AMENDED IN SENATE AUGUST 11, 2008

AMENDED IN SENATE JULY 2, 2008

AMENDED IN SENATE JUNE 19, 2008

AMENDED IN SENATE JUNE 9, 2008

AMENDED IN ASSEMBLY MAY 19, 2008

AMENDED IN ASSEMBLY APRIL 21, 2008

AMENDED IN ASSEMBLY APRIL 8, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL No. 2806

Introduced by Assembly Member Karnette
(Coauthor: Senator Lowenthal)

February 22, 2008

An act to amend Section 1373 of, and to add Section 1363.002 to, the Civil Code, relating to common interest developments.

LEGISLATIVE COUNSEL'S DIGEST

AB 2806, as amended, Karnette. Common interest developments: board member education.

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(1) The Davis-Stirling Common Interest Development Act provides for the creation and regulation of common interest developments. Existing law requires the Department of Consumer Affairs and the Department of Real Estate, to the extent existing funds are available, to develop an online education course for the board of directors of an association regarding the role, duties, laws, and responsibilities of board

members and prospective board members, and the nonjudicial foreclosure process.

This bill would, commencing July 1, 2010, require each current member of the board of directors of an association that is comprised solely of residential separate interests, and each candidate for election to the board, to provide a statement to the board indicating whether he or she has completed an educational course on the law of common interest developments and, if applicable, when the course was completed. The bill would require the association to include those statements, for each candidate, in the ballot materials for a board member election.

(2) This bill would incorporate additional changes in Section 1373 of the Civil Code proposed by AB 567 and AB 2259, to be operative only if this bill and one or both of the other bills are chaptered and become effective on or before January 1, 2009, and this bill is enacted last.

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. The Legislature finds and declares all of the
2 following:
3 (a) There are more than 41,000 common interest developments
4 in California, comprising more than 4,300,000 dwellings.
5 Dwellings in those common interest developments comprise
6 approximately one-fourth of the state's housing stock.
7 (b) Common interest developments are governed by associations.
8 Managing an association is a complex responsibility. Association
9 members elect volunteer boards of directors and those directors
10 may have little or no experience serving in that capacity. In order
11 to properly discharge their duties, directors must comply with
12 many laws and, in so doing, must interpret and enforce those laws.
13 Directors must also interpret and apply the provisions of the
14 association's governing documents and rules. Additionally, board
15 members may not fully understand their rights and obligations
16 under the law. Mistakes and misunderstandings are inevitable and
17 may result in serious, costly, and divisive problems.
18 (c) A principal policy of the state is to prevent disputes in
19 common interest developments.

(d) Frequent changes in law make the law more difficult to understand and apply.

(e) Education will provide association directors with a significantly greater awareness of the laws that prescribe association operational procedures and will better equip them to govern an association more efficiently and prudently. Board members' increased knowledge and proficiency in understanding the law will provide them with the means to proactively and responsibly use a nonjudicial approach to resolve disputes and to limit the frequency and severity of disputes within an association.

SEC. 2. Section 1363.002 is added to the Civil Code, to read:

1363.002. (a) Each member of the board of directors of an association that is comprised solely of residential separate interests and each candidate for election to the board shall, in a timely manner prior to the election, as determined by the board, provide a statement to the board indicating whether he or she has completed an educational course on the law of common interest developments and, if applicable, when the course was completed. Each member of, or candidate for, the board of directors may also provide a description of any other relevant education or qualifications to the board.

(b) Each association shall include in the ballot materials for the board member election the statements for each candidate provided to the board pursuant to subdivision (a).

(c) The declarant and the developer of a common interest development shall be exempt from the requirements specified in subdivision (a) until the board of directors governing that development is composed of a majority of separate interest owners.

(d) Nothing in this section shall in any way operate to invalidate the good standing of a member of an association or remove or abrogate the board member immunities contained in Section 1365.7, or in Section 7231.5 of the Corporations Code. The immunities contained in those sections shall apply whether or not an officer or director has taken the educational course specified in subdivision (a).

(e) The completion or failure to complete a course may not be used as evidence to establish a breach of fiduciary duty of a board member.

(f) This section shall become operative on July 1, 2010.

SEC. 3. Section 1373 of the Civil Code is amended to read:

1373. (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 1356.

(2) Article 4 (commencing with Section 1357.100) of Chapter 2 of Title 6 of Part 4 of Division 2.

(3) Subdivision (b) of Section 1363.

(4) Section 1363.002.

(5) Section 1365.

(6) Section 1365.5.

(7) Subdivision (b) of Section 1366.

(8) Section 1366.1.

(9) Section 1368.

(10) Section 1378.

(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.

SEC. 3.1. Section 1373 of the Civil Code is amended to read:

1373. (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 1356.

(2) Article 4 (commencing with Section 1357.100) of Chapter 2 of Title 6 of Part 4 of Division 2.

(3) Subdivision (b) of Section 1363.

(4) Section 1363.002.

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(5) Section 1365.

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(6) Section 1365.5.

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(7) Subdivision (b) of Section 1366.

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(8) Section 1366.1.
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(9) Section 1368.
~~(9)~~
(10) Section 1378.
(11) Chapter 11 (commencing with Section 1380.010).
(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.
SEC. 3.2. Section 1373 of the Civil Code is amended to read:
1373. (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 1356.
(2) Article 4 (commencing with Section 1357.100) of Chapter 2 of Title 6 of Part 4 of Division 2.
(3) Section 1360.2.
~~(3)~~
(4) Subdivision (b) of Section 1363.
(5) Section 1363.002.
~~(4)~~
(6) Section 1365.
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(7) Section 1365.5.
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(8) Subdivision (b) of Section 1366.
~~(7)~~
(9) Section 1366.1.
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(10) Section 1368.
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(11) Section 1378.
(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.

SEC. 3.3. Section 1373 of the Civil Code is amended to read:

1373. (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 1356.

(2) Article 4 (commencing with Section 1357.100) of Chapter 2 of Title 6 of Part 4 of Division 2.

(3) Section 1360.2.

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(4) Subdivision (b) of Section 1363.

(5) Section 1363.002.

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(6) Section 1365.

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(7) Section 1365.5.

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(8) Subdivision (b) of Section 1366.

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(9) Section 1366.1.

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(10) Section 1368.

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(11) Section 1378.

(12) Chapter 11 (commencing with Section 1380.010).

(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.

SEC. 4. (a) Section 3.1 of this bill incorporates amendments to Section 1373 of the Civil Code proposed by both this bill and AB 567. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2009, (2) each bill amends Section 1373 of the Civil Code, and (3) AB 2259 is not

enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 567, in which case Sections 3, 3.2 and 3.3 of this bill shall not become operative.

(b) Section 3.2 of this bill incorporates amendments to Section 1373 of the Civil Code proposed by both this bill and AB 2259. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2009, (2) each bill amends Section 1373 of the Civil Code, (3) AB 567 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2259 in which case Sections 3, 3.1 and 3.3 of this bill shall not become operative.

(c) Section 3.3 of this bill incorporates amendments to Section 1373 of the Civil Code proposed by this bill, AB 567, and AB 2259. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2009, (2) all three bills amend Section 1373 of the Civil Code, and (3) this bill is enacted after AB 567 and AB 2259, in which case Sections 3, 3.1 and 3.2 of this bill shall not become operative.

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