of purchase or a deposit receipt or any substantially equivalent document in the event of a lease with respect to the lot, parcel, or unit, or cause it to be sold or leased for a term exceeding five years, until the prospective purchaser or lessee of the lot, parcel, or unit has been furnished with and has signed a written notice as provided in this section. The notice shall contain the heading "NOTICE OF SPECIAL TAX" in type no smaller than 8-point type, and shall be in substantially the following form. The form may be modified as needed to clearly and accurately describe the tax structure and other characteristics of districts created before January 1, 1993, or to clearly and accurately consolidate information about the tax structure and other characteristics of two or more districts that levy or are authorized to levy special taxes with respect to the lot, parcel, or unit:

 Note. A notice has been omitted to conserve resources.

(b) "Subdivision," as used in subdivision (a), means improved or unimproved land that is divided or proposed to be divided for the purpose of sale, lease, or financing, whether immediate or future, into two or more lots, parcels, or units and includes a condominium project, as defined by Section 4125 or by Section 6542 of the Civil Code, a community apartment project, a stock cooperative, and a limited-equity housing cooperative, as defined in Sections 11004, 11003.2, and 11003.4, respectively, of the Business and Professions Code.

(c) The buyer shall have three days after delivery in person or five days after delivery by deposit in the mail of any notice

required by this section, to terminate his or her agreement by delivery of written notice of that termination to the owner, subdivider, or agent.

(d) The failure to furnish the notice to the buyer or lessee, and failure of the buyer or lessee to sign the notice of a special tax, shall not invalidate any grant, conveyance, lease, or encumbrance.

(e) Any person or entity who willfully violates the provisions of this section shall be liable to the purchaser of a lot or unit that is subject to the provisions of this section, for actual damages, and in addition thereto, shall be guilty of a public offense punishable by a fine in an amount not to exceed five hundred dollars (\$500). In an action to enforce a liability or fine, the prevailing party shall be awarded reasonable attorney's fees.

Comment. Subdivision (b) of Section 53341.5 is amended to add a cross-reference to Civil Code Section 6542, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

Gov't Code § 65008 (as operative Jan. 1, 2014) (amended).

Invalidity of discriminatory act

SEC. _____. Section 65008 of the Government Code, as it reads in Section 52 of Chapter 181 of the Statutes of 2012, is amended to read:

65008. (a) Any action pursuant to this title by any city, county, city and county, or other local governmental agency in this state is null and void if it denies to any individual or group of individuals the enjoyment of residence, landownership, tenancy, or any other land use in this state because of any of the following reasons:

(1)(A) The lawful occupation, age, or any characteristic of the individual or group of individuals listed in subdivision (a) or (d) of Section 12955, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 and Section 12955.2.

(B) Notwithstanding subparagraph (A), with respect to familial status, subparagraph (A) shall not be construed to apply to housing for older persons, as defined in Section 12955.9. With respect to familial status, nothing in subparagraph (A) shall be construed to

affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51, ~~and Section~~ Sections 4760 and 6714 of the Civil Code, and subdivisions (n), (o), and (p) of Section 12955 of this code shall apply to subparagraph (A).

(2) The method of financing of any residential development of the individual or group of individuals.

(3) The intended occupancy of any residential development by persons or families of very low, low, moderate, or middle income.

(b)(1) No city, county, city and county, or other local governmental agency shall, in the enactment or administration of ordinances pursuant to any law, including this title, prohibit or discriminate against any residential development or emergency shelter for any of the following reasons:

(A) Because of the method of financing.

(B)(i) Because of the lawful occupation, age, or any characteristic listed in subdivision (a) or (d) of Section 12955, as those characteristics are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the owners or intended occupants of the residential development or emergency shelter.

(ii) Notwithstanding clause (i), with respect to familial status, clause (i) shall not be construed to apply to housing for older persons, as defined in Section 12955.9. With respect to familial status, nothing in clause (i) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51, ~~and Section~~ Sections 4760 and 6714 of the Civil Code, and subdivisions (n), (o), and (p) of Section 12955 of this code shall apply to clause (i).

(C) Because the development or shelter is intended for occupancy by persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income.

(D) Because the development consists of a multifamily residential project that is consistent with both the jurisdiction's zoning ordinance and general plan as they existed on the date the

application was deemed complete, except that a project shall not be deemed to be inconsistent with the zoning designation for the site if that zoning designation is inconsistent with the general plan only because the project site has not been rezoned to conform with a more recently adopted general plan.

(2) The discrimination prohibited by this subdivision includes the denial or conditioning of a residential development or shelter because of, in whole or in part, either of the following:

(A) The method of financing.

(B) The occupancy of the development by persons protected by this subdivision, including, but not limited to, persons and families of very low, low, or moderate income.

(3) A city, county, city and county, or other local government agency may not, pursuant to subdivision (d) of Section 65589.5, disapprove a housing development project or condition approval of a housing development project in a manner that renders the project infeasible if the basis for the disapproval or conditional approval includes any of the reasons prohibited in paragraph (1) or (2).

(c) For the purposes of this section, “persons and families of middle income” means persons and families whose income does not exceed 150 percent of the median income for the county in which the persons or families reside.

(d)(1) No city, county, city and county, or other local governmental agency may impose different requirements on a residential development or emergency shelter that is subsidized, financed, insured, or otherwise assisted by the federal or state government or by a local public entity, as defined in Section 50079 of the Health and Safety Code, than those imposed on nonassisted developments, except as provided in subdivision (e). The discrimination prohibited by this subdivision includes the denial or conditioning of a residential development or emergency shelter based in whole or in part on the fact that the development is subsidized, financed, insured, or otherwise assisted as described in this paragraph.

(2)(A) No city, county, city and county, or other local governmental agency may, because of the lawful occupation age, or any characteristic of the intended occupants listed in subdivision

(a) or (d) of Section 12955, as those characteristics are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 or because the development is intended for occupancy by persons and families of very low, low, moderate, or middle income, impose different requirements on these residential developments than those imposed on developments generally, except as provided in subdivision (e).

(B) Notwithstanding subparagraph (A), with respect to familial status, subparagraph (A) shall not be construed to apply to housing for older persons, as defined in Section 12955.9. With respect to familial status, nothing in subparagraph (A) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51, ~~and Section~~ Sections 4760 and 6714 of the Civil Code, and subdivisions (n), (o), and (p) of Section 12955 of this code shall apply to subparagraph (A).

(e) Notwithstanding subdivisions (a) to (d), inclusive, this section and this title do not prohibit either of the following:

(1) The County of Riverside from enacting and enforcing zoning to provide housing for older persons, in accordance with state or federal law, if that zoning was enacted prior to January 1, 1995.

(2) Any city, county, or city and county from extending preferential treatment to residential developments or emergency shelters assisted by the federal or state government or by a local public entity, as defined in Section 50079 of the Health and Safety Code, or other residential developments or emergency shelters intended for occupancy by persons and families of low and moderate income, as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income, or agricultural employees, as defined in subdivision (b) of Section 1140.4 of the Labor Code, and their families. This preferential treatment may include, but need not be limited to, reduction or waiver of fees or changes in architectural requirements, site development and property line requirements, building setback requirements, or vehicle parking requirements that reduce development costs of these developments.

(f) “Residential development,” as used in this section, means a single-family residence or a multifamily residence, including manufactured homes, as defined in Section 18007 of the Health and Safety Code.

(g) This section shall apply to chartered cities.

(h) The Legislature finds and declares that discriminatory practices that inhibit the development of housing for persons and families of very low, low, moderate, and middle incomes, or emergency shelters for the homeless, are a matter of statewide concern.

Comment. Section 65008 is amended to add cross-references to Civil Code Section 6714, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

Gov’t Code § 66411 (as operative Jan. 1, 2014) (amended). Local control of common interest developments and subdivision design and improvement

SEC. _____. Section 66411 of the Government Code, as it reads in Section 55 of Chapter 181 of the Statutes of 2012, is amended to read:

66411. Regulation and control of the design and improvement of subdivisions are vested in the legislative bodies of local agencies. Each local agency shall, by ordinance, regulate and control the initial design and improvement of common interest developments as defined in Section 4100 or 6534 of the Civil Code and subdivisions for which this division requires a tentative and final or parcel map. In the development, adoption, revision, and application of this type of ordinance, the local agency shall comply with the provisions of Section 65913.2. The ordinance shall specifically provide for proper grading and erosion control, including the prevention of sedimentation or damage to offsite property. Each local agency may by ordinance regulate and control other subdivisions, provided that the regulations are not more restrictive than the regulations for those subdivisions for which a tentative and final or parcel map are required by this division, and provided further that the regulations shall not be applied to short-term leases (terminable by either party on not more than 30 days’ notice in

writing) of a portion of the operating right-of-way of a railroad corporation as defined by Section 230 of the Public Utilities Code unless a showing is made in individual cases, under substantial evidence, that public policy necessitates the application of the regulations to those short-term leases in individual cases.

Comment. Section 66411 is amended to add a cross-reference to Civil Code Section 6534, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876), and to make a stylistic revision.

Gov't Code § 66412 (as operative Jan. 1, 2014) (amended).

Application of Subdivision Map Act

SEC. _____. Section 66412 of the Government Code, as it reads in Section 56 of Chapter 181 of the Statutes of 2012, is amended to read:

66412. This division shall be inapplicable to any of the following:

(a) The financing or leasing of apartments, offices, stores, or similar space within apartment buildings, industrial buildings, commercial buildings, mobilehome parks, or trailer parks.

(b) Mineral, oil, or gas leases.

(c) Land dedicated for cemetery purposes under the Health and Safety Code.

(d) A lot line adjustment between four or fewer existing adjoining parcels, where the land taken from one parcel is added to an adjoining parcel, and where a greater number of parcels than originally existed is not thereby created, if the lot line adjustment is approved by the local agency, or advisory agency. A local agency or advisory agency shall limit its review and approval to a determination of whether or not the parcels resulting from the lot line adjustment will conform to the local general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances. An advisory agency or local agency shall not impose conditions or exactions on its approval of a lot line adjustment except to conform to the local general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances, to require the prepayment of real property

taxes prior to the approval of the lot line adjustment, or to facilitate the relocation of existing utilities, infrastructure, or easements. No tentative map, parcel map, or final map shall be required as a condition to the approval of a lot line adjustment. The lot line adjustment shall be reflected in a deed, which shall be recorded. No record of survey shall be required for a lot line adjustment unless required by Section 8762 of the Business and Professions Code. A local agency shall approve or disapprove a lot line adjustment pursuant to the Permit Streamlining Act (Chapter 4.5 (commencing with Section 65920) of Division 1).

(e) Boundary line or exchange agreements to which the State Lands Commission or a local agency holding a trust grant of tide and submerged lands is a party.

(f) Any separate assessment under Section 2188.7 of the Revenue and Taxation Code.

(g) The conversion of a community apartment project, as defined in Section 4105 of the Civil Code, to a condominium, as defined in Section 783 of the Civil Code, but only if all of the following requirements are met:

(1) The property was subdivided before January 1, 1982, as evidenced by a recorded deed creating the community apartment project.

(2) Subject to compliance with Sections 4290 and 4295 of the Civil Code, all conveyances and other documents necessary to effectuate the conversion shall be executed by the required number of owners in the project as specified in the bylaws or other organizational documents. If the bylaws or other organizational documents do not expressly specify the number of owners necessary to execute the conveyances and other documents, a majority of owners in the project shall be required to execute the conveyances or other documents. Conveyances and other documents executed under the foregoing provisions shall be binding upon and affect the interests of all parties in the project.

(3) If subdivision, as defined in Section 66424, of the property occurred after January 1, 1964, both of the following requirements are met:

(A) A final or parcel map of that subdivision was approved by the local agency and recorded, with all of the conditions of that map remaining in effect after the conversion.

(B) No more than 49 percent of the units in the project were owned by any one person as defined in Section 17, including an incorporator or director of the community apartment project, on January 1, 1982.

(4) The local agency certifies that the above requirements were satisfied if the local agency, by ordinance, provides for that certification.

(h) The conversion of a stock cooperative, as defined in Section 4190 or 6566 of the Civil Code, to a condominium, as defined in Section 783 of the Civil Code, but only if all of the following requirements are met:

(1) The property was subdivided before January 1, 1982, as evidenced by a recorded deed creating the stock cooperative, an assignment of lease, or issuance of shares to a stockholder.

