

AMENDED IN SENATE AUGUST 25, 2003

AMENDED IN SENATE JULY 22, 2003

AMENDED IN SENATE JULY 14, 2003

AMENDED IN SENATE JUNE 23, 2003

AMENDED IN ASSEMBLY APRIL 30, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 512**

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**Introduced by Assembly Member Bates  
(Coauthors: Assembly Members Maze and Pacheco)**

February 18, 2003

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An act to amend Sections 1363, 1368, and 1373 of, to add Sections 1350.5 and 1350.7 to, to add Article 4 (commencing with Section 1357.100) to, and to add chapter and article headings to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of, the Civil Code, relating to common interest developments.

LEGISLATIVE COUNSEL'S DIGEST

AB 512, as amended, Bates. Common interest developments.

The Davis-Stirling Common Interest Development Act defines and regulates common interest developments. The act requires that a common interest development have a recorded declaration, as specified, and permits the declaration to be amended according to the act's provisions or those of the governing documents, as defined. The act requires that a common interest development be managed by an association, and that a member of the association may attend meetings

of the board of directors of the association, except when they meet in executive session to consider specified matters. The act excepts certain common interest developments expressly zoned as industrial or commercial developments, as specified, from certain of its requirements.

This bill would revise the Davis-Stirling Common Interest Development Act to add chapter and article headings to its provisions. The bill would specify that these headings do not change the scope, meaning, or intent of the bill.

This bill would also add provisions concerning procedural fairness in decisionmaking and rulemaking by associations. The bill would add requirements regarding operating rules relating to the use of the common area, the use of a separate interest, member discipline, standards for delinquent assessment payment plans, and the resolution of assessment disputes, as specified. Among other things, the bill would establish criteria for valid operating rules, require that members have notice, ~~provide an optional rulemaking procedure and an optional emergency rulemaking procedure of a proposed rule change, except as specified,~~ and establish a procedure for reversing a rule. The bill would revise the provisions regarding common interest developments that are zoned as industrial or commercial developments, as described above, and would except certain of its provisions from application to these developments. The bill would further provide general document delivery rules, to be applicable when specified.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. A chapter heading is added to Title 6  
2 (commencing with Section 1350) of Part 4 of Division 2 of the  
3 Civil Code, immediately preceding Section 1350, to read:

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5 CHAPTER 1. GENERAL PROVISIONS

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7 SEC. 2. An article heading is added to Title 6 (commencing  
8 with Section 1350) of Part 4 of Division 2 of the Civil Code,  
9 immediately preceding Section 1350, to read:

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1 Article 1. Preliminary Provisions

2  
3 SEC. 3. Section 1350.5 is added to the Civil Code, to read:  
4 1350.5. Division, part, title, chapter, and section headings do  
5 not in any manner affect the scope, meaning, or intent of this title.

6 SEC. 4. Section 1350.7 is added to the Civil Code, to read:  
7 1350.7. (a) This section applies to delivery of a document to  
8 the extent the section is made applicable by another provision of  
9 this title.

10 (b) A document shall be delivered by one or more of the  
11 following methods:

12 (1) Personal delivery.

13 (2) First-class mail, postage prepaid, addressed to a member at  
14 the address last shown on the books of the association or otherwise  
15 provided by the member. Delivery is deemed to be complete on  
16 deposit into the United States mail.

17 (3) E-mail, facsimile, or other electronic means, if the recipient  
18 has agreed to that method of delivery. If a document is delivered  
19 by electronic means, delivery is complete at the time of  
20 transmission.

21 (4) By publication in a periodical that is circulated primarily to  
22 members of the association.

23 (5) If the association broadcasts television programming for  
24 the purpose of distributing information on association business to  
25 its members, by inclusion in the programming.

26 (6) A method of delivery provided in a recorded provision of  
27 the governing documents.

28 (7) Any other method of delivery, provided that the recipient  
29 has agreed to that method of delivery.

30 (c) A document may be included in or delivered with a billing  
31 statement, newsletter, or other document that is delivered by one  
32 of the methods provided in subdivision (b).

