

AMENDED IN SENATE AUGUST 22, 2012

AMENDED IN SENATE JULY 5, 2012

AMENDED IN SENATE JUNE 19, 2012

AMENDED IN ASSEMBLY MAY 3, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2697

Introduced by Committee on Housing and Community Development

March 21, 2012

An act to amend Sections 798.49, 896, 1363.05, and 1368 of the Civil Code, and to amend Sections 18045.6 and 18942 of the Health and Safety Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2697, as amended, Committee on Housing and Community Development. Housing Omnibus Act.

(1) The Mobilehome Residency law requires the local agency of any city, including a charter city, county, or city and county that administers an ordinance, rule, regulation, or initiative measure that establishes a maximum amount that management of a mobilehome park may charge a tenant for rent to permit the management to separately charge a homeowner for certain fees, as specified. Existing law exempts from this requirement, among other things, costs that are imposed on management for a fine, forfeiture, penalty, money damages, or fee assessed or awarded by a court of law against the management for a violation of the Mobilehome Residency Law.

This bill would correct an erroneous cross-reference within this provision.

(2) Existing law sets forth standards for determining liability in an action seeking the recovery of damages arising out of, or related to, deficiencies in residential construction, design, and related issues, as specified, including standards governing the installation of heating, if any.

This bill would revise those standards to require heating to be installed so as to be capable of maintaining a room temperature of 70 degrees Fahrenheit at a point 3 feet above the floor in any living space if the heating was installed pursuant to a building permit application submitted prior to January 1, 2008, or capable of maintaining a room temperature of 68 degrees Fahrenheit at a point 3 feet above the floor and 2 feet from the exterior walls in all habitable rooms at the design temperature if the heating was installed pursuant to a building permit application submitted on or after January 1, 2008.

(3) The Common Interest Development Open Meeting Act, within the Davis-Stirling Common Interest Development Act, prohibits a board of directors from conducting a meeting via a series of electronic transmissions, except in the case of an emergency meeting. Existing law requires the board, individually or collectively, to consent in writing to the conduct of an emergency meeting of the board via electronic transmission, and authorizes that written consent to be transmitted electronically.

This bill would make a technical, nonsubstantive change to this provision.

(4) The Common Interest Development Open Meeting Act, within the Davis-Stirling Common Interest Development Act, defines the term “meeting” to include a teleconference in which a majority of the members of the board, in different locations are connected by electronic means, as specified, requires the notice of a teleconference meeting to identify at least one physical location so that members of the association may attend, and requires at least one member of the board of directors to be present at that location.

This bill would instead require that at least one member of the board of directors or a person designated by the board be present at that location.

(5) The Davis-Stirling Common Interest Development Act requires the owner of a separate interest, as soon as practicable before transfer of title to the separate interest or execution of a real property sales contract, to provide various items to the prospective purchaser, including, among other things, a statement describing any prohibition,

and its applicability, contained in the governing documents against the rental or leasing of any separate interest in the common interest development to a renter, lessee, or tenant.

This bill would eliminate the requirement to describe the applicability of the prohibition.

(6) The Manufactured Housing Act of 1980 requires the Department of Housing and Community Development to administer occupational licenses for dealers, as defined. The act authorizes a dealer to display manufactured homes, mobilehomes, or commercial coaches at a fair, exposition, or similar exhibit for no more than 30 days, and defines “mobilehome fair or exposition” to mean a display of manufactured homes, mobilehomes, or commercial coaches not limited to one dealer and not in a mobilehome park.

This bill would remove the 30-day limit on the display of manufactured homes, mobilehome, or commercial coaches at a fair, exposition, or similar exhibit. The bill would also revise the definition of “mobilehome fair or exposition” to mean a display of manufactured homes, mobilehomes, or commercial coaches not in a mobilehome park and for which the initial opportunity to display is open to all dealers. The bill would also specify that a display does not qualify as a business location or an established place of business for the purposes of procuring or maintaining a dealer’s license.

(7) The California Building Standards Law provides for the promulgation of building standards by state agencies by requiring all state agencies that adopt or propose adoption of any building standard to submit the building standard to the California Building Standards Commission for approval or adoption. Existing law requires the commission to publish, or cause to be published, editions of the code in its entirety once every 3 years.

Existing law requires the commission to publish the text of a specified provision within the area of the code concerning single-family residential occupancies with a note specifying that the regulations may be subject to local government modification.

This bill would correct an erroneous cross-reference within that provision.

(8) This bill would incorporate additional changes in Section 1368 of the Civil Code proposed by AB 1838, that would become operative only if AB 1838 and this bill are both chaptered and become effective on or before January 1, 2013, and this bill is chaptered 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. Section 798.49 of the Civil Code is amended to
2 read:

3 798.49. (a) Except as provided in subdivision (d), the local
4 agency of any city, including a charter city, county, or city and
5 county, which administers an ordinance, rule, regulation, or
6 initiative measure that establishes a maximum amount that
7 management may charge a tenant for rent shall permit the
8 management to separately charge a homeowner for any of the
9 following:

10 (1) The amount of any fee, assessment or other charge first
11 imposed by a city, including a charter city, a county, a city and
12 county, the state, or the federal government on or after January 1,
13 1995, upon the space rented by the homeowner.

14 (2) The amount of any increase on or after January 1, 1995, in
15 an existing fee, assessment or other charge imposed by any
16 governmental entity upon the space rented by the homeowner.

17 (3) The amount of any fee, assessment or other charge upon the
18 space first imposed or increased on or after January 1, 1993,
19 pursuant to any state or locally mandated program relating to
20 housing contained in the Health and Safety Code.

21 (b) If management has charged the homeowner for a fee,
22 assessment, or other charge specified in subdivision (a) that was
23 increased or first imposed on or after January 1, 1993, and the fee,
24 assessment, or other charge is decreased or eliminated thereafter,
25 the charge to the homeowner shall be decreased or eliminated
26 accordingly.