(2) A person renting a unit in a cooperative shall be entitled at the time of conversion to all tenant rights in state or local law, including, but not limited to, rights respecting first refusal, notice, and displacement and relocation benefits.

(3) Subject to compliance with Sections 4290 and 4295, or with Sections 6626 and 6628, of the Civil Code, all conveyances and other documents necessary to effectuate the conversion shall be executed by the required number of owners in the cooperative as specified in the bylaws or other organizational documents. If the bylaws or other organizational documents do not expressly specify the number of owners necessary to execute the conveyances and other documents, a majority of owners in the cooperative shall be required to execute the conveyances or other documents. Conveyances and other documents executed under the foregoing provisions shall be binding upon and affect the interests of all parties in the cooperative.

(4) If subdivision, as defined in Section 66424, of the property occurred after January 1, 1980, both of the following requirements are met:

(A) A final or parcel map of that subdivision was approved by the local agency and recorded, with all of the conditions of that map remaining in effect after the conversion.

(B) No more than 49 percent of the shares in the project were owned by any one person as defined in Section 17, including an incorporator or director of the cooperative, on January 1, 1982.

(5) The local agency certifies that the above requirements were satisfied if the local agency, by ordinance, provides for that certification.

(i) The leasing of, or the granting of an easement to, a parcel of land, or any portion or portions thereof, in conjunction with the financing, erection, and sale or lease of a wind powered electrical generation device on the land, if the project is subject to discretionary action by the advisory agency or legislative body.

(j) The leasing or licensing of a portion of a parcel, or the granting of an easement, use permit, or similar right on a portion of a parcel, to a telephone corporation as defined in Section 234 of the Public Utilities Code, exclusively for the placement and operation of cellular radio transmission facilities, including, but not limited to, antennae support structures, microwave dishes, structures to house cellular communications transmission equipment, power sources, and other equipment incidental to the transmission of cellular communications, if the project is subject to discretionary action by the advisory agency or legislative body.

(k) Leases of agricultural land for agricultural purposes. As used in this subdivision, "agricultural purposes" means the cultivation of food or fiber, or the grazing or pasturing of livestock.

(l) The leasing of, or the granting of an easement to, a parcel of land, or any portion or portions thereof, in conjunction with the financing, erection, and sale or lease of a solar electrical generation device on the land, if the project is subject to review under other local agency ordinances regulating design and improvement or, if the project is subject to other discretionary action by the advisory agency or legislative body.

(m) The leasing of, or the granting of an easement to, a parcel of land or any portion or portions of the land in conjunction with a biogas project that uses, as part of its operation, agricultural waste

or byproducts from the land where the project is located and reduces overall emissions of greenhouse gases from agricultural operations on the land if the project is subject to review under other local agency ordinances regulating design and improvement or if the project is subject to discretionary action by the advisory agency or legislative body.

Comment. Subdivisions (g) and (h) of Section 66412 are amended to add cross-references to Civil Code Sections 6566, 6626, and 6628, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

Gov't Code § 66424 (as operative Jan. 1, 2014) (amended).

Subdivision

SEC. _____. Section 66424 of the Government Code, as it reads in Section 57 of Chapter 181 of the Statutes of 2012, is amended to read:

66424. "Subdivision" means the division, by any subdivider, of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized county assessment roll as a unit or as contiguous units, for the purpose of sale, lease, or financing, whether immediate or future. Property shall be considered as contiguous units, even if it is separated by roads, streets, utility easement, or railroad rights-of-way. "Subdivision" includes a condominium project, as defined in Section 4125 or in Section 6542 of the Civil Code, a community apartment project, as defined in Section 4105 of the Civil Code, or the conversion of five or more existing dwelling units to a stock cooperative, as defined in Section 4190 or in Section 6566 of the Civil Code.

Comment. Section 66424 is amended to add cross-references to Civil Code Sections 6542 and 6566, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

Gov't Code § 66427 (as operative Jan. 1, 2014) (amended). Map of condominium, community apartment project, or stock cooperative project

SEC. _____. Section 66427 of the Government Code, as it reads in Section 58 of Chapter 181 of the Statutes of 2012, is amended to read:

66427. (a) A map of a condominium project, a community apartment project, or of the conversion of five or more existing dwelling units to a stock cooperative project need not show the buildings or the manner in which the buildings or the airspace above the property shown on the map are to be divided, nor shall the governing body have the right to refuse approval of a parcel, tentative, or final map of the project on account of the design or the location of buildings on the property shown on the map that are not violative of local ordinances or on account of the manner in which airspace is to be divided in conveying the condominium.

(b) A map need not include a condominium plan or plans, as defined in Section 4120 or in Section 6540 of the Civil Code, and the governing body may not refuse approval of a parcel, tentative, or final map of the project on account of the absence of a condominium plan.

(c) Fees and lot design requirements shall be computed and imposed with respect to those maps on the basis of parcels or lots of the surface of the land shown thereon as included in the project.

(d) Nothing herein shall be deemed to limit the power of the legislative body to regulate the design or location of buildings in a project by or pursuant to local ordinances.

(e) If the governing body has approved a parcel map or final map for the establishment of condominiums on property pursuant to the requirements of this division, the separation of a three-dimensional portion or portions of the property from the remainder of the property or the division of that three-dimensional portion or portions into condominiums shall not constitute a further subdivision as defined in Section 66424, provided each of the following conditions has been satisfied:

(1) The total number of condominiums established is not increased above the number authorized by the local agency in approving the parcel map or final map.

(2) A perpetual estate or an estate for years in the remainder of the property is held by the condominium owners in undivided interests in common, or by an association as defined in Section 4100 or in Section 6528 of the Civil Code, and the duration of the estate in the remainder of the property is the same as the duration of the estate in the condominiums.

(3) The three-dimensional portion or portions of property are described on a condominium plan or plans, as defined in Section 4120 or in Section 6540 of the Civil Code.

Comment. Section 66427 is amended to add cross-references to Civil Code Sections 6528 and 6540, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

Gov't Code § 66452.10 (as operative Jan. 1, 2014) (amended).

Stock cooperative or community apartment project

SEC. _____. Section 66452.10 of the Government Code, as it reads in Section 59 of Chapter 181 of the Statutes of 2012, is amended to read:

66452.10. A stock cooperative, as defined in Section 11003.2 of the Business and Professions Code, or a community apartment project, as defined in Section 11004 of the Business and Professions Code, shall not be converted to a condominium, as defined in Section 783 of the Civil Code, unless the required number of (1) owners and (2) trustees or beneficiaries of each recorded deed of trust and mortgagees of each recorded mortgage in the cooperative or project, as specified in the bylaws, or other organizational documents, have voted in favor of the conversion. If the bylaws or other organizational documents do not expressly specify the number of votes required to approve the conversion, a majority vote of the (1) owners and (2) trustees or beneficiaries of each recorded deed of trust and mortgagees of each recorded mortgage in the cooperative or project shall be required. Upon approval of the conversion as set forth above and in compliance

with Sections 4290 and 4295, or with Sections 6626 and 6628, of the Civil Code, all conveyances and other documents necessary to effectuate the conversion shall be executed by the required number of owners in the cooperative or project as specified in the bylaws or other organizational documents. If the bylaws or other organizational documents do not expressly specify the number of owners necessary to execute the conveyances or other documents, a majority of owners in the cooperative or project shall be required to execute the conveyances and other documents. Conveyances and other documents executed under the foregoing provisions shall be binding upon and affect the interests of all parties in the cooperative or project. The provisions of Section 66499.31 shall not apply to a violation of this section.

Comment. Section 66452.10 is amended to add cross-references to Civil Code Sections 6626 and 6628, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

Gov't Code § 66475.2 (as operative Jan. 1, 2014) (amended).

Local transit facilities

SEC. _____. Section 66475.2 of the Government Code, as it reads in Section 60 of Chapter 181 of the Statutes of 2012, is amended to read:

66475.2. (a) There may be imposed by local ordinance a requirement of a dedication or an irrevocable offer of dedication of land within the subdivision for local transit facilities such as bus turnouts, benches, shelters, landing pads, and similar items that directly benefit the residents of a subdivision. The irrevocable offers may be terminated as provided in subdivisions (c) and (d) of Section 66477.2.

(b) Only the payment of fees in lieu of the dedication of land may be required in subdivisions that consist of the subdivision of airspace in existing buildings into condominium projects, stock cooperatives, or community apartment projects, as those terms are defined in Sections 4105, 4125, and 4190, or in Sections 6542 and 6566, of the Civil Code.

Comment. Section 66475.2 is amended to add cross-references to Civil Code Sections 6542 and 6566, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

HEALTH AND SAFETY CODE

Health & Safety Code § 13132.7 (as operative Jan. 1, 2014) (amended). Fire retardant roof covering that meets building standards

SEC. _____. Section 13132.7 of the Health and Safety Code, as it reads in Section 63 of Chapter 181 of the Statutes of 2012, is amended to read:

13132.7. (a) Within a very high fire hazard severity zone designated by the Director of Forestry and Fire Protection pursuant to Article 9 (commencing with Section 4201) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code and within a very high hazard severity zone designated by a local agency pursuant to Chapter 6.8 (commencing with Section 51175) of Part 1 of Division 1 of Title 5 of the Government Code, the entire roof covering of every existing structure where more than 50 percent of the total roof area is replaced within any one-year period, every new structure, and any roof covering applied in the alteration, repair, or replacement of the roof of every existing structure, shall be a fire retardant roof covering that is at least class B as defined in the Uniform Building Code, as adopted and amended by the State Building Standards Commission.

(b) In all other areas, the entire roof covering of every existing structure where more than 50 percent of the total roof area is replaced within any one-year period, every new structure, and any roof covering applied in the alteration, repair, or replacement of the roof of every existing structure, shall be a fire retardant roof covering that is at least class C as defined in the Uniform Building Code, as adopted and amended by the State Building Standards Commission.

(c) Notwithstanding subdivision (b), within state responsibility areas classified by the State Board of Forestry and Fire Protection

pursuant to Article 3 (commencing with Section 4125) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code, except for those state responsibility areas designated as moderate fire hazard responsibility zones, the entire roof covering of every existing structure where more than 50 percent of the total roof area is replaced within any one-year period, every new structure, and any roof covering applied in the alteration, repair, or replacement of the roof of every existing structure, shall be a fire retardant roof covering that is at least class B as defined in the Uniform Building Code, as adopted and amended by the State Building Standards Commission.

(d)(1) Notwithstanding subdivision (a), (b), or (c), within very high fire hazard severity zones designated by the Director of Forestry and Fire Protection pursuant to Article 9 (commencing with Section 4201) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code or by a local agency pursuant to Chapter 6.8 (commencing with Section 51175) of Part 1 of Division 1 of Title 5 of the Government Code, the entire roof covering of every existing structure where more than 50 percent of the total roof area is replaced within any one-year period, every new structure, and any roof covering applied in the alteration, repair, or replacement of the roof of every existing structure, shall be a fire retardant roof covering that is at least class A as defined in the Uniform Building Code, as adopted and amended by the State Building Standards Commission.

(2) Paragraph (1) does not apply to any jurisdiction containing a very high fire hazard severity zone if the jurisdiction fulfills both of the following requirements:

(A) Adopts the model ordinance approved by the State Fire Marshal pursuant to Section 51189 of the Government Code or an ordinance that substantially conforms to the model ordinance of the State Fire Marshal.

(B) Transmits, upon adoption, a copy of the ordinance to the State Fire Marshal.

(e) The State Building Standards Commission shall incorporate the requirements set forth in subdivisions (a), (b), and (c) by publishing them as an amendment to the California Building

Standards Code in accordance with Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13.

(f) Nothing in this section shall limit the authority of a city, county, city and county, or fire protection district in establishing more restrictive requirements, in accordance with current law, than those specified in this section.

(g) This section shall not affect the validity of an ordinance, adopted prior to the effective date for the relevant roofing standard specified in subdivisions (a) and (b), by a city, county, city and county, or fire protection district, unless the ordinance mandates a standard that is less stringent than the standards set forth in subdivision (a), in which case the ordinance shall not be valid on or after the effective date for the relevant roofing standard specified in subdivisions (a) and (b).

(h) Any qualified historical building or structure as defined in Section 18955 may, on a case-by-case basis, utilize alternative roof constructions as provided by the State Historical Building Code.