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

37 SEC. 5. An article heading is added to Title 6 (commencing  
38 with Section 1350) of Part 4 of Division 2 of the Civil Code,  
39 immediately preceding Section 1351, to read:

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1 Article 2. Definitions

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3 SEC. 6. A chapter heading is added to Title 6 (commencing  
4 with Section 1350) of Part 4 of Division 2 of the Civil Code,  
5 immediately preceding Section 1352, to read:

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7 CHAPTER 2. GOVERNING DOCUMENTS

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9 SEC. 7. An article heading is added to Title 6 (commencing  
10 with Section 1350) of Part 4 of Division 2 of the Civil Code,  
11 immediately preceding Section 1352, to read:

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13 Article 1. Creation

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15 SEC. 8. An article heading is added to Title 6 (commencing  
16 with Section 1350) of Part 4 of Division 2 of the Civil Code,  
17 immediately preceding Section 1354, to read:

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19 Article 2. Enforcement

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21 SEC. 9. An article heading is added to Title 6 (commencing  
22 with Section 1350) of Part 4 of Division 2 of the Civil Code,  
23 immediately preceding Section 1355, to read:

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25 Article 3. Amendment

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27 SEC. 10. Article 4 (commencing with Section 1357.100) is  
28 added to Title 6 of Part 4 of Division 2 of the Civil Code,  
29 immediately following Section 1357, to read:

30

31 Article 4. Operating Rules

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33 1357.100. As used in this article:

34 (a) "Operating rule" means a regulation adopted by the board  
35 of directors of the association that applies generally to the  
36 management and operation of the common interest development  
37 or the conduct of the business and affairs of the association.

38 (b) "Rule change" means the adoption, amendment, or repeal  
39 of an operating rule by the board of directors of the association.



1 1357.110. An operating rule is valid and enforceable only if  
2 all of the following requirements are satisfied:

- 3 (a) The rule is in writing.
- 4 (b) The rule is within the authority of the board of directors of  
5 the association conferred by law or by the declaration, articles of  
6 incorporation or association, or bylaws of the association.
- 7 (c) The rule is not inconsistent with governing law and the  
8 declaration, articles of incorporation or association, and bylaws of  
9 the association.
- 10 (d) The rule is adopted, amended, or repealed in good faith and  
11 in substantial compliance with the requirements of this article.
- 12 (e) The rule is reasonable.

13 1357.120. (a) Sections 1357.130 and 1357.140 only apply to  
14 an operating rule that relates to one or more of the following  
15 subjects:

- 16 (1) Use of the common area or of an exclusive use common  
17 area.
- 18 (2) Use of a separate interest, including any aesthetic or  
19 architectural standards that govern alteration of a separate interest.
- 20 (3) Member discipline, including any schedule of monetary  
21 penalties for violation of the governing documents and any  
22 procedure for the imposition of penalties.
- 23 (4) Any standards for delinquent assessment payment plans.
- 24 (5) Any procedures adopted by the association for resolution of  
25 assessment disputes.
- 26 (b) Sections 1357.130 and 1357.140 do not apply to the  
27 following actions by the board of directors of an association:
  - 28 (1) A decision regarding maintenance of the common area.
  - 29 (2) A decision on a specific matter that is not intended to apply  
30 generally.
  - 31 (3) A decision setting the amount of a regular or special  
32 assessment.
  - 33 (4) A rule change that is required by law, if the board of  
34 directors has no discretion as to the substantive effect of the rule  
35 change.
  - 36 (5) Issuance of a document that merely repeats existing law or  
37 the governing documents.

38 1357.130. (a) The board of directors shall provide written  
39 notice of a proposed rule change to the members at least ~~25~~ 30 days  
40 before making the rule change. Notice is not required under this



1 subdivision if the board of directors determines that an immediate  
2 rule change is necessary to address an imminent threat to public  
3 health or safety or imminent risk of substantial economic loss to  
4 the association.

5 (b) A decision on a proposed rule change shall be made at a  
6 meeting of the board of directors, after consideration of any  
7 comments made by association members.

8 (c) As soon as possible after making a rule change, but not more  
9 than 15 days after making the rule change, the board of directors  
10 shall deliver notice of the rule change to every association member.

11 (d) If the board of directors determines that an immediate rule  
12 change is required to address an imminent threat to public health  
13 or safety, or an imminent risk of substantial economic loss to the  
14 association, it may make an emergency rule change; and no notice  
15 is required, as specified in subdivision (a). An emergency rule  
16 change is effective for 120 days, unless the rule change provides  
17 for a shorter effective period. A rule change made under this  
18 subdivision may not be readopted under this subdivision.

19 (e) A notice required by this section is subject to Section  
20 1350.7.

21 1357.140. (a) Members of an association owning 5 percent or  
22 more of the separate interests may call a special meeting to reverse  
23 a rule change.