27 (c) The amount of the fee, assessment or other charges
28 authorized by subdivision (a) shall be separately stated on any
29 billing to the homeowner. Any change in the amount of the fee,
30 assessment, or other charges that are separately billed pursuant to
31 subdivision (a) shall be considered when determining any rental
32 adjustment under the local ordinance.

33 (d) This section shall not apply to any of the following:

34 (1) Those fees, assessments, or charges imposed pursuant to the
35 Mobilehome Parks Act (Part 2.1 (commencing with Section 18200))

1 of Division 13 of the Health and Safety Code), unless specifically
2 authorized by Section 18502 of the Health and Safety Code.

3 (2) Those costs that are imposed on management by a court
4 pursuant to Section 798.39.5.

5 (3) Any fee or other exaction imposed upon management for
6 the specific purpose of defraying the cost of administration of any
7 ordinance, rule, regulation, or initiative measure that establishes
8 a maximum amount that management may charge a tenant for rent.

9 (4) Any tax imposed upon the property by a city, including a
10 charter city, county, or city and county.

11 (e) Those fees and charges specified in subdivision (a) shall be
12 separately stated on any monthly or other periodic billing to the
13 homeowner. If the fee or charge has a limited duration or is
14 amortized for a specified period, the expiration date shall be stated
15 on the initial notice and each subsequent billing to the homeowner
16 while the fee or charge is billed to the homeowner.

17 SEC. 2. Section 896 of the Civil Code is amended to read:

18 896. In any action seeking recovery of damages arising out of,
19 or related to deficiencies in, the residential construction, design,
20 specifications, surveying, planning, supervision, testing, or
21 observation of construction, a builder, and to the extent set forth
22 in Chapter 4 (commencing with Section 910), a general contractor,
23 subcontractor, material supplier, individual product manufacturer,
24 or design professional, shall, except as specifically set forth in this
25 title, be liable for, and the claimant's claims or causes of action
26 shall be limited to violation of, the following standards, except as
27 specifically set forth in this title. This title applies to original
28 construction intended to be sold as an individual dwelling unit. As
29 to condominium conversions, this title does not apply to or does
30 not supersede any other statutory or common law.

31 (a) With respect to water issues:

32 (1) A door shall not allow unintended water to pass beyond,
33 around, or through the door or its designed or actual moisture
34 barriers, if any.

35 (2) Windows, patio doors, deck doors, and their systems shall
36 not allow water to pass beyond, around, or through the window,
37 patio door, or deck door or its designed or actual moisture barriers,
38 including, without limitation, internal barriers within the systems
39 themselves. For purposes of this paragraph, "systems" include,

1 without limitation, windows, window assemblies, framing,
2 substrate, flashings, and trim, if any.

3 (3) Windows, patio doors, deck doors, and their systems shall
4 not allow excessive condensation to enter the structure and cause
5 damage to another component. For purposes of this paragraph,
6 “systems” include, without limitation, windows, window
7 assemblies, framing, substrate, flashings, and trim, if any.

8 (4) Roofs, roofing systems, chimney caps, and ventilation
9 components shall not allow water to enter the structure or to pass
10 beyond, around, or through the designed or actual moisture barriers,
11 including, without limitation, internal barriers located within the
12 systems themselves. For purposes of this paragraph, “systems”
13 include, without limitation, framing, substrate, and sheathing, if
14 any.

15 (5) Decks, deck systems, balconies, balcony systems, exterior
16 stairs, and stair systems shall not allow water to pass into the
17 adjacent structure. For purposes of this paragraph, “systems”
18 include, without limitation, framing, substrate, flashing, and
19 sheathing, if any.

20 (6) Decks, deck systems, balconies, balcony systems, exterior
21 stairs, and stair systems shall not allow unintended water to pass
22 within the systems themselves and cause damage to the systems.
23 For purposes of this paragraph, “systems” include, without
24 limitation, framing, substrate, flashing, and sheathing, if any.

25 (7) Foundation systems and slabs shall not allow water or vapor
26 to enter into the structure so as to cause damage to another building
27 component.

28 (8) Foundation systems and slabs shall not allow water or vapor
29 to enter into the structure so as to limit the installation of the type
30 of flooring materials typically used for the particular application.

31 (9) Hardscape, including paths and patios, irrigation systems,
32 landscaping systems, and drainage systems, that are installed as
33 part of the original construction, shall not be installed in such a
34 way as to cause water or soil erosion to enter into or come in
35 contact with the structure so as to cause damage to another building
36 component.

37 (10) Stucco, exterior siding, exterior walls, including, without
38 limitation, exterior framing, and other exterior wall finishes and
39 fixtures and the systems of those components and fixtures,
40 including, but not limited to, pot shelves, horizontal surfaces,

1 columns, and plant-ons, shall be installed in such a way so as not
2 to allow unintended water to pass into the structure or to pass
3 beyond, around, or through the designed or actual moisture barriers
4 of the system, including any internal barriers located within the
5 system itself. For purposes of this paragraph, “systems” include,
6 without limitation, framing, substrate, flashings, trim, wall
7 assemblies, and internal wall cavities, if any.

8 (11) Stucco, exterior siding, and exterior walls shall not allow
9 excessive condensation to enter the structure and cause damage
10 to another component. For purposes of this paragraph, “systems”
11 include, without limitation, framing, substrate, flashings, trim,
12 wall assemblies, and internal wall cavities, if any.

13 (12) Retaining and site walls and their associated drainage
14 systems shall not allow unintended water to pass beyond, around,
15 or through its designed or actual moisture barriers including,
16 without limitation, any internal barriers, so as to cause damage.
17 This standard does not apply to those portions of any wall or
18 drainage system that are designed to have water flow beyond,
19 around, or through them.

20 (13) Retaining walls and site walls, and their associated drainage
21 systems, shall only allow water to flow beyond, around, or through
22 the areas designated by design.

23 (14) The lines and components of the plumbing system, sewer
24 system, and utility systems shall not leak.

25 (15) Plumbing lines, sewer lines, and utility lines shall not
26 corrode so as to impede the useful life of the systems.