(i) The installer of the roof covering shall provide certification of the roof covering classification, as provided by the manufacturer or supplier, to the building owner and, when requested, to the agency responsible for enforcement of this part. The installer shall also install the roof covering in accordance with the manufacturer's listing.

(j) No wood roof covering materials shall be sold or applied in this state unless both of the following conditions are met:

(1) The materials have been approved and listed by the State Fire Marshal as complying with the requirements of this section.

(2) The materials have passed at least five years of the 10-year natural weathering test. The 10-year natural weathering test required by this subdivision shall be conducted in accordance with standard 15-2 of the 1994 edition of the Uniform Building Code at a testing facility recognized by the State Fire Marshal.

(k) The Insurance Commissioner shall accept the use of fire retardant wood roof covering material that complies with the requirements of this section, used in the partial repair or replacement of nonfire retardant wood roof covering material, as complying with the requirement in Section 2695.9 of Title 10 of

the California Code of Regulations relative to matching replacement items in quality, color, and size.

(l) No common interest development, as defined in Section 4100 or 6534 of the Civil Code, may require ~~a homeowner~~ an owner to install or repair a roof in a manner that is in violation of this section. The governing documents, as defined in Section 4150 or 6552 of the Civil Code, of a common interest development within a very high fire severity zone shall allow for at least one type of fire retardant roof covering material that meets the requirements of this section.

Comment. Subdivision (l) of Section 13132.7 is amended to add cross-references to Civil Code Sections 6534 and 6552, and to make a conforming terminological change, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

Health & Safety Code § 19850 (as operative Jan. 1, 2014)

(amended). Filing of building plans

SEC. _____. Section 19850 of the Health and Safety Code, as it reads in Section 64 of Chapter 181 of the Statutes of 2012, is amended to read:

19850. The building department of every city or county shall maintain an official copy, which may be on microfilm or other type of photographic copy, of the plans of every building, during the life of the building, for which the department issued a building permit.

“Building department” means the department, bureau, or officer charged with the enforcement of laws or ordinances regulating the erection, construction, or alteration of buildings.

Except for plans of a common interest development as defined in Section 4100 or 6534 of the Civil Code, plans need not be filed for:

(a) Single or multiple dwellings not more than two stories and basement in height.

(b) Garages and other structures appurtenant to buildings described under subdivision (a).

(c) Farm or ranch buildings.

(d) Any one-story building where the span between bearing walls does not exceed 25 feet. The exemption in this subdivision does not, however, apply to a steel frame or concrete building.

Comment. Section 19850 is amended to add a cross-reference to Civil Code Section 6534, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

Health & Safety Code § 25400.22 (as operative Jan. 1, 2014)

(amended). Lien placed on contaminated property

SEC. _____. Section 25400.22 of the Health and Safety Code, as it reads in Section 65 of Chapter 181 of the Statutes of 2012, is amended to read:

25400.22. (a) No later than 10 working days after the date when a local health officer determines that property is contaminated pursuant to subdivision (b) of Section 25400.20, the local health officer shall do all of the following:

(1) Except as provided in paragraph (2), if the property is real property, record with the county recorder a lien on the property. The lien shall specify all of the following:

(A) The name of the agency on whose behalf the lien is imposed.

(B) The date on which the property is determined to be contaminated.

(C) The legal description of the real property and the assessor's parcel number.

(D) The record owner of the property.

(E) The amount of the lien, which shall be the greater of two hundred dollars (\$200) or the costs incurred by the local health officer in compliance with this chapter, including, but not limited to, the cost of inspection performed pursuant to Section 25400.19 and the county recorder's fee.

(2)(A) If the property is a mobilehome or manufactured home specified in paragraph (2) of subdivision (t) of Section 25400.11, amend the permanent record with a restraint on the mobilehome, or manufactured home with the Department of Housing and Community Development, in the form prescribed by that department, providing notice of the determination that the property is contaminated.

(B) If the property is a recreational vehicle specified in paragraph (2) of subdivision (t) of Section 25400.11, perfect by filing with the Department of Motor Vehicles a vehicle license stop on the recreational vehicle in the form prescribed by that department, providing notice of the determination that the property is contaminated.

(C) If the property is a mobilehome or manufactured home, not subject to paragraph (2) of subdivision (t) of Section 25400.11, is located on real property, and is not attached to that real property, the local health officer shall record a lien for the real property with the county recorder, and the Department of Housing and Community Development shall amend the permanent record with a restraint for the mobilehome or manufactured home, in the form and with the contents prescribed by that department.

(3) A lien, restraint, or vehicle license stop issued pursuant to paragraph (2) shall specify all of the following:

(A) The name of the agency on whose behalf the lien, restraint, or vehicle license stop is imposed.

(B) The date on which the property is determined to be contaminated.

(C) The legal description of the real property and the assessor's parcel number, and the mailing and street address or space number of the manufactured home, mobilehome, or recreational vehicle or the vehicle identification number of the recreational vehicle, if applicable.

(D) The registered owner of the mobilehome, manufactured home, or recreational vehicle, if applicable, or the name of the owner of the real property as indicated in the official county records.

(E) The amount of the lien, if applicable, which shall be the greater of two hundred dollars (\$200) or the costs incurred by the local health officer in compliance with this chapter, including, but not limited to, the cost of inspection performed pursuant to Section 25400.19 and the fee charged by the Department of Housing and Community Development and the Department of Motor Vehicles pursuant to paragraph (2) of subdivision (b).

(F) Other information required by the county recorder for the lien, the Department of Housing and Community Development for the restraint, or the Department of Motor Vehicles for the vehicle license stop.

(4) Issue to persons specified in subdivisions (d), (e), and (f) an order prohibiting the use or occupancy of the contaminated portions of the property.

(b)(1) The county recorder's fees for recording and indexing documents provided for in this section shall be in the amount specified in Article 5 (commencing with Section 27360) of Chapter 6 of Part 3 of Title 3 of the Government Code.

(2) The Department of Housing and Community Development and the Department of Motor Vehicles may charge a fee to cover its administrative costs for recording and indexing documents provided for in paragraph (2) of subdivision (a).

(c)(1) A lien recorded pursuant to subdivision (a) shall have the force, effect, and priority of a judgment lien. The restraint amending the permanent record pursuant to subdivision (a) shall be displayed on any manufactured home or mobilehome title search until the restraint is released. The vehicle license stop shall remain in effect until it is released.

(2) The local health officer shall not authorize the release of a lien, restraint, or vehicle license stop made pursuant to subdivision (a), until one of the following occurs:

(A) The property owner satisfies the real property lien, or the contamination in the mobilehome, manufactured home, or recreational vehicle is abated to the satisfaction of the local health officer consistent with the notice in the restraint, or vehicle license stop and the local health officer issues a release pursuant to Section 25400.27.

(B) For a manufactured home or mobilehome, the local health officer determines that the unit will be destroyed or permanently salvaged. For the purposes of this paragraph, the unit shall not be reregistered after this determination is made unless the local health officer issues a release pursuant to Section 25400.27.

(C) The lien, restraint, or vehicle license stop is extinguished by a senior lien in a foreclosure sale.

(d) Except as otherwise specified in this section, an order issued pursuant to this section shall be served, either personally or by certified mail, return receipt requested, in the following manner:

(1) For real property, to all known occupants of the property and to all persons who have an interest in the property, as contained in the records of the recorder's office of the county in which the property is located.

(2) In the case of a mobilehome or manufactured home, the order shall be served to the legal owner, as defined in Section 18005.8, each junior lienholder, as defined in Section 18005.3, and the registered owner, as defined in Section 18009.5.

(3) In the case of a recreational vehicle, the order shall be served on the legal owner, as defined in Section 370 of the Vehicle Code, and the registered owner, as defined in Section 505 of the Vehicle Code.

(e) If the whereabouts of the person described in subdivision (d) are unknown and cannot be ascertained by the local health officer, in the exercise of reasonable diligence, and the local health officer makes an affidavit to that effect, the local health officer shall serve the order by personal service or by mailing a copy of the order by certified mail, postage prepaid, return receipt requested, as follows:

(1) The order related to real property shall be served to each person at the address appearing on the last equalized tax assessment roll of the county where the property is located, and to all occupants of the affected unit.

(2) In the case of a mobilehome or manufactured home, the order shall be served to the legal owner, as defined in Section 18005.8, each junior lienholder, as defined in Section 18005.3, and the registered owner, as defined in Section 18009.5, at the address appearing on the permanent record and all occupants of the affected unit at the mobilehome park space.

(3) In the case of a recreational vehicle, the order shall be served on the legal owner, as defined in Section 370 of the Vehicle Code, and the registered owner, as defined in Section 505 of the Vehicle Code, at the address appearing on the permanent record and all occupants of the affected vehicle at the mobilehome park or special occupancy park space.

(f)(1) The local health officer shall also mail a copy of the order required by this section to the address of each person or party having a recorded right, title, estate, lien, or interest in the property and to the association of a common interest development, as defined in Sections 4080 and 4100, or in Sections 6528 and 6534, of the Civil Code.

(2) In addition to the requirements of paragraph (1), if the affected property is a mobilehome, manufactured home, or recreational vehicle, specified in paragraph (2) of subdivision (t) of Section 25400.11, the order issued by the local health officer shall also be served, either personally or by certified mail, return receipt requested, to the owner of the mobilehome park or special occupancy park.

(g) The order issued pursuant to this section shall include all of the following information:

(1) A description of the property.

(2) The parcel identification number, address, or space number, if applicable.

(3) The vehicle identification number, if applicable.

(4) A description of the local health officer's intended course of action.

(5) A specification of the penalties for noncompliance with the order.

(6) A prohibition on the use of all or portions of the property that are contaminated.

(7) A description of the measures the property owner is required to take to decontaminate the property.

(8) An indication of the potential health hazards involved.

(9) A statement that a property owner who fails to provide a notice or disclosure that is required by this chapter is subject to a civil penalty of up to five thousand dollars (\$5,000).

(h) The local health officer shall provide a copy of the order to the local building or code enforcement agency or other appropriate agency responsible for the enforcement of the State Housing Law (Part 1.5 (commencing with Section 17910) of Division 13).

(i) The local health officer shall post the order in a conspicuous place on the property within one working day of the date that the order is issued.

Comment. Subdivision (f) of Section 25400.22 is amended to add cross-references to Civil Code Sections 6528 and 6534, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

Health & Safety Code § 25915.2 (as operative Jan. 1, 2014)
(amended). Publication and mailing of notice

SEC. _____. Section 25915.2 of the Health and Safety Code, as it reads in Section 66 of Chapter 181 of the Statutes of 2012, is amended to read:

25915.2. (a) Notice provided pursuant to this chapter shall be provided in writing to each individual employee, and shall be mailed to other owners designated to receive the notice pursuant to subdivision (a) of Section 25915.5, within 15 days of the first receipt by the owner of information identifying the presence or location of asbestos-containing construction materials in the building. This notice shall be provided annually thereafter. In addition, if new information regarding those items specified in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 25915 has been obtained within 90 days after the notice required by this subdivision is provided or any subsequent 90-day period, then a supplemental notice shall be provided within 15 days of the close of that 90-day period.

(b) Notice provided pursuant to this chapter shall be provided to new employees within 15 days of commencement of work in the building.

(c) Notice provided pursuant to this chapter shall be mailed to any new owner designated to receive the notice pursuant to subdivision (a) of Section 25915.5 within 15 days of the effective date of the agreement under which a person becomes a new owner.

(d) Subdivisions (a) and (c) shall not be construed to require owners of a building or part of a building within a residential common interest development to mail written notification to other owners of a building or part of a building within the residential

common interest development, if all the following conditions are met:

(1) The association conspicuously posts, in each building or part of a building known to contain asbestos-containing materials, a large sign in a prominent location that fully informs persons entering each building or part of a building within the common interest development that the association knows the building contains asbestos-containing materials.

The sign shall also inform persons of the location where further information, as required by this chapter, is available about the asbestos-containing materials known to be located in the building.

(2) The owners or association disclose, as soon as practicable before the transfer of title of a separate interest in the common interest development, to a transferee the existence of asbestos-containing material in a building or part of a building within the common interest development.

