

Introduced by Committee on Transportation and Housing (Senators DeSaulnier (Chair), Beall, Cannella, Gaines, Galgiani, Hill, Lara, Liu, Pavley, Roth, and Wyland)

February 22, 2013

An act to amend Sections 1941.4, 2924b, 4005, 4035, 4090, 4290, 4525, 4528, and 4530 of, and to repeal Sections 1363.05, 1368, and 1368.2 of the Civil Code, and to amend Section 12191 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 745, as introduced, Committee on Transportation and Housing. Housing.

(1) Existing law, the Davis-Sterling Common Interest Development Act defines and regulates common interest developments. Operative January 1, 2014, the act will be reorganized and recodified.

This bill would repeal provisions of the act that are superseded by the reorganization and recodification of the act. The bill would make other conforming changes, would authorize delivery of documents to the homeowner's association by specified types of mail delivery, would revise requirements for a board teleconference and the form for billing disclosures, and would prohibit cancellation fees for requests for documents, as specified.

(2) Existing law requires the lessor of a building intended for residential occupation to ensure that the inside telephone wiring meets the applicable standards of the most recent National Electrical Code.

This bill would replace the reference to the National Electrical Code with the California Electrical Code.

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 Section 1363.05 of the Civil Code is repealed.
2 1363.05.— (a) This section shall be known and may be cited as
3 the Common Interest Development Open Meeting Act.
4 (b) ~~Any member of the association may attend meetings of the~~
5 ~~board of directors of the association, except when the board~~
6 ~~adjourns to, or meets solely in, executive session to consider~~
7 ~~litigation, matters relating to the formation of contracts with third~~
8 ~~parties, member discipline, personnel matters, or to meet with a~~
9 ~~member, upon the member's request, regarding the member's~~
10 ~~payment of assessments, as specified in Section 1367 or 1367.1.~~
11 ~~The board of directors of the association shall meet in executive~~
12 ~~session, if requested by a member who may be subject to a fine,~~
13 ~~penalty, or other form of discipline, and the member shall be~~
14 ~~entitled to attend the executive session. As specified in paragraph~~
15 ~~(2) of subdivision (k), a member of the association shall be entitled~~
16 ~~to attend a teleconference meeting or the portion of a teleconference~~
17 ~~meeting that is open to members, and that meeting or portion of~~
18 ~~the meeting shall be audible to the members in a location specified~~
19 ~~in the notice of the meeting.~~
20 (c) ~~Any matter discussed in executive session shall be generally~~
21 ~~noted in the minutes of the immediately following meeting that is~~
22 ~~open to the entire membership.~~
23 (d) ~~The minutes, minutes proposed for adoption that are marked~~
24 ~~to indicate draft status, or a summary of the minutes, of any~~
25 ~~meeting of the board of directors of an association, other than an~~
26 ~~executive session, shall be available to members within 30 days~~
27 ~~of the meeting. The minutes, proposed minutes, or summary~~
28 ~~minutes shall be distributed to any member of the association upon~~
29 ~~request and upon reimbursement of the association's costs for~~
30 ~~making that distribution.~~
31 (e) ~~Members of the association shall be notified in writing at~~
32 ~~the time that the pro forma budget required in Section 1365 is~~
33 ~~distributed, or at the time of any general mailing to the entire~~
34 ~~membership of the association, of their right to have copies of the~~
35 ~~minutes of meetings of the board of directors, and how and where~~
36 ~~those minutes may be obtained.~~
37 (f) ~~Unless the bylaws provide for a longer period of notice,~~
38 ~~members shall be given notice of the time and place of a meeting~~

1 as defined in subdivision (k), except for an emergency meeting or
2 a meeting that will be held solely in executive session, at least four
3 days prior to the meeting. Except for an emergency meeting,
4 members shall be given notice of the time and place of a meeting
5 that will be held solely in executive session at least two days prior
6 to the meeting. Notice shall be given by posting the notice in a
7 prominent place or places within the common area and by mail to
8 any owner who had requested notification of board meetings by
9 mail, at the address requested by the owner. Notice may also be
10 given by mail, by delivery of the notice to each unit in the
11 development, by newsletter or similar means of communication,
12 or, with the consent of the member, by electronic means. The notice
13 shall contain the agenda for the meeting.