27 (16) Sewer systems shall be installed in such a way as to allow
28 the designated amount of sewage to flow through the system.

29 (17) Showers, baths, and related waterproofing systems shall
30 not leak water into the interior of walls, flooring systems, or the
31 interior of other components.

32 (18) The waterproofing system behind or under ceramic tile
33 and tile countertops shall not allow water into the interior of walls,
34 flooring systems, or other components so as to cause damage.
35 Ceramic tile systems shall be designed and installed so as to deflect
36 intended water to the waterproofing system.

37 (b) With respect to structural issues:

38 (1) Foundations, load bearing components, and slabs, shall not
39 contain significant cracks or significant vertical displacement.

1 (2) Foundations, load bearing components, and slabs shall not
2 cause the structure, in whole or in part, to be structurally unsafe.

3 (3) Foundations, load bearing components, and slabs, and
4 underlying soils shall be constructed so as to materially comply
5 with the design criteria set by applicable government building
6 codes, regulations, and ordinances for chemical deterioration or
7 corrosion resistance in effect at the time of original construction.

8 (4) A structure shall be constructed so as to materially comply
9 with the design criteria for earthquake and wind load resistance,
10 as set forth in the applicable government building codes,
11 regulations, and ordinances in effect at the time of original
12 construction.

13 (c) With respect to soil issues:

14 (1) Soils and engineered retaining walls shall not cause, in whole
15 or in part, damage to the structure built upon the soil or engineered
16 retaining wall.

17 (2) Soils and engineered retaining walls shall not cause, in whole
18 or in part, the structure to be structurally unsafe.

19 (3) Soils shall not cause, in whole or in part, the land upon which
20 no structure is built to become unusable for the purpose represented
21 at the time of original sale by the builder or for the purpose for
22 which that land is commonly used.

23 (d) With respect to fire protection issues:

24 (1) A structure shall be constructed so as to materially comply
25 with the design criteria of the applicable government building
26 codes, regulations, and ordinances for fire protection of the
27 occupants in effect at the time of the original construction.

28 (2) Fireplaces, chimneys, chimney structures, and chimney
29 termination caps shall be constructed and installed in such a way
30 so as not to cause an unreasonable risk of fire outside the fireplace
31 enclosure or chimney.

32 (3) Electrical and mechanical systems shall be constructed and
33 installed in such a way so as not to cause an unreasonable risk of
34 fire.

35 (e) With respect to plumbing and sewer issues:

36 Plumbing and sewer systems shall be installed to operate properly
37 and shall not materially impair the use of the structure by its
38 inhabitants. However, no action may be brought for a violation of
39 this subdivision more than four years after close of escrow.

40 (f) With respect to electrical system issues:

1 Electrical systems shall operate properly and shall not materially
2 impair the use of the structure by its inhabitants. However, no
3 action shall be brought pursuant to this subdivision more than four
4 years from close of escrow.

5 (g) With respect to issues regarding other areas of construction:

6 (1) Exterior pathways, driveways, hardscape, sidewalls,
7 sidewalks, and patios installed by the original builder shall not
8 contain cracks that display significant vertical displacement or that
9 are excessive. However, no action shall be brought upon a violation
10 of this paragraph more than four years from close of escrow.

11 (2) Stucco, exterior siding, and other exterior wall finishes and
12 fixtures, including, but not limited to, pot shelves, horizontal
13 surfaces, columns, and plant-ons, shall not contain significant
14 cracks or separations.

15 (3) (A) To the extent not otherwise covered by these standards,
16 manufactured products, including, but not limited to, windows,
17 doors, roofs, plumbing products and fixtures, fireplaces, electrical
18 fixtures, HVAC units, countertops, cabinets, paint, and appliances
19 shall be installed so as not to interfere with the products' useful
20 life, if any.

21 (B) For purposes of this paragraph, "useful life" means a
22 representation of how long a product is warranted or represented,
23 through its limited warranty or any written representations, to last
24 by its manufacturer, including recommended or required
25 maintenance. If there is no representation by a manufacturer, a
26 builder shall install manufactured products so as not to interfere
27 with the product's utility.

28 (C) For purposes of this paragraph, "manufactured product"
29 means a product that is completely manufactured offsite.

30 (D) If no useful life representation is made, or if the
31 representation is less than one year, the period shall be no less than
32 one year. If a manufactured product is damaged as a result of a
33 violation of these standards, damage to the product is a recoverable
34 element of damages. This subparagraph does not limit recovery if
35 there has been damage to another building component caused by
36 a manufactured product during the manufactured product's useful
37 life.

38 (E) This title does not apply in any action seeking recovery
39 solely for a defect in a manufactured product located within or
40 adjacent to a structure.

1 (4) Heating shall be installed so as to be capable of maintaining
2 a room temperature of 70 degrees Fahrenheit at a point three feet
3 above the floor in any living space if the heating was installed
4 pursuant to a building permit application submitted prior to January
5 1, 2008, or capable of maintaining a room temperature of 68
6 degrees Fahrenheit at a point three feet above the floor and two
7 feet from exterior walls in all habitable rooms at the design
8 temperature if the heating was installed pursuant to a building
9 permit application submitted on or before January 1, 2008.

10 (5) Living space air-conditioning, if any, shall be provided in
11 a manner consistent with the size and efficiency design criteria
12 specified in Title 24 of the California Code of Regulations or its
13 successor.

14 (6) Attached structures shall be constructed to comply with
15 interunit noise transmission standards set by the applicable
16 government building codes, ordinances, or regulations in effect at
17 the time of the original construction. If there is no applicable code,
18 ordinance, or regulation, this paragraph does not apply. However,
19 no action shall be brought pursuant to this paragraph more than
20 one year from the original occupancy of the adjacent unit.

21 (7) Irrigation systems and drainage shall operate properly so as
22 not to damage landscaping or other external improvements.
23 However, no action shall be brought pursuant to this paragraph
24 more than one year from close of escrow.