Failure to comply with this section shall not invalidate the transfer of title of real property. This paragraph shall only apply to transfers of title of separate interests in the common interest development of which the owners have knowledge. As used in this section, “association” and “common interest development” are defined in Sections 4080 and 4100, or Sections 6528 and 6534, of the Civil Code.

(e) If a person contracting with an owner receives notice pursuant to this chapter, that contractor shall provide a copy of the notice to his or her employees or contractors working within the building.

(f) If the asbestos-containing construction material in the building is limited to an area or areas within the building that meet all the following criteria:

(1) Are unique and physically defined.

(2) Contain asbestos-containing construction materials in structural, mechanical, or building materials which are not replicated throughout the building.

(3) Are not connected to other areas through a common ventilation system; then, an owner required to give notice to his or her employees pursuant to subdivision (a) of Section 25915 or

25915.1 may provide that notice only to the employees working within or entering that area or those areas of the building meeting the conditions above.

(g) If the asbestos-containing construction material in the building is limited to an area or areas within the building that meet all the following criteria:

(1) Are accessed only by building maintenance employees or contractors and are not accessed by tenants or employees in the building, other than on an incidental basis.

(2) Contain asbestos-containing construction materials in structural, mechanical, or building materials which are not replicated in areas of the building which are accessed by tenants and employees.

(3) The owner knows that no asbestos fibers are being released or have the reasonable possibility to be released from the material; then, as to that asbestos-containing construction material, an owner required to give notice to his or her employees pursuant to subdivision (a) of Section 25915 or Section 25915.1 may provide that notice only to its building maintenance employees and contractors who have access to that area or those areas of the building meeting the conditions above.

(h) In those areas of a building where the asbestos-containing construction material is composed only of asbestos fibers which are completely encapsulated, if the owner knows that no asbestos fibers are being released or have the reasonable possibility to be released from that material in its present condition and has no knowledge that other asbestos-containing material is present, then an owner required to give notice pursuant to subdivision (a) of Section 25915 shall provide the information required in paragraph (2) of subdivision (a) of Section 25915 and may substitute the following notice for the requirements of paragraphs (1), (3), (4), and (5) of subdivision (a) of Section 25915:

(1) The existence of, conclusions from, and a description or list of the contents of, that portion of any survey conducted to determine the existence and location of asbestos-containing construction materials within the building that refers to the asbestos-containing materials described in this subdivision, and

information describing when and where the results of the survey are available pursuant to Section 25917.

(2) Information to convey that moving, drilling, boring, or otherwise disturbing the asbestos-containing construction material identified may present a health risk and, consequently, should not be attempted by an unqualified employee. The notice shall identify the appropriate person the employee is required to contact if the condition of the asbestos-containing construction material deteriorates.

Comment. Paragraph (2) of subdivision (d) of Section 25915.2 is amended to add cross-references to Civil Code Sections 6528 and 6534, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

Health & Safety Code § 33050 (as operative Jan. 1, 2014)

(amended). Legislative declaration of policy in undertaking community redevelopment projects

SEC. _____. Section 33050 of the Health and Safety Code, as it reads in Section 68 of Chapter 181 of the Statutes of 2012, is amended to read:

33050. (a) It is hereby declared to be the policy of the state that in undertaking community redevelopment projects under this part there shall be no discrimination because of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code.

(b) Notwithstanding subdivision (a), with respect to familial status, subdivision (a) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51, ~~and Section~~ Sections 4760 and 6714 of the Civil Code, and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to subdivision (a).

Comment. Section 33050 is amended to add a cross-reference to Civil Code Section 6714, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

**Health & Safety Code § 33435 (as operative Jan. 1, 2014)
(amended). Obligation of lessees and purchasers to refrain
from discrimination**

SEC. _____. Section 33435 of the Health and Safety Code, as it reads in Section 69 of Chapter 181 of the Statutes of 2012, is amended to read:

33435. (a) Agencies shall obligate lessees and purchasers of real property acquired in redevelopment projects and owners of property improved as a part of a redevelopment project to refrain from restricting the rental, sale, or lease of the property on any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code. All deeds, leases, or contracts for the sale, lease, sublease, or other transfer of any land in a redevelopment project shall contain or be subject to the nondiscrimination or nonsegregation clauses hereafter prescribed.

(b) Notwithstanding subdivision (a), with respect to familial status, subdivision (a) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51, ~~and Section~~ Sections 4760 and 6714 of the Civil Code, and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to subdivision (a).

Comment. Section 33435 is amended to add a cross-reference to Civil Code Section 6714, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

Health & Safety Code § 33436 (as operative Jan. 1, 2014)**(amended). Nondiscrimination and nonsegregation clauses**

SEC. _____. Section 33436 of the Health and Safety Code, as it reads in Section 70 of Chapter 181 of the Statutes of 2012, is amended to read:

33436. Express provisions shall be included in all deeds, leases, and contracts that the agency proposes to enter into with respect to the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of any land in a redevelopment project in substantially the following form:

(a)(1) In deeds the following language shall appear-- “The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.”

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51, ~~and Section~~ Sections 4760 and 6714 of the Civil Code, and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1).

(b)(1) In leases the following language shall appear-- "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased."

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51, ~~and Section~~ Sections 4760 and 6714 of the Civil Code, and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1).

(c) In contracts entered into by the agency relating to the sale, transfer, or leasing of land or any interest therein acquired by the agency within any survey area or redevelopment project the foregoing provisions in substantially the forms set forth shall be included and the contracts shall further provide that the foregoing provisions shall be binding upon and shall obligate the contracting party or parties and any subcontracting party or parties, or other transferees under the instrument.

Comment. Section 33436 is amended to add cross-references to Civil Code Section 6714, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

Health & Safety Code § 35811 (as operative Jan. 1, 2014)
(amended). Consideration of ethnicity, religion, sex, marital status, or national origin

SEC. _____. Section 35811 of the Health and Safety Code, as it reads in Section 72 of Chapter 181 of the Statutes of 2012, is amended to read:

35811. (a) No financial institution shall discriminate in the availability of, or in the provision of, financial assistance for the purpose of purchasing, constructing, rehabilitating, improving, or refinancing housing accommodations due, in whole or in part, to the consideration of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code.

(b) Notwithstanding subdivision (a), with respect to familial status, subdivision (a) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51, ~~and Section~~ Sections 4760 and 6714 of the Civil Code, and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to subdivision (a).

Comment. Section 35811 is amended to add a cross-reference to Civil Code Section 6714, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

Health & Safety Code § 37630 (as operative Jan. 1, 2014)
(amended). Equal opportunity

SEC. _____. Section 37630 of the Health and Safety Code, as it reads in Section 73 of Chapter 181 of the Statutes of 2012, is amended to read:

37630. (a) The local agency shall require that any property that is rehabilitated with financing obtained under this part shall be open, upon sale or rental of any portion thereof, to all regardless of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code. The local agency shall also require that contractors and subcontractors engaged in historical rehabilitation financed under this part provide equal opportunity for employment, without discrimination as to any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, and except as otherwise provided in Section 12940 of the Government Code. All contracts and subcontracts for historical rehabilitation financed under this part shall be let without discrimination as to any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, and except as otherwise provided in Section 12940 of the Government Code.

(b) Notwithstanding subdivision (a), with respect to familial status, subdivision (a) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51, ~~and Section~~ Sections 4760 and 6714 of the Civil Code, and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to subdivision (a).

Comment. Section 37630 is amended to add a cross-reference to Civil Code Section 6714, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

Health & Safety Code § 50955 (as operative Jan. 1, 2014)**(amended). Civil rights and equal employment opportunity**

SEC. _____. Section 50955 of the Health and Safety Code, as it reads in Section 75 of Chapter 181 of the Statutes of 2012, is amended to read:

50955. (a) The agency and every housing sponsor shall require that occupancy of housing developments assisted under this part shall be open to all regardless of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, that contractors and subcontractors engaged in the construction of housing developments shall provide an equal opportunity for employment, without discrimination as to any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, and except as otherwise provided in Section 12940 of the Government Code, and that contractors and subcontractors shall submit and receive approval of an affirmative action program prior to the commencement of construction or rehabilitation. Affirmative action requirements respecting apprenticeship shall be consistent with Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code.

All contracts for the management, construction, or rehabilitation of housing developments, and contracts let by housing sponsors, contractors, and subcontractors in the performance of management, construction, or rehabilitation, shall be let without discrimination as to any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, except as otherwise provided in Section 12940 of the Government Code, and pursuant to an affirmative action program, which shall be at not less than the Federal Housing Administration affirmative action standards unless the board makes a specific finding that the particular requirement would be unworkable. The agency shall periodically

review implementation of affirmative action programs required by this section.

It shall be the policy of the agency and housing sponsors to encourage participation with respect to all projects by minority developers, builders, and entrepreneurs in all levels of construction, planning, financing, and management of housing developments. In areas of minority concentration the agency shall require significant participation of minorities in the sponsorship, construction, planning, financing, and management of housing developments. The agency shall (1) require that, to the greatest extent feasible, opportunities for training and employment arising in connection with the planning, construction, rehabilitation, and operation of housing developments financed pursuant to this part be given to persons of low income residing in the area of that housing, and (2) determine and implement means to secure the participation of small businesses in the performance of contracts for work on housing developments and to develop the capabilities of these small businesses to more efficiently and competently participate in the economic mainstream. In order to achieve this participation by small businesses, the agency may, among other things, waive retention requirements otherwise imposed on contractors or subcontractors by regulation of the agency and may authorize or make advance payments for work to be performed. The agency shall develop relevant selection criteria for the participation of small businesses to ensure that, to the greatest extent feasible, the participants possess the necessary nonfinancial capabilities. The agency may, with respect to these small businesses, waive bond requirements otherwise imposed upon contractors or subcontractors by regulation of the agency, but the agency shall in that case substantially reduce the risk through (1) a pooled-risk bonding program, (2) a bond program in cooperation with other federal or state agencies, or (3) development of a self-insured bonding program with adequate reserves.

The agency shall adopt rules and regulations to implement this section.

Prior to commitment of a mortgage loan, the agency shall require each housing sponsor, except with respect to mutual self-

help housing, to submit an affirmative marketing program that meets standards set forth in regulations of the agency. The agency shall require each housing sponsor to conduct the affirmative marketing program so approved. Additionally, the agency shall supplement the efforts of individual housing sponsors by conducting affirmative marketing programs with respect to housing at the state level.

(b) Notwithstanding subdivision (a), with respect to familial status, subdivision (a) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51, ~~and Section~~ Sections 4760 and 6714 of the Civil Code, and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to subdivision (a).

Comment. Subdivision (b) of Section 50955 is amended to add a cross-reference to Civil Code Section 6714, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

Health & Safety Code § 51602 (as operative Jan. 1, 2014)

(amended). Nondiscrimination in occupancy of housing

SEC. _____. Section 51602 of the Health and Safety Code, as it reads in Section 76 of Chapter 181 of the Statutes of 2012, is amended to read:

51602. (a) The agency shall require that occupancy of housing for which a loan is insured pursuant to this part shall be open to all regardless of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, and that contractors and subcontractors engaged in the construction or rehabilitation of housing funded by a loan insured pursuant to this part shall provide an equal opportunity for employment without discrimination as to any basis listed in subdivision (a) of Section 12940 of the Government Code,

as those bases are defined in Sections 12926 and 12926.1 of the Government Code, and except as otherwise provided in Section 12940 of the Government Code.

(b) Notwithstanding subdivision (a), with respect to familial status, subdivision (a) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51, ~~and Section~~ Sections 4760 and 6714 of the Civil Code, and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to subdivision (a).

(c) A qualified developer shall certify compliance with this section and Section 50955 according to requirements specified by the pertinent criteria of the agency.

Comment. Section 51602 is amended to add a cross-reference to Civil Code Section 6714, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

Health & Safety Code § 116048 (as operative Jan. 1, 2014)
(amended). Public swimming pool in common interest development

SEC. _____. Section 116048 of the Health and Safety Code, as it reads in Section 77 of Chapter 181 of the Statutes of 2012, is amended to read:

116048. (a) On or after January 1, 1987, for public swimming pools in any common interest development, as defined in Section 4100 or 6534 of the Civil Code, that consists of fewer than 25 separate interests, as defined in Section 4185 or in Section 6564 of the Civil Code, the person operating each pool open for use shall be required to keep a record of the information required by subdivision (a) of Section 65523 of Title 22 of the California Administrative Code, except that the information shall be recorded at least two times per week and at intervals no greater than four days apart.