14 (g) An emergency meeting of the board may be called by the
15 president of the association, or by any two members of the
16 governing body other than the president, if there are circumstances
17 that could not have been reasonably foreseen which require
18 immediate attention and possible action by the board, and which
19 of necessity make it impracticable to provide notice as required
20 by this section.

21 (h) The board of directors of the association shall permit any
22 member of the association to speak at any meeting of the
23 association or the board of directors, except for meetings of the
24 board held in executive session. A reasonable time limit for all
25 members of the association to speak to the board of directors or
26 before a meeting of the association shall be established by the
27 board of directors.

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

35 (2) Notwithstanding paragraph (1), a member of the board of
36 directors, a managing agent or other agent of the board of directors,
37 or a member of the staff of the board of directors, may do any of
38 the following:

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

1 ~~(B) Ask a question for clarification, make a brief announcement,~~
2 ~~or make a brief report on his or her own activities, whether in~~
3 ~~response to questions posed by a member of the association or~~
4 ~~based upon his or her own initiative.~~
5 ~~(3) Notwithstanding paragraph (1), the board of directors or a~~
6 ~~member of the board of directors, subject to rules or procedures~~
7 ~~of the board of directors, may do any of the following:~~
8 ~~(A) Provide a reference to, or provide other resources for factual~~
9 ~~information to, its managing agent or other agents or staff.~~
10 ~~(B) Request its managing agent or other agents or staff to report~~
11 ~~back to the board of directors at a subsequent meeting concerning~~
12 ~~any matter, or take action to direct its managing agent or other~~
13 ~~agents or staff to place a matter of business on a future agenda.~~
14 ~~(C) Direct its managing agent or other agents or staff to perform~~
15 ~~administrative tasks that are necessary to carry out this subdivision.~~
16 ~~(4) (A) Notwithstanding paragraph (1), the board of directors~~
17 ~~may take action on any item of business not appearing on the~~
18 ~~agenda posted and distributed pursuant to subdivision (f) under~~
19 ~~any of the following conditions:~~
20 ~~(i) Upon a determination made by a majority of the board of~~
21 ~~directors present at the meeting that an emergency situation exists.~~
22 ~~An emergency situation exists if there are circumstances that could~~
23 ~~not have been reasonably foreseen by the board, that require~~
24 ~~immediate attention and possible action by the board, and that, of~~
25 ~~necessity, make it impracticable to provide notice.~~
26 ~~(ii) Upon a determination made by the board by a vote of~~
27 ~~two-thirds of the members present at the meeting, or, if less than~~
28 ~~two-thirds of total membership of the board is present at the~~
29 ~~meeting, by a unanimous vote of the members present, that there~~
30 ~~is a need to take immediate action and that the need for action~~
31 ~~came to the attention of the board after the agenda was posted and~~
32 ~~distributed pursuant to subdivision (f).~~
33 ~~(iii) The item appeared on an agenda that was posted and~~
34 ~~distributed pursuant to subdivision (f) for a prior meeting of the~~
35 ~~board of directors that occurred not more than 30 calendar days~~
36 ~~before the date that action is taken on the item and, at the prior~~
37 ~~meeting, action on the item was continued to the meeting at which~~
38 ~~the action is taken.~~

1 ~~(B) Before discussing any item pursuant to this paragraph, the~~
2 ~~board of directors shall openly identify the item to the members~~
3 ~~in attendance at the meeting.~~

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

6 ~~(2) (A) Notwithstanding Section 7211 of the Corporations~~
7 ~~Code, the board of directors shall not conduct a meeting via a series~~
8 ~~of electronic transmissions, including, but not limited to, electronic~~
9 ~~mail, except as specified in subparagraph (B).~~

10 ~~(B) Electronic transmissions may be used as a method of~~
11 ~~conducting an emergency meeting if all members of the board,~~
12 ~~individually or collectively, consent in writing to that action, and~~
13 ~~if the written consent or consents are filed with the minutes of the~~
14 ~~meeting of the board. These written consents may be transmitted~~
15 ~~electronically.~~