25 (8) Untreated wood posts shall not be installed in contact with
26 soil so as to cause unreasonable decay to the wood based upon the
27 finish grade at the time of original construction. However, no action
28 shall be brought pursuant to this paragraph more than two years
29 from close of escrow.

30 (9) Untreated steel fences and adjacent components shall be
31 installed so as to prevent unreasonable corrosion. However, no
32 action shall be brought pursuant to this paragraph more than four
33 years from close of escrow.

34 (10) Paint and stains shall be applied in such a manner so as not
35 to cause deterioration of the building surfaces for the length of
36 time specified by the paint or stain manufacturers' representations,
37 if any. However, no action shall be brought pursuant to this
38 paragraph more than five years from close of escrow.

39 (11) Roofing materials shall be installed so as to avoid materials
40 falling from the roof.

1 (12) The landscaping systems shall be installed in such a manner
2 so as to survive for not less than one year. However, no action
3 shall be brought pursuant to this paragraph more than two years
4 from close of escrow.

5 (13) Ceramic tile and tile backing shall be installed in such a
6 manner that the tile does not detach.

7 (14) Dryer ducts shall be installed and terminated pursuant to
8 manufacturer installation requirements. However, no action shall
9 be brought pursuant to this paragraph more than two years from
10 close of escrow.

11 (15) Structures shall be constructed in such a manner so as not
12 to impair the occupants' safety because they contain public health
13 hazards as determined by a duly authorized public health official,
14 health agency, or governmental entity having jurisdiction. This
15 paragraph does not limit recovery for any damages caused by a
16 violation of any other paragraph of this section on the grounds that
17 the damages do not constitute a health hazard.

18 SEC. 3. Section 1363.05 of the Civil Code is amended to read:

19 1363.05. (a) This section shall be known and may be cited as
20 the Common Interest Development Open Meeting Act.

21 (b) Any member of the association may attend meetings of the
22 board of directors of the association, except when the board
23 adjourns to, or meets solely in, executive session to consider
24 litigation, matters relating to the formation of contracts with third
25 parties, member discipline, personnel matters, or to meet with a
26 member, upon the member's request, regarding the member's
27 payment of assessments, as specified in Section 1367 or 1367.1.
28 The board of directors of the association shall meet in executive
29 session, if requested by a member who may be subject to a fine,
30 penalty, or other form of discipline, and the member shall be
31 entitled to attend the executive session. As specified in paragraph
32 (2) of subdivision (k), a member of the association shall be entitled
33 to attend a teleconference meeting or the portion of a teleconference
34 meeting that is open to members, and that meeting or portion of
35 the meeting shall be audible to the members in a location specified
36 in the notice of the meeting.

37 (c) Any matter discussed in executive session shall be generally
38 noted in the minutes of the immediately following meeting that is
39 open to the entire membership.

1 (d) The minutes, minutes proposed for adoption that are marked
2 to indicate draft status, or a summary of the minutes, of any
3 meeting of the board of directors of an association, other than an
4 executive session, shall be available to members within 30 days
5 of the meeting. The minutes, proposed minutes, or summary
6 minutes shall be distributed to any member of the association upon
7 request and upon reimbursement of the association's costs for
8 making that distribution.

9 (e) Members of the association shall be notified in writing at
10 the time that the pro forma budget required in Section 1365 is
11 distributed, or at the time of any general mailing to the entire
12 membership of the association, of their right to have copies of the
13 minutes of meetings of the board of directors, and how and where
14 those minutes may be obtained.

15 (f) Unless the bylaws provide for a longer period of notice,
16 members shall be given notice of the time and place of a meeting
17 as defined in subdivision (k), except for an emergency meeting or
18 a meeting that will be held solely in executive session, at least four
19 days prior to the meeting. Except for an emergency meeting,
20 members shall be given notice of the time and place of a meeting
21 that will be held solely in executive session at least two days prior
22 to the meeting. Notice shall be given by posting the notice in a
23 prominent place or places within the common area and by mail to
24 any owner who had requested notification of board meetings by
25 mail, at the address requested by the owner. Notice may also be
26 given by mail, by delivery of the notice to each unit in the
27 development, by newsletter or similar means of communication,
28 or, with the consent of the member, by electronic means. The notice
29 shall contain the agenda for the meeting.

30 (g) An emergency meeting of the board may be called by the
31 president of the association, or by any two members of the
32 governing body other than the president, if there are circumstances
33 that could not have been reasonably foreseen which require
34 immediate attention and possible action by the board, and which
35 of necessity make it impracticable to provide notice as required
36 by this section.

37 (h) The board of directors of the association shall permit any
38 member of the association to speak at any meeting of the
39 association or the board of directors, except for meetings of the
40 board held in executive session. A reasonable time limit for all

1 members of the association to speak to the board of directors or
2 before a meeting of the association shall be established by the
3 board of directors.

4 (i) (1) Except as described in paragraphs (2) to (4), inclusive,
5 the board of directors of the association may not discuss or take
6 action on any item at a nonemergency meeting unless the item was
7 placed on the agenda included in the notice that was posted and
8 distributed pursuant to subdivision (f). This subdivision does not
9 prohibit a resident who is not a member of the board from speaking
10 on issues not on the agenda.

11 (2) Notwithstanding paragraph (1), a member of the board of
12 directors, a managing agent or other agent of the board of directors,
13 or a member of the staff of the board of directors, may do any of
14 the following:

15 (A) Briefly respond to statements made or questions posed by
16 a person speaking at a meeting as described in subdivision (h).

17 (B) Ask a question for clarification, make a brief announcement,
18 or make a brief report on his or her own activities, whether in
19 response to questions posed by a member of the association or
20 based upon his or her own initiative.

21 (3) Notwithstanding paragraph (1), the board of directors or a
22 member of the board of directors, subject to rules or procedures
23 of the board of directors, may do any of the following:

24 (A) Provide a reference to, or provide other resources for factual
25 information to, its managing agent or other agents or staff.