24 (b) A special meeting of the members may be called by  
25 delivering a written request to the president or secretary of the  
26 board of directors, after which the board shall deliver notice of the  
27 meeting to association's members and hold the meeting in  
28 conformity with Section 7511 of the Corporations Code. The  
29 written request may not be delivered more than 30 days after the  
30 members of the association are notified of the rule change.  
31 Members are deemed to have been notified of a rule change on  
32 delivery of notice of the rule change, or on enforcement of the  
33 resulting rule, whichever is sooner. For the purposes of Section  
34 8330 of the Corporations Code, collection of signatures to call a  
35 special meeting under this section is a purpose reasonably related  
36 to the interests of the members of the association. A member  
37 request to copy or inspect the membership list solely for that  
38 purpose may not be denied on the grounds that the purpose is not  
39 reasonably related to the member's interests as a member.



1 (c) The rule change may be reversed by the affirmative vote of  
2 a majority of the votes represented and voting at a duly held  
3 meeting at which a quorum is present (which affirmative votes also  
4 constitute a majority of the required quorum), or if the declaration  
5 or bylaws require a greater proportion, by the affirmative vote or  
6 written ballot of the proportion required. In lieu of calling the  
7 meeting described in this section, the board may distribute a  
8 written ballot to every member of the association in conformity  
9 with the requirements of Section 7513 of the Corporations Code.

10 (d) Unless otherwise provided in the declaration or bylaws, for  
11 the purposes of this section, a member may cast one vote per  
12 separate interest owned.

13 (e) A meeting called under this section is governed by Chapter  
14 5 (commencing with Section 7510) of Part 3 of Division 2 of Title  
15 1 of, and Sections 7612 and 7613 of, the Corporations Code.

16 (f) A rule change reversed under this section may not be  
17 readopted for one year after the date of the meeting reversing the  
18 rule change. Nothing in this section precludes the board of  
19 directors from adopting a different rule on the same subject as the  
20 rule change that has been reversed.

21 (g) As soon as possible after the close of voting, but not more  
22 than 15 days after the close of voting, the board of directors shall  
23 provide notice of the results of a member vote held pursuant to this  
24 section to every association member. Delivery of notice under this  
25 subdivision is subject to Section 1350.7.

26 (h) This section does not apply to an emergency rule change  
27 made under subdivision (d) of section 1357.120.

28 1357.150. (a) This article applies to a rule change  
29 commenced on or after January 1, 2004.

30 (b) Nothing in this article affects the validity of a rule change  
31 commenced before January 1, 2004.

32 (c) For the purposes of this section, a rule change is commenced  
33 when the board of directors of the association takes its first official  
34 action leading to adoption of the rule change.

35 SEC. 11. A chapter heading is added to Title 6 (commencing  
36 with Section 1350) of Part 4 of Division 2 of the Civil Code,  
37 immediately preceding Section 1358, to read:  
38



CHAPTER 3. OWNERSHIP RIGHTS AND INTERESTS

SEC. 12. A chapter heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1363, to read:

CHAPTER 4. GOVERNANCE

SEC. 13. An article heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1363, to read:

Article 1. Association

SEC. 14. Section 1363 of the Civil Code is amended to read:

1363. (a) A common interest development shall be managed by an association which may be incorporated or unincorporated. The association may be referred to as a community association.

(b) An association, whether incorporated or unincorporated, shall prepare a budget pursuant to Section 1365 and disclose information, if requested, in accordance with Section 1368.

(c) 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.

The association, whether incorporated or unincorporated, may exercise the powers granted to an association by Section 383 of the Code of Civil Procedure and the powers granted to the association in this title.

(d) Meetings of the membership of the association shall be conducted in accordance with a recognized system of parliamentary procedure or any parliamentary procedures the association may adopt.

(e) Notwithstanding any other provision of law, notice of meetings of the members shall specify those matters the board intends to present for action by the members, but, except as



1 otherwise provided by law, any proper matter may be presented at  
2 the meeting for action.

3 (f) Members of the association shall have access to association  
4 records, including accounting books and records and membership  
5 lists, in accordance with Article 3 (commencing with Section  
6 8330) of Chapter 13 of Part 3 of Division 2 of Title 1 of the  
7 Corporations Code. The members of the association shall have the  
8 same access to the operating rules of the association as they have  
9 to the accounting books and records of the association.

10 (g) If an association adopts or has adopted a policy imposing  
11 any monetary penalty, including any fee, on any association  
12 member for a violation of the governing documents or rules of the  
13 association, including any monetary penalty relating to the  
14 activities of a guest or invitee of a member, the board of directors  
15 shall adopt and distribute to each member, by personal delivery or  
16 first-class mail, a schedule of the monetary penalties that may be  
17 assessed for those violations, which shall be in accordance with  
18 authorization for member discipline contained in the governing  
19 documents. The board of directors shall not be required to  
20 distribute any additional schedules of monetary penalties unless  
21 there are changes from the schedule that was adopted and  
22 distributed to the members pursuant to this subdivision.