16 ~~(k) As used in this section:~~

17 ~~(1) “Item of business” means any action within the authority of~~
18 ~~the board, except those actions that the board has validly delegated~~
19 ~~to any other person or persons, managing agent, officer of the~~
20 ~~association, or committee of the board comprising less than a~~
21 ~~majority of the directors.~~

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

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

26 ~~(B) A teleconference in which a majority of the members of the~~
27 ~~board, in different locations, are connected by electronic means,~~
28 ~~through audio or video or both. A teleconference meeting shall be~~
29 ~~conducted in a manner that protects the rights of members of the~~
30 ~~association and otherwise complies with the requirements of this~~
31 ~~title. Except for a meeting that will be held solely in executive~~
32 ~~session, the notice of the teleconference meeting shall identify at~~
33 ~~least one physical location so that members of the association may~~
34 ~~attend and at least one member of the board of directors or a person~~
35 ~~designated by the board shall be present at that location.~~
36 ~~Participation by board members in a teleconference meeting~~
37 ~~constitutes presence at that meeting as long as all board members~~
38 ~~participating in the meeting are able to hear one another and~~
39 ~~members of the association speaking on matters before the board.~~

40 SEC. 2. Section 1368 of the Civil Code is repealed.

1 1368. (a) ~~The owner of a separate interest, other than an owner~~
2 ~~subject to the requirements of Section 11018.6 of the Business and~~
3 ~~Professions Code, shall, as soon as practicable before transfer of~~
4 ~~title to the separate interest or execution of a real property sales~~
5 ~~contract therefor, as defined in Section 2985, provide the following~~
6 ~~to the prospective purchaser:~~

7 (1) ~~A copy of the governing documents of the common interest~~
8 ~~development, including any operating rules, and including a copy~~
9 ~~of the association's articles of incorporation, or, if not incorporated,~~
10 ~~a statement in writing from an authorized representative of the~~
11 ~~association that the association is not incorporated.~~

12 (2) ~~If there is a restriction in the governing documents limiting~~
13 ~~the occupancy, residency, or use of a separate interest on the basis~~
14 ~~of age in a manner different from that provided in Section 51.3, a~~
15 ~~statement that the restriction is only enforceable to the extent~~
16 ~~permitted by Section 51.3 and a statement specifying the applicable~~
17 ~~provisions of Section 51.3.~~

18 (3) ~~A copy of the most recent documents distributed pursuant~~
19 ~~to Section 1365.~~

20 (4) ~~A true statement in writing obtained from an authorized~~
21 ~~representative of the association as to the amount of the~~
22 ~~association's current regular and special assessments and fees, any~~
23 ~~assessments levied upon the owner's interest in the common~~
24 ~~interest development that are unpaid on the date of the statement,~~
25 ~~and any monetary fines or penalties levied upon the owner's~~
26 ~~interest and unpaid on the date of the statement. The statement~~
27 ~~obtained from an authorized representative shall also include true~~
28 ~~information on late charges, interest, and costs of collection which,~~
29 ~~as of the date of the statement, are or may be made a lien upon the~~
30 ~~owner's interest in a common interest development pursuant to~~
31 ~~Section 1367 or 1367.1.~~

32 (5) ~~A copy or a summary of any notice previously sent to the~~
33 ~~owner pursuant to subdivision (h) of Section 1363 that sets forth~~
34 ~~any alleged violation of the governing documents that remains~~
35 ~~unresolved at the time of the request. The notice shall not be~~
36 ~~deemed a waiver of the association's right to enforce the governing~~
37 ~~documents against the owner or the prospective purchaser of the~~
38 ~~separate interest with respect to any violation. This paragraph shall~~
39 ~~not be construed to require an association to inspect an owner's~~
40 ~~separate interest.~~

1 ~~(6) A copy of the initial list of defects provided to each member~~
2 ~~of the association pursuant to Section 1375, unless the association~~
3 ~~and the builder subsequently enter into a settlement agreement or~~
4 ~~otherwise resolve the matter and the association complies with~~
5 ~~Section 1375.1. Disclosure of the initial list of defects pursuant to~~
6 ~~this paragraph does not waive any privilege attached to the~~
7 ~~document. The initial list of defects shall also include a statement~~
8 ~~that a final determination as to whether the list of defects is accurate~~
9 ~~and complete has not been made.~~