26 (B) Request its managing agent or other agents or staff to report
27 back to the board of directors at a subsequent meeting concerning
28 any matter, or take action to direct its managing agent or other
29 agents or staff to place a matter of business on a future agenda.

30 (C) Direct its managing agent or other agents or staff to perform
31 administrative tasks that are necessary to carry out this subdivision.

32 (4) (A) Notwithstanding paragraph (1), the board of directors
33 may take action on any item of business not appearing on the
34 agenda posted and distributed pursuant to subdivision (f) under
35 any of the following conditions:

36 (i) Upon a determination made by a majority of the board of
37 directors present at the meeting that an emergency situation exists.
38 An emergency situation exists if there are circumstances that could
39 not have been reasonably foreseen by the board, that require

1 immediate attention and possible action by the board, and that, of
2 necessity, make it impracticable to provide notice.

3 (ii) Upon a determination made by the board by a vote of
4 two-thirds of the members present at the meeting, or, if less than
5 two-thirds of total membership of the board is present at the
6 meeting, by a unanimous vote of the members present, that there
7 is a need to take immediate action and that the need for action
8 came to the attention of the board after the agenda was posted and
9 distributed pursuant to subdivision (f).

10 (iii) The item appeared on an agenda that was posted and
11 distributed pursuant to subdivision (f) for a prior meeting of the
12 board of directors that occurred not more than 30 calendar days
13 before the date that action is taken on the item and, at the prior
14 meeting, action on the item was continued to the meeting at which
15 the action is taken.

16 (B) Before discussing any item pursuant to this paragraph, the
17 board of directors shall openly identify the item to the members
18 in attendance at the meeting.

19 (j) (1) The board of directors shall not take action on any item
20 of business outside of a meeting.

21 (2) (A) Notwithstanding Section 7211 of the Corporations
22 Code, the board of directors shall not conduct a meeting via a series
23 of electronic transmissions, including, but not limited to, electronic
24 mail, except as specified in subparagraph (B).

25 (B) Electronic transmissions may be used as a method of
26 conducting an emergency meeting if all members of the board,
27 individually or collectively, consent in writing to that action, and
28 if the written consent or consents are filed with the minutes of the
29 meeting of the board. These written consents may be transmitted
30 electronically.

31 (k) As used in this section:

32 (1) “Item of business” means any action within the authority of
33 the board, except those actions that the board has validly delegated
34 to any other person or persons, managing agent, officer of the
35 association, or committee of the board comprising less than a
36 majority of the directors.

37 (2) “Meeting” means either of the following:

38 (A) A congregation of a majority of the members of the board
39 at the same time and place to hear, discuss, or deliberate upon any
40 item of business that is within the authority of the board.

1 (B) A teleconference in which a majority of the members of the
2 board, in different locations, are connected by electronic means,
3 through audio or video or both. A teleconference meeting shall be
4 conducted in a manner that protects the rights of members of the
5 association and otherwise complies with the requirements of this
6 title. Except for a meeting that will be held solely in executive
7 session, the notice of the teleconference meeting shall identify at
8 least one physical location so that members of the association may
9 attend and at least one member of the board of directors or a person
10 designated by the board shall be present at that location.
11 Participation by board members in a teleconference meeting
12 constitutes presence at that meeting as long as all board members
13 participating in the meeting are able to hear one another and
14 members of the association speaking on matters before the board.

15 SEC. 4. Section 1368 of the Civil Code is amended to read:

16 1368. (a) The owner of a separate interest, other than an owner
17 subject to the requirements of Section 11018.6 of the Business and
18 Professions Code, shall, as soon as practicable before transfer of
19 title to the separate interest or execution of a real property sales
20 contract therefor, as defined in Section 2985, provide the following
21 to the prospective purchaser:

22 (1) A copy of the governing documents of the common interest
23 development, including any operating rules, and including a copy
24 of the association's articles of incorporation, or, if not incorporated,
25 a statement in writing from an authorized representative of the
26 association that the association is not incorporated.

27 (2) If there is a restriction in the governing documents limiting
28 the occupancy, residency, or use of a separate interest on the basis
29 of age in a manner different from that provided in Section 51.3, a
30 statement that the restriction is only enforceable to the extent
31 permitted by Section 51.3 and a statement specifying the applicable
32 provisions of Section 51.3.

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

35 (4) A true statement in writing obtained from an authorized
36 representative of the association as to the amount of the
37 association's current regular and special assessments and fees, any
38 assessments levied upon the owner's interest in the common
39 interest development that are unpaid on the date of the statement,
40 and any monetary fines or penalties levied upon the owner's

1 interest and unpaid on the date of the statement. The statement
2 obtained from an authorized representative shall also include true
3 information on late charges, interest, and costs of collection which,
4 as of the date of the statement, are or may be made a lien upon the
5 owner's interest in a common interest development pursuant to
6 Section 1367 or 1367.1.

7 (5) A copy or a summary of any notice previously sent to the
8 owner pursuant to subdivision (h) of Section 1363 that sets forth
9 any alleged violation of the governing documents that remains
10 unresolved at the time of the request. The notice shall not be
11 deemed a waiver of the association's right to enforce the governing
12 documents against the owner or the prospective purchaser of the
13 separate interest with respect to any violation. This paragraph shall
14 not be construed to require an association to inspect an owner's
15 separate interest.

16 (6) A copy of the initial list of defects provided to each member
17 of the association pursuant to Section 1375, unless the association
18 and the builder subsequently enter into a settlement agreement or
19 otherwise resolve the matter and the association complies with
20 Section 1375.1. Disclosure of the initial list of defects pursuant to
21 this paragraph does not waive any privilege attached to the
22 document. The initial list of defects shall also include a statement
23 that a final determination as to whether the list of defects is accurate
24 and complete has not been made.

25 (7) A copy of the latest information provided for in Section
26 1375.1.

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

32 (9) If there is a provision in the governing documents that
33 prohibits the rental or leasing of any of the separate interests in
34 the common interest development to a renter, lessee, or tenant, a
35 statement describing the prohibition.