23 (h) When the board of directors is to meet to consider or impose  
24 discipline upon a member, the board shall notify the member in  
25 writing, by either personal delivery or first-class mail, at least 10  
26 days prior to the meeting. The notification shall contain, at a  
27 minimum, the date, time, and place of the meeting, the nature of  
28 the alleged violation for which a member may be disciplined, and  
29 a statement that the member has a right to attend and may address  
30 the board at the meeting. The board of directors of the association  
31 shall meet in executive session if requested by the member being  
32 disciplined.

33 If the board imposes discipline on a member, the board shall  
34 provide the member a written notification of the disciplinary  
35 action, by either personal delivery or first-class mail, within 15  
36 days following the action. A disciplinary action shall not be  
37 effective against a member unless the board fulfills the  
38 requirements of this subdivision.

39 (i) Whenever two or more associations have consolidated any  
40 of their functions under a joint neighborhood association or similar



1 organization, members of each participating association shall be  
2 entitled to attend all meetings of the joint association other than  
3 executive sessions, (1) shall be given reasonable opportunity for  
4 participation in those meetings and (2) shall be entitled to the same  
5 access to the joint association’s records as they are to the  
6 participating association’s records.

7 (j) Nothing in this section shall be construed to create, expand,  
8 or reduce the authority of the board of directors of an association  
9 to impose monetary penalties on an association member for a  
10 violation of the governing documents or rules of the association.

11 SEC. 15. An article heading is added to Title 6 (commencing  
12 with Section 1350) of Part 4 of Division 2 of the Civil Code,  
13 immediately preceding Section 1363.05, to read:

14  
15 Article 2. Common Interest Development Open Meeting Act

16  
17 SEC. 16. An article heading is added to Title 6 (commencing  
18 with Section 1350) of Part 4 of Division 2 of the Civil Code,  
19 immediately preceding Section 1363.1, to read:

20  
21 Article 3. Managing Agents

22  
23 SEC. 17. An article heading is added to Title 6 (commencing  
24 with Section 1350) of Part 4 of Division 2 of the Civil Code,  
25 immediately preceding Section 1363.5, to read:

26  
27 Article 4. Public Information

28  
29 SEC. 18. A chapter heading is added to Title 6 (commencing  
30 with Section 1350) of Part 4 of Division 2 of the Civil Code,  
31 immediately preceding Section 1364, to read:

32  
33 CHAPTER 5. OPERATIONS

34  
35 SEC. 19. An article heading is added to Title 6 (commencing  
36 with Section 1350) of Part 4 of Division 2 of the Civil Code,  
37 immediately preceding Section 1364, to read:

38



1 Article 1. Common Areas

2  
3 SEC. 20. An article heading is added to Title 6 (commencing  
4 with Section 1350) of Part 4 of Division 2 of the Civil Code,  
5 immediately preceding Section 1365, to read:

6  
7 Article 2. Fiscal Matters

8  
9 SEC. 21. An article heading is added to Title 6 (commencing  
10 with Section 1350) of Part 4 of Division 2 of the Civil Code,  
11 immediately preceding Section 1365.7, to read:

12  
13 Article 3. Insurance

14  
15 SEC. 22. An article heading is added to Title 6 (commencing  
16 with Section 1350) of Part 4 of Division 2 of the Civil Code,  
17 immediately preceding Section 1366, to read:

18  
19 Article 4. Assessments

20  
21 SEC. 23. A chapter heading is added to Title 6 (commencing  
22 with Section 1350) of Part 4 of Division 2 of the Civil Code,  
23 immediately preceding Section 1368, to read:

24  
25 CHAPTER 6. TRANSFER OF OWNERSHIP INTERESTS

26  
27 SEC. 24. Section 1368 of the Civil Code is amended to read:  
28 1368. (a) The owner of a separate interest, other than an  
29 owner subject to the requirements of Section 11018.6 of the  
30 Business and Professions Code, shall, as soon as practicable before  
31 transfer of title to the separate interest or execution of a real  
32 property sales contract therefor, as defined in Section 2985,  
33 provide the following to the prospective purchaser:

34 (1) A copy of the governing documents of the common interest  
35 development, including any operating rules, and including a copy  
36 of the association's articles of incorporation, or, if not  
37 incorporated, a statement in writing from an authorized  
38 representative of the association that the association is not  
39 incorporated.

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

7 (3) A copy of the most recent documents distributed pursuant  
8 to Section 1365.