10 ~~(7) A copy of the latest information provided for in Section~~
11 ~~1375.1.~~

12 ~~(8) Any change in the association's current regular and special~~
13 ~~assessments and fees which have been approved by the~~
14 ~~association's board of directors, but have not become due and~~
15 ~~payable as of the date disclosure is provided pursuant to this~~
16 ~~subdivision.~~

17 ~~(9) If there is a provision in the governing documents that~~
18 ~~prohibits the rental or leasing of any of the separate interests in~~
19 ~~the common interest development to a renter, lessee, or tenant, a~~
20 ~~statement describing the prohibition.~~

21 ~~(10) If requested by the prospective purchaser, a copy of the~~
22 ~~minutes of the meetings, excluding meetings held in executive~~
23 ~~session, of the association's board of directors, conducted over the~~
24 ~~previous 12 months, that were approved by the association's board~~
25 ~~of directors.~~

26 ~~(b) (1) Upon written request, the association shall, within 10~~
27 ~~days of the mailing or delivery of the request, provide the owner~~
28 ~~of a separate interest, or any other recipient authorized by the~~
29 ~~owner, with a copy of the requested documents specified in~~
30 ~~paragraphs (1) to (10), inclusive, of subdivision (a). Upon receipt~~
31 ~~of a written request, the association shall provide, on the form~~
32 ~~described in Section 1368.2, a written or electronic estimate of the~~
33 ~~fees that will be assessed for providing the requested documents.~~
34 ~~The documents required to be made available pursuant to this~~
35 ~~section may be maintained in electronic form, and may be posted~~
36 ~~on the association's Internet Web site. Requesting parties shall~~
37 ~~have the option of receiving the documents by electronic~~
38 ~~transmission if the association maintains the documents in~~
39 ~~electronic form. The association may collect a reasonable fee based~~
40 ~~upon the association's actual cost for the procurement, preparation,~~

1 reproduction, and delivery of the documents requested pursuant
2 to the provisions of this section.

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

5 (3) (A) A cancellation fee for documents specified in
6 subdivision (a) shall not be collected if either of the following
7 applies:

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

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

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

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

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

24 (5) An association may contract with any person or entity to
25 facilitate compliance with the requirements of this subdivision on
26 behalf of the association.

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

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

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

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

38 (2) The prohibition in paragraph (1) does not apply to a
39 community service organization or similar entity, or to a nonprofit
40 entity that provides services to a common interest development

1 under a declaration of trust, that is described in subparagraph (A)
2 or (B):

3 ~~(A) The community service organization or similar entity~~
4 ~~satisfies both of the following requirements:~~

5 ~~(i) The community service organization or similar entity was~~
6 ~~established prior to February 20, 2003.~~

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

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

16 ~~(i) The organization or entity is not an organization or entity~~
17 ~~described in subparagraph (A).~~

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

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

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

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

32 ~~(3) For the purposes of this subdivision, a “community service~~
33 ~~organization or similar entity” means a nonprofit entity, other than~~
34 ~~an association, that is organized to provide services to residents~~
35 ~~of the common interest development or to the public in addition~~
36 ~~to the residents, to the extent community common areas or facilities~~
37 ~~are available to the public. A “community service organization or~~
38 ~~similar entity” does not include an entity that has been organized~~
39 ~~solely to raise moneys and contribute to other nonprofit~~
40 ~~organizations that are qualified as tax exempt under Section~~

1 501(c)(3) of the Internal Revenue Code and that provide housing
2 or housing assistance.

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

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

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

14 (g) For the purposes of this section, a person who acts as a
15 community association manager is an agent, as defined in Section
16 2297, of the association.

17 SEC. 3. Section 1368.2 of the Civil Code is repealed.

18 1368.2. The form for billing disclosures required by Section
19 1368 shall be in substantially the following form and in at least
20 10-point type:

21
22 CHARGES FOR DOCUMENTS PROVIDED AS REQUIRED BY SECTION
23 1368*

24
25 Property Address _____
26 Owner of Property _____
27 Owner's Mailing Address _____
28 (If known or different from property address.)