36 (10) If requested by the prospective purchaser, a copy of the
37 minutes of the meetings, excluding meetings held in executive
38 session, of the association's board of directors, conducted over the
39 previous 12 months, that were approved by the association's board
40 of directors.

1 (b) (1) Upon written request, the association shall, within 10
2 days of the mailing or delivery of the request, provide the owner
3 of a separate interest, or any other recipient authorized by the
4 owner, with a copy of the requested documents specified in
5 paragraphs (1) to (10), inclusive, of subdivision (a). Upon receipt
6 of a written request, the association shall provide, on the form
7 described in Section 1368.2, a written or electronic estimate of the
8 fees that will be assessed for providing the requested documents.
9 The documents required to be made available pursuant to this
10 section may be maintained in electronic form, and may be posted
11 on the association's Internet Web site. Requesting parties shall
12 have the option of receiving the documents by electronic
13 transmission if the association maintains the documents in
14 electronic form. The association may collect a reasonable fee based
15 upon the association's actual cost for the procurement, preparation,
16 reproduction, and delivery of the documents requested pursuant
17 to the provisions of this section.

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

20 (3) Fees for any documents required by this section shall be
21 distinguished from other fees, fines, or assessments billed as part
22 of the transfer or sales transaction. Delivery of the documents
23 required by this section shall not be withheld for any reason nor
24 subject to any condition except the payment of the fee allowed
25 pursuant to paragraph (1).

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

29 (5) The association shall also provide a recipient authorized by
30 the owner of a separate interest with a copy of the completed form
31 specified in Section 1368.2 at the time the required documents are
32 delivered.

33 (c) (1) Except as provided in paragraph (2), neither an
34 association nor a community service organization or similar entity
35 may impose or collect any assessment, penalty, or fee in connection
36 with a transfer of title or any other interest except for the following:

37 (A) An amount not to exceed the association's actual costs to
38 change its records.

39 (B) An amount authorized by subdivision (b).

1 (2) The prohibition in paragraph (1) does not apply to a
2 community service organization or similar entity, or to a nonprofit
3 entity that provides services to a common interest development
4 under a declaration of trust, that is described in subparagraph (A)
5 or (B):

6 (A) The community service organization or similar entity
7 satisfies both of the following requirements:

8 (i) The community service organization or similar entity was
9 established prior to February 20, 2003.

10 (ii) The community service organization or similar entity exists
11 and operates, in whole or in part, to fund or perform environmental
12 mitigation or to restore or maintain wetlands or native habitat, as
13 required by the state or local government as an express written
14 condition of development.

15 (B) The community service organization or similar entity, or a
16 nonprofit entity that provides services to a common interest
17 development under a declaration of trust, satisfies all of the
18 following requirements:

19 (i) The organization or entity is not an organization or entity
20 described in subparagraph (A).

21 (ii) The organization or entity was established and received a
22 transfer fee prior to January 1, 2004.

23 (iii) On and after January 1, 2006, the organization or entity
24 offers a purchaser the following payment options for the fee or
25 charge it collects at time of transfer:

26 (I) Paying the fee or charge at the time of transfer.

27 (II) Paying the fee or charge pursuant to an installment payment
28 plan for a period of not less than seven years. If the purchaser
29 elects to pay the fee or charge in installment payments, the
30 organization or entity may also collect additional amounts that do
31 not exceed the actual costs for billing and financing on the amount
32 owed. If the purchaser sells the separate interest before the end of
33 the installment payment plan period, he or she shall pay the
34 remaining balance prior to transfer.

35 (3) For the purposes of this subdivision, a “community service
36 organization or similar entity” means a nonprofit entity, other than
37 an association, that is organized to provide services to residents
38 of the common interest development or to the public in addition
39 to the residents, to the extent community common areas or facilities
40 are available to the public. A “community service organization or

1 similar entity” does not include an entity that has been organized
2 solely to raise moneys and contribute to other nonprofit
3 organizations that are qualified as tax exempt under Section
4 501(c)(3) of the Internal Revenue Code and that provide housing
5 or housing assistance.

6 (d) Any person or entity who willfully violates this section is
7 liable to the purchaser of a separate interest that is subject to this
8 section for actual damages occasioned thereby and, in addition,
9 shall pay a civil penalty in an amount not to exceed five hundred
10 dollars (\$500). In an action to enforce this liability, the prevailing
11 party shall be awarded reasonable attorneys’ fees.

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

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

17 (g) For the purposes of this section, a person who acts as a
18 community association manager is an agent, as defined in Section
19 2297, of the association.

20 *SEC. 4.5. Section 1368 of the Civil Code is amended to read:*

21 1368. (a) The owner of a separate interest, other than an owner
22 subject to the requirements of Section 11018.6 of the Business and
23 Professions Code, shall, as soon as practicable before transfer of
24 title to the separate interest or execution of a real property sales
25 contract therefor, as defined in Section 2985, provide the following
26 to the prospective purchaser:

27 (1) A copy of the governing documents of the common interest
28 development, including any operating rules, and including a copy
29 of the association’s articles of incorporation, or, if not incorporated,
30 a statement in writing from an authorized representative of the
31 association that the association is not incorporated.

32 (2) If there is a restriction in the governing documents limiting
33 the occupancy, residency, or use of a separate interest on the basis
34 of age in a manner different from that provided in Section 51.3, a
35 statement that the restriction is only enforceable to the extent
36 permitted by Section 51.3 and a statement specifying the applicable
37 provisions of Section 51.3.

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

1 (4) A true statement in writing obtained from an authorized
2 representative of the association as to the amount of the
3 association’s current regular and special assessments and fees, any
4 assessments levied upon the owner’s interest in the common
5 interest development that are unpaid on the date of the statement,
6 and any monetary fines or penalties levied upon the owner’s
7 interest and unpaid on the date of the statement. The statement
8 obtained from an authorized representative shall also include true
9 information on late charges, interest, and costs of collection which,
10 as of the date of the statement, are or may be made a lien upon the
11 owner’s interest in a common interest development pursuant to
12 Section 1367 or 1367.1.