9 (4) A true statement in writing obtained from an authorized  
10 representative of the association as to the amount of the  
11 association's current regular and special assessments and fees, any  
12 assessments levied upon the owner's interest in the common  
13 interest development that are unpaid on the date of the statement,  
14 and any monetary fines or penalties levied upon the owner's  
15 interest and unpaid on the date of the statement. The statement  
16 obtained from an authorized representative shall also include true  
17 information on late charges, interest, and costs of collection which,  
18 as of the date of the statement, are or may be made a lien upon the  
19 owner's interest in a common interest development pursuant to  
20 Section 1367 or 1367.1.

21 (5) A copy or a summary of any notice previously sent to the  
22 owner pursuant to subdivision (h) of Section 1363 that sets forth  
23 any alleged violation of the governing documents that remains  
24 unresolved at the time of the request. The notice shall not be  
25 deemed a waiver of the association's right to enforce the governing  
26 documents against the owner or the prospective purchaser of the  
27 separate interest with respect to any violation. This paragraph shall  
28 not be construed to require an association to inspect an owner's  
29 separate interest.

30 (6) A copy of the preliminary list of defects provided to each  
31 member of the association pursuant to Section 1375, unless the  
32 association and the builder subsequently enter into a settlement  
33 agreement or otherwise resolve the matter and the association  
34 complies with Section 1375.1. Disclosure of the preliminary list  
35 of defects pursuant to this paragraph shall not waive any privilege  
36 attached to the document. The preliminary list of defects shall also  
37 include a statement that a final determination as to whether the list  
38 of defects is accurate and complete has not been made.

39 (7) A copy of the latest information provided for in Section  
40 1375.1.



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

6 (b) Upon written request, an association shall, within 10 days  
7 of the mailing or delivery of the request, provide the owner of a  
8 separate interest with a copy of the requested items specified in  
9 paragraphs (1) to (8), inclusive, of subdivision (a). The association  
10 may charge a fee for this service, which shall not exceed the  
11 association's reasonable cost to prepare and reproduce the  
12 requested items.

13 (c) An association shall not impose or collect any assessment,  
14 penalty, or fee in connection with a transfer of title or any other  
15 interest except the association's actual costs to change its records  
16 and that authorized by subdivision (b).

17 (d) Any person or entity who willfully violates this section  
18 shall be liable to the purchaser of a separate interest which is  
19 subject to this section for actual damages occasioned thereby and,  
20 in addition, shall pay a civil penalty in an amount not to exceed five  
21 hundred dollars (\$500). In an action to enforce this liability, the  
22 prevailing party shall be awarded reasonable attorneys' fees.

23 (e) Nothing in this section affects the validity of title to real  
24 property transferred in violation of this section.

25 (f) In addition to the requirements of this section, an owner  
26 transferring title to a separate interest shall comply with applicable  
27 requirements of Sections 1133 and 1134.

28 SEC. 25. A chapter heading is added to Title 6 (commencing  
29 with Section 1350) of Part 4 of Division 2 of the Civil Code,  
30 immediately preceding Section 1368.4, to read:

31

32 CHAPTER 7. CIVIL ACTIONS AND LIENS

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34 SEC. 26. A chapter heading is added to Title 6 (commencing  
35 with Section 1350) of Part 4 of Division 2 of the Civil Code,  
36 immediately preceding Section 1370, to read:

37



1 CHAPTER 8. CONSTRUCTION OF INSTRUMENTS AND ZONING

2  
3 SEC. 27. A chapter heading is added to Title 6 (commencing  
4 with Section 1350) of Part 4 of Division 2 of the Civil Code,  
5 immediately preceding Section 1375, to read:

6  
7 CHAPTER 9. CONSTRUCTION DEFECT LITIGATION

8  
9 SEC. 28. A chapter heading is added to Title 6 (commencing  
10 with Section 1350) of Part 4 of Division 2 of the Civil Code,  
11 immediately preceding Section 1376, to read:

12  
13 CHAPTER 10. IMPROVEMENTS

14  
15 SEC. 29. Section 1373 of the Civil Code is amended to read:  
16 1373.

17 ~~(a)~~-(a) The following provisions do not apply to a common  
18 interest development that is limited to industrial or commercial  
19 uses by zoning or by its declaration:

- 20 (1) Section 1356.
- 21 (2) Article 4 (commencing with Section 1357.100) of Chapter
- 22 2 of Title 6 of Part 4 of Division 2 of the Civil Code.
- 23 (3) Subdivision (b) of Section 1363.
- 24 (4) Section 1365.
- 25 (5) Section 1365.5.
- 26 (6) Subdivision (b) of Section 1366.
- 27 (7) Section 1366.1.
- 28 (8) Section 1368.

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