29
30 Provider of the Section 1368 Items:
31 _____
32 _____

33 Print Name Position or Title Association or Agent Date Form Completed

34

35 Check or Complete Applicable Column or Columns Below

36 Document	Civil Code Section	Included	Not Available (N/A) or Not Applicable (N/App)
37			
38			
39			
40			

1	Articles of Incorporation or	Section 1368(a)(1)	=====	=====
2	statement that not			
3	incorporated			
4	CC&Rs	Section 1368(a)(1)	=====	=====
5	Bylaws	Section 1368(a)(1)	=====	=====
6	Operating Rules	Section 1368(a)(1)	=====	=====
7	Age restrictions, if any	Section 1368(a)(2)	=====	=====
8	Pro forma operating budget	Sections 1365 and	=====	=====
9	or summary, including	1368(a)(3)		
10	reserve study			
11	Assessment and reserve	Sections 1365 and	=====	=====
12	funding disclosure summary	1368(a)(4)		
13	Financial statement review	Sections 1365 and	=====	=====
14		1368(a)(3)		
15	Assessment enforcement	Sections 1365 and	=====	=====
16	policy	1368(a)(4)		
17	Insurance summary	Sections 1365 and	=====	=====
18		1368(a)(3)		
19	Regular assessment	Section 1368(a)(4)	=====	=====
20	Special assessment	Section 1368(a)(4)	=====	=====
21	Emergency assessment	Section 1368(a)(4)	=====	=====
22	Other unpaid obligations of	Sections 1367.1	=====	=====
23	seller	and 1368(a)(4)		
24	Approved changes to	Sections 1365 and	=====	=====
25	assessments	1368(a)(4), (8)		
26	Settlement notice regarding	Sections	=====	=====
27	common area defects	1368(a)(6), (7) and		
28		1375.1		
29	Preliminary list of defects	Sections	=====	=====
30		1368(a)(6), 1375,		
31		and 1375.1		
32	Notice(s) of violation	Sections 1363 and	=====	=====
33		1368(a)(5)		
34				
35				
36	Required statement of fees	Section 1368	=====	=====
37	Minutes of regular meetings	Section 1368(a)(9)	=====	=====
38	of the board of directors			
39	conducted over the previous			
40	12 months, if requested			

1 Total fees for these _____
2 documents:

3 *The information provided by this form may not include all fees that may be
4 imposed before the close of escrow. Additional fees that are not related to the
5 requirements of Section 1368 may be charged separately.
6

7 SEC. 4. Section 1941.4 of the Civil Code is amended to read:

8 1941.4. The lessor of a building intended for the residential
9 occupation of human beings shall be responsible for installing at
10 least one usable telephone jack and for placing and maintaining
11 the inside telephone wiring in good working order, shall ensure
12 that the inside telephone wiring meets the applicable standards of
13 the most recent ~~National Electrical Code as adopted by the~~
14 ~~Electronic Industry Association~~ *California Electrical Code*, and
15 shall make any required repairs. The lessor shall not restrict or
16 interfere with access by the telephone utility to its telephone
17 network facilities up to the demarcation point separating the inside
18 wiring.

19 “Inside telephone wiring” for purposes of this section, means
20 that portion of the telephone wire that connects the telephone
21 equipment at the customer’s premises to the telephone network at
22 a demarcation point determined by the telephone corporation in
23 accordance with orders of the Public Utilities Commission.

24 SEC. 5. Section 2924b of the Civil Code is amended to read:

25 2924b. (a) Any person desiring a copy of any notice of default
26 and of any notice of sale under any deed of trust or mortgage with
27 power of sale upon real property or an estate for years therein, as
28 to which deed of trust or mortgage the power of sale cannot be
29 exercised until these notices are given for the time and in the
30 manner provided in Section 2924 may, at any time subsequent to
31 recordation of the deed of trust or mortgage and prior to recordation
32 of notice of default thereunder, cause to be filed for record in the
33 office of the recorder of any county in which any part or parcel of
34 the real property is situated, a duly acknowledged request for a
35 copy of the notice of default and of sale. This request shall be
36 signed and acknowledged by the person making the request,
37 specifying the name and address of the person to whom the notice
38 is to be mailed, shall identify the deed of trust or mortgage by
39 stating the names of the parties thereto, the date of recordation
40 thereof, and the book and page where the deed of trust or mortgage

1 different than the address specified in the deed of trust or mortgage
2 with power of sale.