(b) On or after January 1, 1987, any rule or regulation of the department that is in conflict with subdivision (a) is invalid.

Comment. Section 116048 is amended to add cross-references to Civil Code Sections 6534 and 6564, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

INSURANCE CODE

Ins. Code § 790.031 (as operative Jan. 1, 2014) (amended).

Application of Sections 790.034, 2071.1 and 10082.3

SEC. _____. Section 790.031 of the Insurance Code, as it reads in Section 78 of Chapter 181 of the Statutes of 2012, is amended to read:

790.031. The requirements of subdivision (b) of Section 790.034, and Sections 2071.1 and 10082.3 shall apply only to policies of residential property insurance as defined in Section 10087, policies and endorsements containing those coverages prescribed in Chapter 8.5 (commencing with Section 10081) of Part 1 of Division 2, policies issued by the California Earthquake Authority pursuant to Chapter 8.6 (commencing with Section 10089.5) of Part 1 of Division 2, policies and endorsements that insure against property damage and are issued to common interest developments or to associations managing common interest developments, as those terms are defined in Sections 4080 and 4100, or in Sections 6528 and 6534, of the Civil Code, and to policies issued pursuant to Section 120 that insure against property damage to residential units or contents thereof owned by one or more persons located in this state.

Comment. Section 790.031 is amended to add cross-references to Civil Code Sections 6528 and 6534, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

REVENUE AND TAXATION CODE

Rev. & Tax. Code § 2188.6 (as operative Jan. 1, 2014) (amended).**Separate assessment of property divided into condominiums**

SEC. _____. Section 2188.6 of the Revenue and Taxation Code, as it reads in Section 79 of Chapter 181 of the Statutes of 2012, is amended to read:

2188.6. (a) Unless a request for exemption has been recorded pursuant to subdivision (d), prior to the creation of a condominium as defined in Section 783 of the Civil Code, the county assessor may separately assess each individual unit which is shown on the condominium plan of a proposed condominium project when all of the following documents have been recorded as required by law:

(1) A subdivision final map or parcel map, as described in Sections 66434 and 66445, respectively, of the Government Code.

(2) A condominium plan, as defined in Section 4120 or in Section 6540 of the Civil Code.

(3) A declaration, as defined in Section 4135 or in Section 6546 of the Civil Code.

(b) The tax due on each individual unit shall constitute a lien solely on that unit.

(c) The lien created pursuant to this section shall be a lien on an undivided interest in a portion of real property coupled with a separate interest in space called a unit as described in Section 4125 or in Section 6542 of the Civil Code.

(d) The record owner of the real property may record with the condominium plan a request that the real property be exempt from separate assessment pursuant to this section. If a request for exemption is recorded, separate assessment of a condominium unit shall be made only in accordance with Section 2188.3.

(e) This section shall become operative on January 1, 1990, and shall apply to condominium projects for which a condominium plan is recorded after that date.

Comment. Section 2188.6 is amended to add cross-references to Civil Code Sections 6540, 6542, and 6546, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

VEHICLE CODE

Veh. Code § 21107.7 (as operative Jan. 1, 2014) (amended).**Private road not open to public use**

SEC. _____. Section 21107.7 of the Vehicle Code, as it reads in Section 80 of Chapter 181 of the Statutes of 2012, is amended to read:

21107.7. (a) Any city or county may, by ordinance or resolution, find and declare that there are privately owned and maintained roads as described in the ordinance or resolution within the city or county that are not generally held open for use of the public for purposes of vehicular travel but, by reason of their proximity to or connection with highways, the interests of any residents residing along the roads and the motoring public will best be served by application of the provisions of this code to those roads. No ordinance or resolution shall be enacted unless there is first filed with the city or county a petition requesting it by a majority of the owners of any privately owned and maintained road, or by at least a majority of the board of directors of a common interest development, as defined by Section 4100 or 6534 of the Civil Code, that is responsible for maintaining the road, and without a public hearing thereon and 10 days' prior written notice to all owners of the road or all of the owners in the development. Upon enactment of the ordinance or resolution, the provisions of this code shall apply to the privately owned and maintained road if appropriate signs are erected at the entrance to the road of the size, shape, and color as to be readily legible during daylight hours from a distance of 100 feet, to the effect that the road is subject to the provisions of this code. The city or county may impose reasonable conditions and may authorize the owners, or board of directors of the common interest development, to erect traffic signs, signals, markings, and devices which conform to the uniform standards and specifications adopted by the Department of Transportation.

(b) The department shall not be required to provide patrol or enforce any provisions of this code on any privately owned and maintained road subjected to the provisions of this code under this

section, except those provisions applicable to private property other than by action under this section.

(c) As used in this section, “privately owned and maintained roads” includes roads owned and maintained by a city, county, or district that are not dedicated to use by the public or are not generally held open for use of the public for purposes of vehicular travel.

Comment. Section 21107.7 is amended to add a cross-reference to Civil Code Section 6534, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

Veh. Code § 22651 (amended). Circumstances in which removal of vehicle is permitted

SEC. _____. Section 22651 of the Vehicle Code is amended to read:

22651. A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or a regularly employed and salaried employee, who is engaged in directing traffic or enforcing parking laws and regulations, of a city, county, or jurisdiction of a state agency in which a vehicle is located, may remove a vehicle located within the territorial limits in which the officer or employee may act, under the following circumstances:

(a) When a vehicle is left unattended upon a bridge, viaduct, or causeway or in a tube or tunnel where the vehicle constitutes an obstruction to traffic.

(b) When a vehicle is parked or left standing upon a highway in a position so as to obstruct the normal movement of traffic or in a condition so as to create a hazard to other traffic upon the highway.

(c) When a vehicle is found upon a highway or public land and a report has previously been made that the vehicle is stolen or a complaint has been filed and a warrant thereon is issued charging that the vehicle was embezzled.

(d) When a vehicle is illegally parked so as to block the entrance to a private driveway and it is impractical to move the vehicle from in front of the driveway to another point on the highway.

(e) When a vehicle is illegally parked so as to prevent access by firefighting equipment to a fire hydrant and it is impracticable to move the vehicle from in front of the fire hydrant to another point on the highway.

(f) When a vehicle, except highway maintenance or construction equipment, is stopped, parked, or left standing for more than four hours upon the right-of-way of a freeway that has full control of access and no crossings at grade and the driver, if present, cannot move the vehicle under its own power.

(g) When the person in charge of a vehicle upon a highway or public land is, by reason of physical injuries or illness, incapacitated to an extent so as to be unable to provide for its custody or removal.

(h)(1) When an officer arrests a person driving or in control of a vehicle for an alleged offense and the officer is, by this code or other law, required or permitted to take, and does take, the person into custody.

(2) When an officer serves a notice of an order of suspension or revocation pursuant to Section 13388 or 13389.

(i)(1) When a vehicle, other than a rented vehicle, is found upon a highway or public land, or is removed pursuant to this code, and it is known that the vehicle has been issued five or more notices of parking violations to which the owner or person in control of the vehicle has not responded within 21 calendar days of notice of citation issuance or citation issuance or 14 calendar days of the mailing of a notice of delinquent parking violation to the agency responsible for processing notices of parking violations, or the registered owner of the vehicle is known to have been issued five or more notices for failure to pay or failure to appear in court for traffic violations for which a certificate has not been issued by the magistrate or clerk of the court hearing the case showing that the case has been adjudicated or concerning which the registered owner's record has not been cleared pursuant to Chapter 6 (commencing with Section 41500) of Division 17, the vehicle may be impounded until that person furnishes to the impounding law enforcement agency all of the following:

(A) Evidence of his or her identity.

(B) An address within this state at which he or she can be located.

(C) Satisfactory evidence that all parking penalties due for the vehicle and all other vehicles registered to the registered owner of the impounded vehicle, and all traffic violations of the registered owner, have been cleared.

(2) The requirements in subparagraph (C) of paragraph (1) shall be fully enforced by the impounding law enforcement agency on and after the time that the Department of Motor Vehicles is able to provide access to the necessary records.

(3) A notice of parking violation issued for an unlawfully parked vehicle shall be accompanied by a warning that repeated violations may result in the impounding of the vehicle. In lieu of furnishing satisfactory evidence that the full amount of parking penalties or bail has been deposited, that person may demand to be taken without unnecessary delay before a magistrate, for traffic offenses, or a hearing examiner, for parking offenses, within the county in which the offenses charged are alleged to have been committed and who has jurisdiction of the offenses and is nearest or most accessible with reference to the place where the vehicle is impounded. Evidence of current registration shall be produced after a vehicle has been impounded, or, at the discretion of the impounding law enforcement agency, a notice to appear for violation of subdivision (a) of Section 4000 shall be issued to that person.

(4) A vehicle shall be released to the legal owner, as defined in Section 370, if the legal owner does all of the following:

(A) Pays the cost of towing and storing the vehicle.

(B) Submits evidence of payment of fees as provided in Section 9561.

(C) Completes an affidavit in a form acceptable to the impounding law enforcement agency stating that the vehicle was not in possession of the legal owner at the time of occurrence of the offenses relating to standing or parking. A vehicle released to a legal owner under this subdivision is a repossessed vehicle for purposes of disposition or sale. The impounding agency shall have a lien on any surplus that remains upon sale of the vehicle to which

the registered owner is or may be entitled, as security for the full amount of the parking penalties for all notices of parking violations issued for the vehicle and for all local administrative charges imposed pursuant to Section 22850.5. The legal owner shall promptly remit to, and deposit with, the agency responsible for processing notices of parking violations from that surplus, on receipt of that surplus, the full amount of the parking penalties for all notices of parking violations issued for the vehicle and for all local administrative charges imposed pursuant to Section 22850.5.

(5) The impounding agency that has a lien on the surplus that remains upon the sale of a vehicle to which a registered owner is entitled pursuant to paragraph (4) has a deficiency claim against the registered owner for the full amount of the parking penalties for all notices of parking violations issued for the vehicle and for all local administrative charges imposed pursuant to Section 22850.5, less the amount received from the sale of the vehicle.

(j) When a vehicle is found illegally parked and there are no license plates or other evidence of registration displayed, the vehicle may be impounded until the owner or person in control of the vehicle furnishes the impounding law enforcement agency evidence of his or her identity and an address within this state at which he or she can be located.

(k) When a vehicle is parked or left standing upon a highway for 72 or more consecutive hours in violation of a local ordinance authorizing removal.

(l) When a vehicle is illegally parked on a highway in violation of a local ordinance forbidding standing or parking and the use of a highway, or a portion thereof, is necessary for the cleaning, repair, or construction of the highway, or for the installation of underground utilities, and signs giving notice that the vehicle may be removed are erected or placed at least 24 hours prior to the removal by a local authority pursuant to the ordinance.

(m) When the use of the highway, or a portion of the highway, is authorized by a local authority for a purpose other than the normal flow of traffic or for the movement of equipment, articles, or structures of unusual size, and the parking of a vehicle would prohibit or interfere with that use or movement, and signs giving

notice that the vehicle may be removed are erected or placed at least 24 hours prior to the removal by a local authority pursuant to the ordinance.

(n) Whenever a vehicle is parked or left standing where local authorities, by resolution or ordinance, have prohibited parking and have authorized the removal of vehicles. Except as provided in subdivisions (v) and (w), a vehicle shall not be removed unless signs are posted giving notice of the removal.

(o)(1) When a vehicle is found or operated upon a highway, public land, or an offstreet parking facility under the following circumstances:

(A) With a registration expiration date in excess of six months before the date it is found or operated on the highway, public lands, or the offstreet parking facility.

(B) Displaying in, or upon, the vehicle, a registration card, identification card, temporary receipt, license plate, special plate, registration sticker, device issued pursuant to Section 4853, or permit that was not issued for that vehicle, or is not otherwise lawfully used on that vehicle under this code.

(C) Displaying in, or upon, the vehicle, an altered, forged, counterfeit, or falsified registration card, identification card, temporary receipt, license plate, special plate, registration sticker, device issued pursuant to Section 4853, or permit.

(2) When a vehicle described in paragraph (1) is occupied, only a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, may remove the vehicle.

(3) For the purposes of this subdivision, the vehicle shall be released under either of the following circumstances:

(A) To the registered owner or person in control of the vehicle only after the owner or person furnishes the storing law enforcement agency with proof of current registration and a currently valid driver's license to operate the vehicle.