13 (5) A copy or a summary of any notice previously sent to the
14 owner pursuant to subdivision (h) of Section 1363 that sets forth
15 any alleged violation of the governing documents that remains
16 unresolved at the time of the request. The notice shall not be
17 deemed a waiver of the association’s right to enforce the governing
18 documents against the owner or the prospective purchaser of the
19 separate interest with respect to any violation. This paragraph shall
20 not be construed to require an association to inspect an owner’s
21 separate interest.

22 (6) A copy of the initial list of defects provided to each member
23 of the association pursuant to Section 1375, unless the association
24 and the builder subsequently enter into a settlement agreement or
25 otherwise resolve the matter and the association complies with
26 Section 1375.1. Disclosure of the initial list of defects pursuant to
27 this paragraph does not waive any privilege attached to the
28 document. The initial list of defects shall also include a statement
29 that a final determination as to whether the list of defects is accurate
30 and complete has not been made.

31 (7) A copy of the latest information provided for in Section
32 1375.1.

33 (8) Any change in the association’s current regular and special
34 assessments and fees which have been approved by the
35 association’s board of directors, but have not become due and
36 payable as of the date disclosure is provided pursuant to this
37 subdivision.

38 (9) If there is a provision in the governing documents that
39 prohibits the rental or leasing of any of the separate interests in

1 the common interest development to a renter, lessee, or tenant, a
2 statement describing the prohibition and its applicability.

3 (10) If requested by the prospective purchaser, a copy of the
4 minutes of the meetings, excluding meetings held in executive
5 session, of the association's board of directors, conducted over the
6 previous 12 months, that were approved by the association's board
7 of directors.

8 (b) (1) Upon written request, the association shall, within 10
9 days of the mailing or delivery of the request, provide the owner
10 of a separate interest, or any other recipient authorized by the
11 owner, with a copy of the requested documents specified in
12 paragraphs (1) to (10), inclusive, of subdivision (a). Upon receipt
13 of a written request, the association shall provide, on the form
14 described in Section 1368.2, a written or electronic estimate of the
15 fees that will be assessed for providing the requested documents.
16 The documents required to be made available pursuant to this
17 section may be maintained in electronic form, and may be posted
18 on the association's Internet Web site. Requesting parties shall
19 have the option of receiving the documents by electronic
20 transmission if the association maintains the documents in
21 electronic form. The association may collect a reasonable fee based
22 upon the association's actual cost for the procurement, preparation,
23 reproduction, and delivery of the documents requested pursuant
24 to the provisions of this section.

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

27 (3) (A) *A cancellation fee for documents specified in subdivision*
28 *(a) shall not be collected if either of the following applies:*

29 *(i) The request was canceled in writing by the same party that*
30 *placed the order and work had not yet been performed on the*
31 *order.*

32 *(ii) The request was canceled in writing and any work that had*
33 *been performed on the order was compensated.*

34 *(B) The association shall refund all fees collected pursuant to*
35 *paragraph (1) if the request was canceled in writing and work had*
36 *not yet been performed on the order.*

37 *(C) If the request was canceled in writing, the association shall*
38 *refund the share of fees collected pursuant to paragraph (1) that*
39 *represents the portion of the work not performed on the order.*

40 (3)

1 (4) Fees for any documents required by this section shall be
2 distinguished from other fees, fines, or assessments billed as part
3 of the transfer or sales transaction. Delivery of the documents
4 required by this section shall not be withheld for any reason nor
5 subject to any condition except the payment of the fee allowed
6 pursuant to paragraph (1).

7 ~~(4)~~

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

11 ~~(5)~~

12 (6) The association shall also provide a recipient authorized by
13 the owner of a separate interest with a copy of the completed form
14 specified in Section 1368.2 at the time the required documents are
15 delivered.

16 (c) (1) Except as provided in paragraph (2), neither an
17 association nor a community service organization or similar entity
18 may impose or collect any assessment, penalty, or fee in connection
19 with a transfer of title or any other interest except for the following:

20 (A) An amount not to exceed the association’s actual costs to
21 change its records.

22 (B) An amount authorized by subdivision (b).

23 (2) The prohibition in paragraph (1) does not apply to a
24 community service organization or similar entity, or to a nonprofit
25 entity that provides services to a common interest development
26 under a declaration of trust, that is described in subparagraph (A)
27 or (B):

28 (A) The community service organization or similar entity
29 satisfies both of the following requirements:

30 (i) The community service organization or similar entity was
31 established prior to February 20, 2003.

32 (ii) The community service organization or similar entity exists
33 and operates, in whole or in part, to fund or perform environmental
34 mitigation or to restore or maintain wetlands or native habitat, as
35 required by the state or local government as an express written
36 condition of development.

37 (B) The community service organization or similar entity, or a
38 nonprofit entity that provides services to a common interest
39 development under a declaration of trust, satisfies all of the
40 following requirements:

1 (i) The organization or entity is not an organization or entity
2 described in subparagraph (A).

3 (ii) The organization or entity was established and received a
4 transfer fee prior to January 1, 2004.

5 (iii) On and after January 1, 2006, the organization or entity
6 offers a purchaser the following payment options for the fee or
7 charge it collects at time of transfer:

8 (I) Paying the fee or charge at the time of transfer.

9 (II) Paying the fee or charge pursuant to an installment payment
10 plan for a period of not less than seven years. If the purchaser
11 elects to pay the fee or charge in installment payments, the
12 organization or entity may also collect additional amounts that do
13 not exceed the actual costs for billing and financing on the amount
14 owed. If the purchaser sells the separate interest before the end of
15 the installment payment plan period, he or she shall pay the
16 remaining balance prior to transfer.

17 (3) For the purposes of this subdivision, a “community service
18 organization or similar entity” means a nonprofit entity, other than
19 an association, that is organized to provide services to residents
20 of the common interest development or to the public in addition
21 to the residents, to the extent community common areas or facilities
22 are available to the public. A “community service organization or
23 similar entity” does not include an entity that has been organized
24 solely to raise moneys and contribute to other nonprofit
25 organizations that are qualified as tax exempt under Section
26 501(c)(3) of the Internal Revenue Code and that provide housing
27 or housing assistance.