3 (3) As used in paragraphs (1) and (2), the “last known address”
4 of each trustor or mortgagor means the last business or residence
5 physical address actually known by the mortgagee, beneficiary,
6 trustee, or other person authorized to record the notice of default.
7 For the purposes of this subdivision, an address is “actually known”
8 if it is contained in the original deed of trust or mortgage, or in
9 any subsequent written notification of a change of physical address
10 from the trustor or mortgagor pursuant to the deed of trust or
11 mortgage. For the purposes of this subdivision, “physical address”
12 does not include an e-mail or any form of electronic address for a
13 trustor or mortgagor. The beneficiary shall inform the trustee of
14 the trustor’s last address actually known by the beneficiary.
15 However, the trustee shall incur no liability for failing to send any
16 notice to the last address unless the trustee has actual knowledge
17 of it.

18 (4) A “person authorized to record the notice of default or the
19 notice of sale” shall include an agent for the mortgagee or
20 beneficiary, an agent of the named trustee, any person designated
21 in an executed substitution of trustee, or an agent of that substituted
22 trustee.

23 (c) The mortgagee, trustee, or other person authorized to record
24 the notice of default or the notice of sale shall do the following:

25 (1) Within one month following recordation of the notice of
26 default, deposit or cause to be deposited in the United States mail
27 an envelope, sent by registered or certified mail with postage
28 prepaid, containing a copy of the notice with the recording date
29 shown thereon, addressed to each person set forth in paragraph
30 (2), provided that the estate or interest of any person entitled to
31 receive notice under this subdivision is acquired by an instrument
32 sufficient to impart constructive notice of the estate or interest in
33 the land or portion thereof that is subject to the deed of trust or
34 mortgage being foreclosed, and provided the instrument is recorded
35 in the office of the county recorder so as to impart that constructive
36 notice prior to the recording date of the notice of default and
37 provided the instrument as so recorded sets forth a mailing address
38 that the county recorder shall use, as instructed within the
39 instrument, for the return of the instrument after recording, and

1 which address shall be the address used for the purposes of mailing
2 notices herein.

3 (2) The persons to whom notice shall be mailed under this
4 subdivision are:

5 (A) The successor in interest, as of the recording date of the
6 notice of default, of the estate or interest or any portion thereof of
7 the trustor or mortgagor of the deed of trust or mortgage being
8 foreclosed.

9 (B) The beneficiary or mortgagee of any deed of trust or
10 mortgage recorded subsequent to the deed of trust or mortgage
11 being foreclosed, or recorded prior to or concurrently with the
12 deed of trust or mortgage being foreclosed but subject to a recorded
13 agreement or a recorded statement of subordination to the deed of
14 trust or mortgage being foreclosed.

15 (C) The assignee of any interest of the beneficiary or mortgagee
16 described in subparagraph (B), as of the recording date of the notice
17 of default.

18 (D) The vendee of any contract of sale, or the lessee of any
19 lease, of the estate or interest being foreclosed that is recorded
20 subsequent to the deed of trust or mortgage being foreclosed, or
21 recorded prior to or concurrently with the deed of trust or mortgage
22 being foreclosed but subject to a recorded agreement or statement
23 of subordination to the deed of trust or mortgage being foreclosed.

24 (E) The successor in interest to the vendee or lessee described
25 in subparagraph (D), as of the recording date of the notice of
26 default.

27 (F) The office of the Controller, Sacramento, California, where,
28 as of the recording date of the notice of default, a “Notice of Lien
29 for Postponed Property Taxes” has been recorded against the real
30 property to which the notice of default applies.

31 (3) At least 20 days before the date of sale, deposit or cause to
32 be deposited in the United States mail an envelope, sent by
33 registered or certified mail with postage prepaid, containing a copy
34 of the notice of the time and place of sale addressed to each person
35 to whom a copy of the notice of default is to be mailed as provided
36 in paragraphs (1) and (2), and addressed to the office of any state
37 taxing agency, Sacramento, California, that has recorded,
38 subsequent to the deed of trust or mortgage being foreclosed, a
39 notice of tax lien prior to the recording date of the notice of default
40 against the real property to which the notice of default applies.

