

REPORT OF THE
CALIFORNIA LAW REVISION COMMISSION
ON CHAPTER 605 OF THE STATUTES OF 2013
(SENATE BILL 752)

Commercial and Industrial Common Interest Developments

Commercial and Industrial Subdivisions

Chapter 605 of the Statutes of 2013 was introduced as Senate Bill 752, authored by Senator Richard Roth. The measure implements the Commission's recommendations on *Commercial and Industrial Common Interest Developments*, 42 Cal. L. Revision Comm'n Reports 1 (2012), and *Commercial and Industrial Subdivisions*, 43 Cal. L. Revision Comm'n Reports 1 (2013).

The revised Comments and disposition table entries set out below supersede the comparable Comments and disposition table entries in the recommendations. The revisions reflect amendments made to Senate Bill 752 in the legislative process.

Civ. Code § 4280 (amended). Content of articles

Comment. Subdivision (c) is new. It makes clear that the section does not invalidate documents that were filed in compliance with former law.

Civ. Code § 6512. Delivered to an association

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

See also Sections 6514 (individual delivery), 6520 (electronic delivery).

See also Section 6528 ("association").

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

Civ. Code § 6524. Approval by majority of quorum of members

Comment. Section 6524 is new. It is added for drafting convenience. This section only applies to any member election conducted pursuant to a provision of this act (i.e., the Commercial and Industrial Common Interest Development Act), whether conducted at a meeting, by mailed ballot, or by any other lawful means. 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.

Civ. Code § 6531. "Commercial or industrial common interest development"

Comment. Section 6531 is drawn from Section 1373(a). However, Section 6531 makes clear that it applies when any law, not just a zoning law, limits a subdivision to commercial or industrial uses. See, e.g., Health & Safety Code § 25232(b) (restricting residential use of property that is on the "border-zone" of hazardous contamination). See also Health & Safety Code § 25117.4 ("border-zone property" defined).

The last sentence of Section 6531 is new. It is added to make clear that the operation of a business that provides facilities for overnight stays by its customers, employees, or agents is a commercial use. For example, under this provision the operation of a hotel, inpatient medical facility, or apartment complex is a commercial use. Similarly, the operation of a business that provides overnight living space to its employees and agents is a commercial use.

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

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

Civ. Code § 6582. Application of act

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)-(f), 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.

Civ. Code § 6600. Document authority

Comment. Section 6600 is added to clarify the relationship between the law and the most common types of governing documents. The section is intended to provide guidance on how to resolve a conflict between the specified authorities. It is not intended to state a rule for determining when such a conflict exists.

The terminology used is consistent with that used in numerous other statutory provisions that establish a rule of supremacy between authority without exhaustively specifying the circumstances in which the rule is to be applied. See, e.g., Civ. Code §§ 799.10, 2924h, 5100(e); Educ. Code §§ 24953(h), 69522; Fish & Game Code § 7090(h); Food & Agric. Code § 13169; Health & Safety Code §§ 1568.065, 1787; Ins. Code § 11580.2; Pub. Res. Code §§ 2770.6, 2772.5, 71530; Pub. Util. Code § 5142; Veh. Code § 15200.

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.

Civ. Code § 6622. Content of articles

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 changes are 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 changes are made:

- References to “common interest development association” have been standardized.
- Subdivision (c) is added to make clear that the section does not invalidate documents that were filed in compliance with former law.

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.

Civ. Code § 6632. Requirements for validity and enforceability

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 changes are made:

- The words “board of directors of the association” are replaced with “board.” See Section 6530 (“board”).
- Terminology used in subdivision (c) is conformed to that used in Section 6600.

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.

Civ. Code § 6706. Pets

Comment. Section 6706 is new. It provides that Section 4715 governs an owner who kept a pet in a commercial or industrial common interest development prior to January 1, 2014.

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

Civ. Code § 6756. Mailing-related requests

Comment. Section 6756 is new. It requires that a request to change a member’s information in an association membership list 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.

Civ. Code § 6808. Assessment debt and delinquency

Comment. With respect to a commercial or industrial common interest development, 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 to Section 1366 is deleted.

For further information, see Section 6500 Comment.

See also Section 6564 (“separate interest”).

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

Civ. Code § 6810. Payments

Comment. With respect to a commercial or industrial common interest development, subdivisions (a) and (b) of Section 6810 continue 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.

Subdivision (c) of Section 6810 is new. Cf. Section 1366(e).

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.

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>
....	
1360.5	not continued (but see 6706)
....	
1366(f)	not continued
....	