(B) To the legal owner or the legal owner's agency, without payment of any fees, fines, or penalties for parking tickets or registration and without proof of current registration, if the vehicle

will only be transported pursuant to the exemption specified in Section 4022 and if the legal owner does all of the following:

(i) Pays the cost of towing and storing the vehicle.

(ii) Completes an affidavit in a form acceptable to the impounding law enforcement agency stating that the vehicle was not in possession of the legal owner at the time of occurrence of an offense relating to standing or parking. A vehicle released to a legal owner under this subdivision is a repossessed vehicle for purposes of disposition or sale. The impounding agency has a lien on any surplus that remains upon sale of the vehicle to which the registered owner is or may be entitled, as security for the full amount of parking penalties for any notices of parking violations issued for the vehicle and for all local administrative charges imposed pursuant to Section 22850.5. Upon receipt of any surplus, the legal owner shall promptly remit to, and deposit with, the agency responsible for processing notices of parking violations from that surplus, the full amount of the parking penalties for all notices of parking violations issued for the vehicle and for all local administrative charges imposed pursuant to Section 22850.5.

(4) The impounding agency that has a lien on the surplus that remains upon the sale of a vehicle to which a registered owner is entitled has a deficiency claim against the registered owner for the full amount of parking penalties for any notices of parking violations issued for the vehicle and for all local administrative charges imposed pursuant to Section 22850.5, less the amount received from the sale of the vehicle.

(5) As used in this subdivision, “offstreet parking facility” means an offstreet facility held open for use by the public for parking vehicles and includes a publicly owned facility for offstreet parking, and a privately owned facility for offstreet parking if a fee is not charged for the privilege to park and it is held open for the common public use of retail customers.

(p) When the peace officer issues the driver of a vehicle a notice to appear for a violation of Section 12500, 14601, 14601.1, 14601.2, 14601.3, 14601.4, 14601.5, or 14604 and the vehicle is not impounded pursuant to Section 22655.5. A vehicle so removed from the highway or public land, or from private property after

having been on a highway or public land, shall not be released to the registered owner or his or her agent, except upon presentation of the registered owner's or his or her agent's currently valid driver's license to operate the vehicle and proof of current vehicle registration, to the impounding law enforcement agency, or upon order of a court.

(q) When a vehicle is parked for more than 24 hours on a portion of highway that is located within the boundaries of a common interest development, as defined in Section 4100 or in Section 6534 of the Civil Code, and signs, as required by paragraph (1) of subdivision (a) of Section 22658 of this code, have been posted on that portion of highway providing notice to drivers that vehicles parked thereon for more than 24 hours will be removed at the owner's expense, pursuant to a resolution or ordinance adopted by the local authority.

(r) When a vehicle is illegally parked and blocks the movement of a legally parked vehicle.

(s)(1) When a vehicle, except highway maintenance or construction equipment, an authorized emergency vehicle, or a vehicle that is properly permitted or otherwise authorized by the Department of Transportation, is stopped, parked, or left standing for more than eight hours within a roadside rest area or viewpoint.

(2) Notwithstanding paragraph (1), when a commercial motor vehicle, as defined in paragraph (1) of subdivision (b) of Section 15210, is stopped, parked, or left standing for more than 10 hours within a roadside rest area or viewpoint.

(3) For purposes of this subdivision, a roadside rest area or viewpoint is a publicly maintained vehicle parking area, adjacent to a highway, utilized for the convenient, safe stopping of a vehicle to enable motorists to rest or to view the scenery. If two or more roadside rest areas are located on opposite sides of the highway, or upon the center divider, within seven miles of each other, then that combination of rest areas is considered to be the same rest area.

(t) When a peace officer issues a notice to appear for a violation of Section 25279.

(u) When a peace officer issues a citation for a violation of Section 11700 and the vehicle is being offered for sale.

(v)(1) When a vehicle is a mobile billboard advertising display, as defined in Section 395.5, and is parked or left standing in violation of a local resolution or ordinance adopted pursuant to subdivision (m) of Section 21100, if the registered owner of the vehicle was previously issued a warning citation for the same offense, pursuant to paragraph (2).

(2) Notwithstanding subdivision (a) of Section 22507, a city or county, in lieu of posting signs noticing a local ordinance prohibiting mobile billboard advertising displays adopted pursuant to subdivision (m) of Section 21100, may provide notice by issuing a warning citation advising the registered owner of the vehicle that he or she may be subject to penalties upon a subsequent violation of the ordinance, that may include the removal of the vehicle as provided in paragraph (1). A city or county is not required to provide further notice for a subsequent violation prior to the enforcement of penalties for a violation of the ordinance.

(w)(1) When a vehicle is parked or left standing in violation of a local ordinance or resolution adopted pursuant to subdivision (p) of Section 21100, if the registered owner of the vehicle was previously issued a warning citation for the same offense, pursuant to paragraph (2).

(2) Notwithstanding subdivision (a) of Section 22507, a city or county, in lieu of posting signs noticing a local ordinance regulating advertising signs adopted pursuant to subdivision (p) of Section 21100, may provide notice by issuing a warning citation advising the registered owner of the vehicle that he or she may be subject to penalties upon a subsequent violation of the ordinance that may include the removal of the vehicle as provided in paragraph (1). A city or county is not required to provide further notice for a subsequent violation prior to the enforcement of penalties for a violation of the ordinance.

Comment. Subdivision (q) of Section 22651 is amended to add a cross-reference to Civil Code Section 6534, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

Veh. Code § 22651.05 (as operative Jan. 1, 2014) (amended).**Removal of vehicle by trained volunteer in specified circumstances**

SEC. _____. Section 22651.05 of the Vehicle Code, as it reads in Section 82 of Chapter 181 of the Statutes of 2012, is amended to read:

22651.05. (a) A trained volunteer of a state or local law enforcement agency, who is engaged in directing traffic or enforcing parking laws and regulations, of a city, county, or jurisdiction of a state agency in which a vehicle is located, may remove or authorize the removal of a vehicle located within the territorial limits in which an officer or employee of that agency may act, under any of the following circumstances:

(1) When a vehicle is parked or left standing upon a highway for 72 or more consecutive hours in violation of a local ordinance authorizing the removal.

(2) When a vehicle is illegally parked or left standing on a highway in violation of a local ordinance forbidding standing or parking and the use of a highway, or a portion thereof, is necessary for the cleaning, repair, or construction of the highway, or for the installation of underground utilities, and signs giving notice that the vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance.

(3) Wherever the use of the highway, or a portion thereof, is authorized by local authorities for a purpose other than the normal flow of traffic or for the movement of equipment, articles, or structures of unusual size, and the parking of a vehicle would prohibit or interfere with that use or movement, and signs giving notice that the vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance.

(4) Whenever a vehicle is parked or left standing where local authorities, by resolution or ordinance, have prohibited parking and have authorized the removal of vehicles. A vehicle may not be removed unless signs are posted giving notice of the removal.

(5) Whenever a vehicle is parked for more than 24 hours on a portion of highway that is located within the boundaries of a

common interest development, as defined in Section 4100 or in Section 6534 of the Civil Code, and signs, as required by Section 22658.2, have been posted on that portion of highway providing notice to drivers that vehicles parked thereon for more than 24 hours will be removed at the owner's expense, pursuant to a resolution or ordinance adopted by the local authority.

(b) The provisions of this chapter that apply to a vehicle removed pursuant to Section 22651 apply to a vehicle removed pursuant to subdivision (a).

(c) For purposes of subdivision (a), a "trained volunteer" is a person who, of his or her own free will, provides services, without any financial gain, to a local or state law enforcement agency, and who is duly trained and certified to remove a vehicle by a local or state law enforcement agency.

Comment. Section 22651.05 is amended to add a cross-reference to Civil Code Section 6534, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

Veh. Code § 22658 (as operative Jan. 1, 2014) (amended).

Removal of vehicle from private property by property owner

SEC. _____. Section 22658 of the Vehicle Code, as it reads in Section 83 of Chapter 181 of the Statutes of 2012, is amended to read:

22658. (a) The owner or person in lawful possession of private property, including an association of a common interest development as defined in Sections 4080 and 4100, or in Sections 6528 and 6534, of the Civil Code, may cause the removal of a vehicle parked on the property to a storage facility that meets the requirements of subdivision (n) under any of the following circumstances:

(1) There is displayed, in plain view at all entrances to the property, a sign not less than 17 inches by 22 inches in size, with lettering not less than one inch in height, prohibiting public parking and indicating that vehicles will be removed at the owner's expense, and containing the telephone number of the local traffic law enforcement agency and the name and telephone number of

each towing company that is a party to a written general towing authorization agreement with the owner or person in lawful possession of the property. The sign may also indicate that a citation may also be issued for the violation.

(2) The vehicle has been issued a notice of parking violation, and 96 hours have elapsed since the issuance of that notice.

(3) The vehicle is on private property and lacks an engine, transmission, wheels, tires, doors, windshield, or any other major part or equipment necessary to operate safely on the highways, the owner or person in lawful possession of the private property has notified the local traffic law enforcement agency, and 24 hours have elapsed since that notification.

(4) The lot or parcel upon which the vehicle is parked is improved with a single-family dwelling.

(b) The tow truck operator removing the vehicle, if the operator knows or is able to ascertain from the property owner, person in lawful possession of the property, or the registration records of the Department of Motor Vehicles the name and address of the registered and legal owner of the vehicle, shall immediately give, or cause to be given, notice in writing to the registered and legal owner of the fact of the removal, the grounds for the removal, and indicate the place to which the vehicle has been removed. If the vehicle is stored in a storage facility, a copy of the notice shall be given to the proprietor of the storage facility. The notice provided for in this section shall include the amount of mileage on the vehicle at the time of removal and the time of the removal from the property. If the tow truck operator does not know and is not able to ascertain the name of the owner or for any other reason is unable to give the notice to the owner as provided in this section, the tow truck operator shall comply with the requirements of subdivision (c) of Section 22853 relating to notice in the same manner as applicable to an officer removing a vehicle from private property.

(c) This section does not limit or affect any right or remedy that the owner or person in lawful possession of private property may have by virtue of other provisions of law authorizing the removal of a vehicle parked upon private property.

(d) The owner of a vehicle removed from private property pursuant to subdivision (a) may recover for any damage to the vehicle resulting from any intentional or negligent act of a person causing the removal of, or removing, the vehicle.

(e)(1) An owner or person in lawful possession of private property, or an association of a common interest development, causing the removal of a vehicle parked on that property is liable for double the storage or towing charges whenever there has been a failure to comply with paragraph (1), (2), or (3) of subdivision (a) or to state the grounds for the removal of the vehicle if requested by the legal or registered owner of the vehicle as required by subdivision (f).

(2) A property owner or owner's agent or lessee who causes the removal of a vehicle parked on that property pursuant to the exemption set forth in subparagraph (A) of paragraph (1) of subdivision (l) and fails to comply with that subdivision is guilty of an infraction, punishable by a fine of one thousand dollars (\$1,000).

(f) An owner or person in lawful possession of private property, or an association of a common interest development, causing the removal of a vehicle parked on that property shall notify by telephone or, if impractical, by the most expeditious means available, the local traffic law enforcement agency within one hour after authorizing the tow. An owner or person in lawful possession of private property, an association of a common interest development, causing the removal of a vehicle parked on that property, or the tow truck operator who removes the vehicle, shall state the grounds for the removal of the vehicle if requested by the legal or registered owner of that vehicle. A towing company that removes a vehicle from private property in compliance with subdivision (l) is not responsible in a situation relating to the validity of the removal. A towing company that removes the vehicle under this section shall be responsible for the following:

(1) Damage to the vehicle in the transit and subsequent storage of the vehicle.

(2) The removal of a vehicle other than the vehicle specified by the owner or other person in lawful possession of the private property.

(g)(1)(A) Possession of a vehicle under this section shall be deemed to arise when a vehicle is removed from private property and is in transit.

(B) Upon the request of the owner of the vehicle or that owner's agent, the towing company or its driver shall immediately and unconditionally release a vehicle that is not yet removed from the private property and in transit.

(C) A person failing to comply with subparagraph (B) is guilty of a misdemeanor.