1 (4) Provide a copy of the notice of sale to the Internal Revenue
2 Service, in accordance with Section 7425 of the Internal Revenue
3 Code and any applicable federal regulation, if a “Notice of Federal
4 Tax Lien under Internal Revenue Laws” has been recorded,
5 subsequent to the deed of trust or mortgage being foreclosed,
6 against the real property to which the notice of sale applies. The
7 failure to provide the Internal Revenue Service with a copy of the
8 notice of sale pursuant to this paragraph shall be sufficient cause
9 to rescind the trustee’s sale and invalidate the trustee’s deed, at
10 the option of either the successful bidder at the trustee’s sale or
11 the trustee, and in either case with the consent of the beneficiary.
12 Any option to rescind the trustee’s sale pursuant to this paragraph
13 shall be exercised prior to any transfer of the property by the
14 successful bidder to a bona fide purchaser for value. A rescision of
15 the trustee’s sale pursuant to this paragraph may be recorded in a
16 notice of rescision pursuant to Section 1058.5.

17 (5) The mailing of notices in the manner set forth in paragraph
18 (1) shall not impose upon any licensed attorney, agent, or employee
19 of any person entitled to receive notices as herein set forth any
20 duty to communicate the notice to the entitled person from the fact
21 that the mailing address used by the county recorder is the address
22 of the attorney, agent, or employee.

23 (d) Any deed of trust or mortgage with power of sale hereafter
24 executed upon real property or an estate for years therein may
25 contain a request that a copy of any notice of default and a copy
26 of any notice of sale thereunder shall be mailed to any person or
27 party thereto at the address of the person given therein, and a copy
28 of any notice of default and of any notice of sale shall be mailed
29 to each of these at the same time and in the same manner required
30 as though a separate request therefor had been filed by each of
31 these persons as herein authorized. If any deed of trust or mortgage
32 with power of sale executed after September 19, 1939, except a
33 deed of trust or mortgage of any of the classes excepted from the
34 provisions of Section 2924, does not contain a mailing address of
35 the trustor or mortgagor therein named, and if no request for special
36 notice by the trustor or mortgagor in substantially the form set
37 forth in this section has subsequently been recorded, a copy of the
38 notice of default shall be published once a week for at least four
39 weeks in a newspaper of general circulation in the county in which
40 the property is situated, the publication to commence within 10

1 business days after the filing of the notice of default. In lieu of
2 publication, a copy of the notice of default may be delivered
3 personally to the trustor or mortgagor within the 10 business days
4 or at any time before publication is completed, or by posting the
5 notice of default in a conspicuous place on the property and mailing
6 the notice to the last known address of the trustor or mortgagor.

7 (e) Any person required to mail a copy of a notice of default or
8 notice of sale to each trustor or mortgagor pursuant to subdivision
9 (b) or (c) by registered or certified mail shall simultaneously cause
10 to be deposited in the United States mail, with postage prepaid and
11 mailed by first-class mail, an envelope containing an additional
12 copy of the required notice addressed to each trustor or mortgagor
13 at the same address to which the notice is sent by registered or
14 certified mail pursuant to subdivision (b) or (c). The person shall
15 execute and retain an affidavit identifying the notice mailed,
16 showing the name and residence or business address of that person,
17 that he or she is over the age of 18 years, the date of deposit in the
18 mail, the name and address of the trustor or mortgagor to whom
19 sent, and that the envelope was sealed and deposited in the mail
20 with postage fully prepaid. In the absence of fraud, the affidavit
21 required by this subdivision shall establish a conclusive
22 presumption of mailing.

23 (f) (1) Notwithstanding subdivision (a), with respect to separate
24 interests governed by an association, as defined in ~~subdivision (a)~~
25 ~~of Section 1351 4080~~, the association may cause to be filed in the
26 office of the recorder in the county in which the separate interests
27 are situated a request that a mortgagee, trustee, or other person
28 authorized to record a notice of default regarding any of those
29 separate interests mail to the association a copy of any trustee's
30 deed upon sale concerning a separate interest. The request shall
31 include a legal description or the assessor's parcel number of all
32 the separate interests. A request recorded pursuant to this
33 subdivision shall include the name and address of the association
34 and a statement that it is a homeowners' association. Subsequent
35 requests of an association shall supersede prior requests. A request
36 pursuant to this subdivision shall be recorded before the filing of
37 a notice of default. The mortgagee, trustee, or other authorized
38 person shall mail the requested information to the association
39 within 15 business days following the date of the trustee's sale.