28 (d) Any person or entity who willfully violates this section is
29 liable to the purchaser of a separate interest that is subject to this
30 section for actual damages occasioned thereby and, in addition,
31 shall pay a civil penalty in an amount not to exceed five hundred
32 dollars (\$500). In an action to enforce this liability, the prevailing
33 party shall be awarded reasonable attorneys’ fees.

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

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

1 (g) For the purposes of this section, a person who acts as a
2 community association manager is an agent, as defined in Section
3 2297, of the association.

4 SEC. 5. Section 18045.6 of the Health and Safety Code is
5 amended to read:

6 18045.6. (a) (1) If the manufacturer, distributor, or dealer
7 changes the site or location of his or her established place of
8 business, the manufacturer, distributor, or dealer shall immediately,
9 upon making the change, so notify the department. If a
10 manufacturer, distributor, or dealer for any reason whatsoever,
11 ceases to be in possession of an established place of business from
12 and on which he or she conducts the business for which the
13 manufacturer, distributor, or dealer is licensed, he or she shall
14 immediately notify the department and, upon demand by the
15 department, shall deliver to the department the manufacturer's,
16 distributor's, or dealer's license and all relevant records in his or
17 her possession.

18 (2) The department may place a manufacturer, distributor, or
19 dealer license on an inactive status upon application of the licensee.
20 An inactive license shall remain valid for six months or for the
21 remaining term of the original license, whichever is less.

22 (b) If the dealer changes to, or adds, another franchise for the
23 sale of new manufactured homes, mobilehomes, or commercial
24 coaches, or cancels, or, for any cause whatever, otherwise loses a
25 franchise for the sale of new manufactured homes, mobilehomes,
26 or commercial coaches, he or she shall immediately so notify the
27 department.

28 (c) A dealer's established place of business shall have posted
29 in a place conspicuous to the public the license issued by the
30 department to the dealer and to each salesperson employed by the
31 dealer.

32 (d) (1) Notwithstanding Section 18050 and this section, a
33 dealer may display manufactured homes, mobilehomes, or
34 commercial coaches at a fair, exposition, or similar exhibit. As
35 used in this section, "mobilehome fair or exposition" means a
36 display of manufactured homes, mobilehomes, or commercial
37 coaches not in a mobilehome park and for which the initial
38 opportunity to display is open to all dealers. The display shall not
39 qualify as a business location or an established place of business
40 for the purposes of procuring or maintaining a dealer's license.

1 (2) New manufactured homes or mobilehomes, installed
2 pursuant to Section 18613, may also be displayed and sold within
3 a mobilehome park or mobilehome subdivision by dealers. A
4 display home may be used and equipped only for the sale of the
5 displayed home and shall not be used as an established place of
6 business, unless licensed as an established place of business.

7 (3) Dealers and salespersons may negotiate listing agreements
8 for the sale of a used manufactured home or mobilehome which
9 has been titled by the department, and may negotiate and execute
10 offers to purchase and purchase documents for the sale of a new
11 or used manufactured home or mobilehome other than at the
12 established place of business.

13 (e) All manufactured homes, mobilehomes, or commercial
14 coaches displayed pursuant to subdivision (d) shall be identified
15 by a sign or device providing information relating to the dealer's
16 name and the location and address of the dealer's established place
17 of business and any other information that is required by the
18 department.

19 (f) The requirements for an office specified in subdivision (b)
20 of Section 18045.5 shall not apply to a display location authorized
21 by subdivision (d), unless licensed as an established place of
22 business.

23 SEC. 6. Section 18942 of the Health and Safety Code is
24 amended to read:

25 18942. (a) The commission shall publish, or cause to be
26 published, editions of the code in its entirety once in every three
27 years. In the intervening period the commission shall publish, or
28 cause to be published, supplements as necessary. For emergency
29 building standards defined in subdivision (a) of Section 18913, an
30 emergency building standards supplement shall be published
31 whenever the commission determines it is necessary.

32 (b) The commission shall publish the text of Article 2.5
33 (commencing with Section 115920) of Chapter 5 of Part 10 of
34 Division 104, within the requirements for single-family residential
35 occupancies contained in Part 2.5 of Title 24 of the California
36 Code of Regulations, with the following note:

37
38 "NOTE: These regulations are subject to local government
39 modification. You should verify the applicable local

1 government requirements at the time of application for a
2 building permit.”

3
4 (c) The commission shall publish the text of Section 116064.2
5 within Part 2 of Title 24 of the California Code of Regulations.

6 (d) The commission may publish, stockpile, and sell at a
7 reasonable price the code and materials incorporated therein by
8 reference if it deems the latter is insufficiently available to the
9 public, or unavailable at a reasonable price. Each state department
10 concerned and each city, county, or city and county shall have an
11 up-to-date copy of the code available for public inspection.

12 (e) (1) Each city, county, and city and county, including charter
13 cities, shall obtain and maintain with all revisions on a current
14 basis, at least one copy of the building standards and other state
15 regulations relating to buildings published in Titles 8, 19, 20, 24,
16 and 25 of the California Code of Regulations. These codes shall
17 be maintained in the office of the building official responsible for
18 the administration and enforcement of this part.

19 (2) This subdivision shall not apply to a city or county that
20 contracts for the administration and enforcement of the provisions
21 of this part with another local government agency that complies
22 with this section.

23 *SEC. 7. Section 4.5 of this bill incorporates amendments to*
24 *Section 1368 of the Civil Code proposed by both this bill and*
25 *Assembly Bill 1838. It shall become operative only if (1) both bills*
26 *are enacted and become effective on or before January 1, 2013,*
27 *(2) each bill amends Section 1368 of the Civil Code, and (3) this*
28 *bill is enacted after Assembly Bill 1838, in which case Section 4*
29 *of this bill shall not become operative.*