(2) If a vehicle is released to a person in compliance with subparagraph (B) of paragraph (1), the vehicle owner or authorized agent shall immediately move that vehicle to a lawful location.

(h) A towing company may impose a charge of not more than one-half of the regular towing charge for the towing of a vehicle at the request of the owner, the owner's agent, or the person in lawful possession of the private property pursuant to this section if the owner of the vehicle or the vehicle owner's agent returns to the vehicle after the vehicle is coupled to the tow truck by means of a regular hitch, coupling device, drawbar, portable dolly, or is lifted off the ground by means of a conventional trailer, and before it is removed from the private property. The regular towing charge may only be imposed after the vehicle has been removed from the property and is in transit.

(i)(1)(A) A charge for towing or storage, or both, of a vehicle under this section is excessive if the charge exceeds the greater of the following:

(i) That which would have been charged for that towing or storage, or both, made at the request of a law enforcement agency under an agreement between a towing company and the law enforcement agency that exercises primary jurisdiction in the city in which is located the private property from which the vehicle was, or was attempted to be, removed, or if the private property is not located within a city, then the law enforcement agency that

exercises primary jurisdiction in the county in which the private property is located.

(ii) That which would have been charged for that towing or storage, or both, under the rate approved for that towing operator by the Department of the California Highway Patrol for the jurisdiction in which the private property is located and from which the vehicle was, or was attempted to be, removed.

(B) A towing operator shall make available for inspection and copying his or her rate approved by the California Highway Patrol, if any, within 24 hours of a request without a warrant to law enforcement, the Attorney General, district attorney, or city attorney.

(2) If a vehicle is released within 24 hours from the time the vehicle is brought into the storage facility, regardless of the calendar date, the storage charge shall be for only one day. Not more than one day's storage charge may be required for a vehicle released the same day that it is stored.

(3) If a request to release a vehicle is made and the appropriate fees are tendered and documentation establishing that the person requesting release is entitled to possession of the vehicle, or is the owner's insurance representative, is presented within the initial 24 hours of storage, and the storage facility fails to comply with the request to release the vehicle or is not open for business during normal business hours, then only one day's storage charge may be required to be paid until after the first business day. A business day is any day in which the lienholder is open for business to the public for at least eight hours. If a request is made more than 24 hours after the vehicle is placed in storage, charges may be imposed on a full calendar day basis for each day, or part thereof, that the vehicle is in storage.

(j)(1) A person who charges a vehicle owner a towing, service, or storage charge at an excessive rate, as described in subdivision (h) or (i), is civilly liable to the vehicle owner for four times the amount charged.

(2) A person who knowingly charges a vehicle owner a towing, service, or storage charge at an excessive rate, as described in subdivision (h) or (i), or who fails to make available his or her rate

as required in subparagraph (B) of paragraph (1) of subdivision (i), is guilty of a misdemeanor, punishable by a fine of not more than two thousand five hundred dollars (\$2,500), or by imprisonment in the county jail for not more than three months, or by both that fine and imprisonment.

(k)(1) A person operating or in charge of a storage facility where vehicles are stored pursuant to this section shall accept a valid bank credit card or cash for payment of towing and storage by a registered owner, the legal owner, or the owner's agent claiming the vehicle. A credit card shall be in the name of the person presenting the card. "Credit card" means "credit card" as defined in subdivision (a) of Section 1747.02 of the Civil Code, except, for the purposes of this section, credit card does not include a credit card issued by a retail seller.

(2) A person described in paragraph (1) shall conspicuously display, in that portion of the storage facility office where business is conducted with the public, a notice advising that all valid credit cards and cash are acceptable means of payment.

(3) A person operating or in charge of a storage facility who refuses to accept a valid credit card or who fails to post the required notice under paragraph (2) is guilty of a misdemeanor, punishable by a fine of not more than two thousand five hundred dollars (\$2,500), or by imprisonment in the county jail for not more than three months, or by both that fine and imprisonment.

(4) A person described in paragraph (1) who violates paragraph (1) or (2) is civilly liable to the registered owner of the vehicle or the person who tendered the fees for four times the amount of the towing and storage charges.

(5) A person operating or in charge of the storage facility shall have sufficient moneys on the premises of the primary storage facility during normal business hours to accommodate, and make change in, a reasonable monetary transaction.

(6) Credit charges for towing and storage services shall comply with Section 1748.1 of the Civil Code. Law enforcement agencies may include the costs of providing for payment by credit when making agreements with towing companies as described in subdivision (i).

(D)(1)(A) A towing company shall not remove or commence the removal of a vehicle from private property without first obtaining the written authorization from the property owner or lessee, including an association of a common interest development, or an employee or agent thereof, who shall be present at the time of removal and verify the alleged violation, except that presence and verification is not required if the person authorizing the tow is the property owner, or the owner's agent who is not a tow operator, of a residential rental property of 15 or fewer units that does not have an onsite owner, owner's agent or employee, and the tenant has verified the violation, requested the tow from that tenant's assigned parking space, and provided a signed request or electronic mail, or has called and provides a signed request or electronic mail within 24 hours, to the property owner or owner's agent, which the owner or agent shall provide to the towing company within 48 hours of authorizing the tow. The signed request or electronic mail shall contain the name and address of the tenant, and the date and time the tenant requested the tow. A towing company shall obtain, within 48 hours of receiving the written authorization to tow, a copy of a tenant request required pursuant to this subparagraph. For the purpose of this subparagraph, a person providing the written authorization who is required to be present on the private property at the time of the tow does not have to be physically present at the specified location of where the vehicle to be removed is located on the private property.

(B) The written authorization under subparagraph (A) shall include all of the following:

(i) The make, model, vehicle identification number, and license plate number of the removed vehicle.

(ii) The name, signature, job title, residential or business address, and working telephone number of the person, described in subparagraph (A), authorizing the removal of the vehicle.

(iii) The grounds for the removal of the vehicle.

(iv) The time when the vehicle was first observed parked at the private property.

(v) The time that authorization to tow the vehicle was given.

(C)(i) When the vehicle owner or his or her agent claims the vehicle, the towing company prior to payment of a towing or storage charge shall provide a photocopy of the written authorization to the vehicle owner or the agent.

(ii) If the vehicle was towed from a residential property, the towing company shall redact the information specified in clause (ii) of subparagraph (B) in the photocopy of the written authorization provided to the vehicle owner or the agent pursuant to clause (i).

(iii) The towing company shall also provide to the vehicle owner or the agent a separate notice that provides the telephone number of the appropriate local law enforcement or prosecuting agency by stating “If you believe that you have been wrongfully towed, please contact the local law enforcement or prosecuting agency at [insert appropriate telephone number].” The notice shall be in English and in the most populous language, other than English, that is spoken in the jurisdiction.

(D) A towing company shall not remove or commence the removal of a vehicle from private property described in subdivision (a) of Section 22953 unless the towing company has made a good faith inquiry to determine that the owner or the property owner’s agent complied with Section 22953.

(E)(i) General authorization to remove or commence removal of a vehicle at the towing company’s discretion shall not be delegated to a towing company or its affiliates except in the case of a vehicle unlawfully parked within 15 feet of a fire hydrant or in a fire lane, or in a manner which interferes with an entrance to, or exit from, the private property.

(ii) In those cases in which general authorization is granted to a towing company or its affiliate to undertake the removal or commence the removal of a vehicle that is unlawfully parked within 15 feet of a fire hydrant or in a fire lane, or that interferes with an entrance to, or exit from, private property, the towing company and the property owner, or owner’s agent, or person in lawful possession of the private property shall have a written agreement granting that general authorization.

(2) If a towing company removes a vehicle under a general authorization described in subparagraph (E) of paragraph (1) and that vehicle is unlawfully parked within 15 feet of a fire hydrant or in a fire lane, or in a manner that interferes with an entrance to, or exit from, the private property, the towing company shall take, prior to the removal of that vehicle, a photograph of the vehicle that clearly indicates that parking violation. Prior to accepting payment, the towing company shall keep one copy of the photograph taken pursuant to this paragraph, and shall present that photograph and provide, without charge, a photocopy to the owner or an agent of the owner, when that person claims the vehicle.

(3) A towing company shall maintain the original written authorization, or the general authorization described in subparagraph (E) of paragraph (1) and the photograph of the violation, required pursuant to this section, and any written requests from a tenant to the property owner or owner's agent required by subparagraph (A) of paragraph (1), for a period of three years and shall make them available for inspection and copying within 24 hours of a request without a warrant to law enforcement, the Attorney General, district attorney, or city attorney.

(4) A person who violates this subdivision is guilty of a misdemeanor, punishable by a fine of not more than two thousand five hundred dollars (\$2,500), or by imprisonment in the county jail for not more than three months, or by both that fine and imprisonment.

(5) A person who violates this subdivision is civilly liable to the owner of the vehicle or his or her agent for four times the amount of the towing and storage charges.

(m)(1) A towing company that removes a vehicle from private property under this section shall notify the local law enforcement agency of that tow after the vehicle is removed from the private property and is in transit.

(2) A towing company is guilty of a misdemeanor if the towing company fails to provide the notification required under paragraph (1) within 60 minutes after the vehicle is removed from the private

property and is in transit or 15 minutes after arriving at the storage facility, whichever time is less.

(3) A towing company that does not provide the notification under paragraph (1) within 30 minutes after the vehicle is removed from the private property and is in transit is civilly liable to the registered owner of the vehicle, or the person who tenders the fees, for three times the amount of the towing and storage charges.

(4) If notification is impracticable, the times for notification, as required pursuant to paragraphs (2) and (3), shall be tolled for the time period that notification is impracticable. This paragraph is an affirmative defense.

(n) A vehicle removed from private property pursuant to this section shall be stored in a facility that meets all of the following requirements:

(1)(A) Is located within a 10-mile radius of the property from where the vehicle was removed.

(B) The 10-mile radius requirement of subparagraph (A) does not apply if a towing company has prior general written approval from the law enforcement agency that exercises primary jurisdiction in the city in which is located the private property from which the vehicle was removed, or if the private property is not located within a city, then the law enforcement agency that exercises primary jurisdiction in the county in which is located the private property.

(2)(A) Remains open during normal business hours and releases vehicles after normal business hours.

(B) A gate fee may be charged for releasing a vehicle after normal business hours, weekends, and state holidays. However, the maximum hourly charge for releasing a vehicle after normal business hours shall be one-half of the hourly tow rate charged for initially towing the vehicle, or less.

(C) Notwithstanding any other provision of law and for purposes of this paragraph, “normal business hours” are Monday to Friday, inclusive, from 8 a.m. to 5 p.m., inclusive, except state holidays.

(3) Has a public pay telephone in the office area that is open and accessible to the public.

(o)(1) It is the intent of the Legislature in the adoption of subdivision (k) to assist vehicle owners or their agents by, among other things, allowing payment by credit cards for towing and storage services, thereby expediting the recovery of towed vehicles and concurrently promoting the safety and welfare of the public.

(2) It is the intent of the Legislature in the adoption of subdivision (l) to further the safety of the general public by ensuring that a private property owner or lessee has provided his or her authorization for the removal of a vehicle from his or her property, thereby promoting the safety of those persons involved in ordering the removal of the vehicle as well as those persons removing, towing, and storing the vehicle.

(3) It is the intent of the Legislature in the adoption of subdivision (g) to promote the safety of the general public by requiring towing companies to unconditionally release a vehicle that is not lawfully in their possession, thereby avoiding the likelihood of dangerous and violent confrontation and physical injury to vehicle owners and towing operators, the stranding of vehicle owners and their passengers at a dangerous time and location, and impeding expedited vehicle recovery, without wasting law enforcement's limited resources.

(p) The remedies, sanctions, restrictions, and procedures provided in this section are not exclusive and are in addition to other remedies, sanctions, restrictions, or procedures that may be provided in other provisions of law, including, but not limited to, those that are provided in Sections 12110 and 34660.

(q) A vehicle removed and stored pursuant to this section shall be released by the law enforcement agency, impounding agency, or person in possession of the vehicle, or any person acting on behalf of them, to the legal owner or the legal owner's agent upon presentation of the assignment, as defined in subdivision (b) of Section 7500.1 of the Business and Professions Code; a release from the one responsible governmental agency, only if required by the agency; a government-issued photographic identification card; and any one of the following as determined by the legal owner or the legal owner's agent: a certificate of repossession for the vehicle, a security agreement for the vehicle, or title, whether

paper or electronic, showing proof of legal ownership for the vehicle. Any documents presented may be originals, photocopies, or facsimile copies, or may be transmitted electronically. The storage facility shall not require any documents to be notarized. The storage facility may require the agent of the legal owner to produce a photocopy or facsimile copy of its repossession agency license or registration issued pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code, or to demonstrate, to the satisfaction of the storage facility, that the agent is exempt from licensure pursuant to Section 7500.2 or 7500.3 of the Business and Professions Code.

Comment. Subdivision (a) of Section 22658 is amended to add cross-references to Civil Code Section 6528 and 6534, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

WATER CODE

Water Code § 13553 (as operative Jan. 1, 2014) (amended).

Recycled water

SEC. _____. Section 13553 of the Water Code, as it reads in Section 84 of Chapter 181 of the Statutes of 2012, is amended to read:

13553. (a) The Legislature hereby finds and declares that the use of potable domestic water for toilet and urinal flushing in structures is a waste or an unreasonable use of water within the meaning of Section 2 of Article X of the California Constitution if recycled water, for these uses, is available to the user and meets the requirements set forth in Section 13550, as determined by the state board after notice and a hearing.

(b) The state board may require a public agency or person subject to this section to furnish any information that may be relevant to making the determination required in subdivision (a).

(c) For purposes of this section and Section 13554, “structure” or “structures” means commercial, retail, and office buildings, theaters, auditoriums, condominium projects, schools, hotels, apartments, barracks, dormitories, jails, prisons, and reformatories,

and other structures as determined by the State Department of Public Health.

(d) Recycled water may be used in condominium projects, as defined in Section 4125 or 6542 of the Civil Code, subject to all of the following conditions:

(1) Prior to the indoor use of recycled water in any condominium project, the agency delivering the recycled water to the condominium project shall file a report with, and receive written approval of the report from, the State Department of Public Health. The report shall be consistent with the provisions of Title 22 of the California Code of Regulations generally applicable to dual-plumbed structures and shall include all the following:

(A) That potable water service to each condominium project will be provided with a backflow protection device approved by the State Department of Public Health to protect the agency's public water system, as defined in Section 116275 of the Health and Safety Code. The backflow protection device approved by the State Department of Public Health shall be inspected and tested annually by a person certified in the inspection of backflow prevention devices.

(B) That any plumbing modifications in the condominium unit or any physical alteration of the structure will be done in compliance with state and local plumbing codes.

(C) That each condominium project will be tested by the recycled water agency or the responsible local agency at least once every four years to ensure that there are no indications of a possible cross connection between the condominium's potable and nonpotable systems.

(D) That recycled water lines will be color coded consistent with current statutes and regulations.

(2) The recycled water agency or the responsible local agency shall maintain records of all tests and annual inspections conducted.

(3) The condominium's declaration, as defined in Section 4135 or 6546 of the Civil Code, shall provide that the laws and regulations governing recycled water apply, shall not permit any exceptions to those laws and regulations, shall incorporate the

report described in paragraph (1), and shall contain the following statement:

“NOTICE OF USE OF RECYCLED WATER

This property is approved by the State Department of Public Health for the use of recycled water for toilet and urinal flushing. This water is not potable, is not suitable for indoor purposes other than toilet and urinal flushing purposes, and requires dual plumbing. Alterations and modifications to the plumbing system require a permit and are prohibited without first consulting with the appropriate local building code enforcement agency and your property management company or ~~homeowners’~~ owners’ association to ensure that the recycled water is not mixed with the drinking water.”

(e) The State Department of Public Health may adopt regulations as necessary to assist in the implementation of this section.

(f) This section shall only apply to condominium projects that are created, within the meaning of Section 4030 or 6580 of the Civil Code, on or after January 1, 2008.

(g) This section and Section 13554 do not apply to a pilot program adopted pursuant to Section 13553.1.

Comment. Subdivision (d) of Section 13553 is amended to add cross-references to Civil Code Sections 6542 and 6546, and to make a terminological change, reflecting the enactment of the Commercial and Industrial Common Interest Development Act (Civ. Code §§ 6500-6876).

Subdivision (f) is amended to add a cross-reference to Civil Code Section 6580, for the same reason.

DISPOSITION OF EXISTING LAW

The table below shows the disposition of each provision of the existing Davis-Stirling Common Interest Development Act in the proposed law. All references are to the Civil Code.

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
1350	not continued
1350.5.....	6502
1350.7.....	not continued
1351 (intro.)	6526
1351(a)	6528
1351(b)	6532
1351(c)	6534
1351(d)	not continued
1351(e)(1), (2)	6624
1351(e)(3)	6624, 6626(a)
1351(e) (next to last ¶)	6626(b)-(c)
1351(e) (last ¶)	6628
1351(f).....	6542
1351(g)	6544
1351(h)	6546
1351(i).....	6550
1351(j)	6552
1351(k)	6562
1351(l)	6564
1351(m)	6566
1352	6580
1352.5.....	6606(a)-(b), (d)
1353(a)(1) (1st & 2d sent.).....	6614(a)
1353(a)(1) (except 1st & 2d sent.)-(a)(4).....	not continued
1353(b)	6614(b)
1353.5.....	6702
1353.6.....	6704
1353.7.....	not continued (but see 6600(a))
1353.8.....	6712

Existing Provision***Proposed Provision(s)***

1353.9.....	6713
1354(a)-(b)	6856
1354(c)	not continued
1355(a) (1st sent.)	6620(a) (1st sent.)
1355(a)(1)	6620(a)(2)
1355(a)(2)	6620(a)(3)
1355(a)(3)	6620(a)(4)
1355(b) (1st sent.)	6616
1355(b)(1)	6620(a)(1)
1355(b)(2)	6620(a)(2), 6620(b)
1355(b)(3)	6620(a)(3)
1355(b) (last sent.)	not continued
1355.5.....	6608
1356	not continued
1357(a)	6618(a)
1357(b) (1st sent.)	6618(b), 6620
1357(b) (2nd sent.)	not continued
1357(c)	not continued
1357(d)	6618(c)
1357.100(a)	6630
1357.100(b)	not continued
1357.110.....	6632
1357.120.....	not continued
1357.130.....	not continued
1357.140.....	not continued
1357.150.....	not continued
1358(a)	not continued
1358(b)	6662
1358(c)	6664
1358(d)	6666
1358 (next to last ¶).....	6668
1358 (last ¶).....	6670
1359	6656
1360	6714
1360.2.....	not continued
1360.5.....	6706

Existing Provision***Proposed Provision(s)***

1361	6652
1361.5.....	6654
1362	6650
1363(a)	6750
1363(b)	not continued
1363(c)	6752
1363(d)	not continued
1363(e)	not continued
1363(f) (1st sent.)	6850
1363(f) (2nd sent.)	not continued
1363(g)	not continued
1363(h)	not continued
1363(i)	6854
1363.001.....	not continued
1363.005.....	not continued
1363.03.....	not continued
1363.04.....	not continued
1363.05.....	not continued
1363.07.....	not continued
1363.09	not continued
1363.1.....	not continued
1363.2.....	not continued
1363.5.....	6622
1363.6.....	6760
1363.810.....	not continued
1363.820.....	not continued
1363.830.....	not continued
1363.840.....	not continued
1363.850.....	not continued
1364(a)	6716(a)
1364(b)	6718
1364(c)	6716(b)
1364(d)-(e)	6720
1364(f)	6722
1365	not continued
1365.1.....	not continued

Existing Provision***Proposed Provision(s)***

1365.2.....	not continued
1365.2.5.....	not continued
1365.3.....	not continued
1365.5.....	not continued
1365.6.....	6758(a)
1365.7.....	not continued
1365.9.....	6840
1366(a) (1st sent.)	6800
1366(a) (except 1st sent.)	not continued
1366(b)	not continued
1366(c)	6804
1366(d)	not continued
1366(e)	not continued
1366(f).....	6808(b)
1366.1.....	not continued
1366.2.....	not continued
1366.4.....	not continued
1367	not continued (but see 6828)
1367.1(a) (1st sent.)	6808(a)
1367.1(a) (2d sent.)	6812 (intro.)
1367.1(a)(1)-(3)	6812(a)-(c)
1367.1(a)(4)-(6)	not continued
1367.1(b) (1st sent.)	not continued
1367.1(b) (2nd - 4th sent.)	6810
1367.1(c)	not continued
1367.1(d) (1st - 5th sent.).....	6814(a)-(e)
1367.1(d) (6th sent.).....	6818(a)
1367.1(d) (7th sent.).....	6824(a)
1367.1(d) (8th sent.).....	not continued
1367.1(e)	6824(b)
1367.1(f).....	6816
1367.1(g) (1st sent.)	6826
1367.1(g) (2d sent.).....	6820(a)
1367.1(g) (3d sent.).....	6822(a)
1367.1(g) (4th sent.).....	6822(c) (intro.)
1367.1(g)(1)-(2)	6822(c)(1)-(2)

Existing Provision***Proposed Provision(s)***

1367.1(h)	6820(b)
1367.1(i)	6818(b)
1367.1(j)	6822(b)
1367.1(k)	not continued
1367.1(l)	6819
1367.1(m)	not continued (but see 6828)
1367.1(n)	not continued
1367.4	not continued
1367.5	not continued
1367.6	not continued
1368	not continued
1368.1	6710
1368.2	not continued
1368.3	6858
1368.4	6860
1368.5	6876
1369	6658
1369.510	not continued
1369.520	not continued
1369.530	not continued
1369.540	not continued
1369.550	not continued
1369.560	not continued
1369.570	not continued
1369.580	not continued
1369.590	not continued
1370	6602
1371	6604
1372	6510
1373	6582(a), 6531
1374	6582(b)
1375	6870

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
1375.1.....	6874
1376	6708
1378	not continued

SIMILAR PROVISIONS IN
RECODIFIED DAVIS-STIRLING
COMMON INTEREST DEVELOPMENT ACT
(OPERATIVE JANUARY 1, 2014)

The table below identifies, for each provision of the proposed law, any similar provision in the recodified Davis-Stirling Common Interest Development Act, which will become operative on January 1, 2014. See 2012 Cal. Stat. ch. 180. All references are to sections of the Civil Code.

<i>Proposed Provision</i>	<i>Similar Provision</i>
6502.....	4005
6505.....	4010
6510.....	4020
6512.....	4035
6514.....	4040
6518.....	4050
6520.....	4055
6522.....	4065
6524.....	4070
6526.....	4075
6528.....	4080
6530.....	4085
6531.....	4202
6532.....	4090
6534.....	4100
6540.....	4120
6542.....	4125
6544.....	4130
6546.....	4135
6548.....	4140
6550.....	4145
6552.....	4150
6553.....	4153
6554.....	4160

Proposed Provision***Similar Provision***

6560.....	4170
6562.....	4175
6564.....	4185
6566.....	4190
6580.....	4200
6582.....	4201
6600.....	4205
6602.....	4215
6604.....	4220
6606.....	4225
6608.....	4230
6610.....	4235
6614.....	4250
6616.....	4260
6618.....	4265
6620.....	4270
6622.....	4280
6624.....	4285
6626.....	4290
6628.....	4295
6630.....	4340
6632.....	4350
6650.....	4500
6652.....	4505
6654.....	4510
6656.....	4610
6658.....	4615
6662.....	4630
6664.....	4635
6666.....	4640
6668.....	4645
6670.....	4650
6700.....	4700
6702.....	4705
6704.....	4710
6706.....	4715

Proposed Provision***Similar Provision***

6708.....	4725
6710.....	4730
6712.....	4735
6713.....	4745
6714.....	4760
6716.....	4775
6718.....	4780
6720.....	4785
6722.....	4790
6750.....	4800
6752.....	4805
6756.....	5260
6758.....	5350
6760.....	5405
6800.....	5600
6804.....	5620
6808.....	5650
6810.....	5655
6812.....	5660
6814.....	5675
6816.....	5680
6818.....	5685
6819.....	5690
6820.....	5700
6822.....	5710
6824.....	5725
6826.....	5735
6828.....	5740
6840.....	5805
6850.....	5850
6854.....	5865
6856.....	5975
6858.....	5980
6860.....	5985
6870.....	6000

<i>Proposed Provision</i>	<i>Similar Provision</i>
6874.....	6100
6876.....	6150