1 Failure to mail the request, pursuant to this subdivision, shall not
2 affect the title to real property.

3 (2) A request filed pursuant to paragraph (1) does not, for
4 purposes of Section 27288.1 of the Government Code, constitute
5 a document that either effects or evidences a transfer or
6 encumbrance of an interest in real property or that releases or
7 terminates any interest, right, or encumbrance of an interest in real
8 property.

9 (g) No request for a copy of any notice filed for record pursuant
10 to this section, no statement or allegation in the request, and no
11 record thereof shall affect the title to real property or be deemed
12 notice to any person that any person requesting copies of notice
13 has or claims any right, title, or interest in, or lien or charge upon
14 the property described in the deed of trust or mortgage referred to
15 therein.

16 (h) “Business day,” as used in this section, has the meaning
17 specified in Section 9.

18 SEC. 6. Section 4005 of the Civil Code is amended to read:

19 4005. Division, part, title, chapter, ~~and~~ article, *and section*
20 headings do not in any manner affect the scope, meaning, or intent
21 of this ~~act~~ *part*.

22 SEC. 7. Section 4035 of the Civil Code is amended to read:

23 4035. (a) If a provision of this ~~act~~ *part* requires that a document
24 be delivered to an association, the document shall be delivered to
25 the person designated in the annual policy statement, prepared
26 pursuant to Section 5310, to receive documents on behalf of the
27 association. If no person has been designated to receive documents,
28 the document shall be delivered to the president or secretary of
29 the association.

30 (b) A document delivered pursuant to this section may be
31 delivered by any of the following methods:

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

34 (2) By personal delivery, if the association has assented to that
35 method of delivery. If the association accepts a document by
36 personal delivery it shall provide a written receipt acknowledging
37 delivery of the document.

38 (3) *By first-class mail, postage prepaid, registered or certified*
39 *mail, express mail, or overnight delivery by an express service*
40 *center.*

1 SEC. 8. Section 4090 of the Civil Code is amended to read:

2 4090. “Board meeting” means either of the following:

3 (a) A congregation, at the same time and place, of a sufficient
4 number of directors to establish a quorum of the board, to hear,
5 discuss, or deliberate upon any item of business that is within the
6 authority of the board.

7 (b) A teleconference, where a sufficient number of directors to
8 establish a quorum of the board, in different locations, are
9 connected by electronic means, through audio or video, or both.

10 A teleconference meeting shall be conducted in a manner that
11 protects the rights of members of the association and otherwise
12 complies with the requirements of this act. Except for a meeting
13 that will be held solely in executive session, the notice of the
14 teleconference meeting shall identify at least one physical location
15 so that members of the association may attend, and at least one
16 director *or a person designated by the board* shall be present at
17 that location. Participation by directors in a teleconference meeting
18 constitutes presence at that meeting as long as all directors
19 participating are able to hear one another, as well as members of
20 the association speaking on matters before the board.

21 SEC. 9. Section 4290 of the Civil Code is amended to read:

22 4290. (a) The certificate consenting to the recordation of a
23 condominium plan that is required by subdivision (c) of Section
24 ~~4120~~ 4185 shall be signed and acknowledged by all of the
25 following persons:

26 (1) The record owner of fee title to that property included in the
27 condominium project.

28 (2) In the case of a condominium project that will terminate
29 upon the termination of an estate for years, by all lessors and
30 lessees of the estate for years.

31 (3) In the case of a condominium project subject to a life estate,
32 by all life tenants and remainder interests.

33 (4) The trustee or the beneficiary of each recorded deed of trust,
34 and the mortgagee of each recorded mortgage encumbering the
35 property.

36 (b) Owners of mineral rights, easements, rights-of-way, and
37 other nonpossessory interests do not need to sign the certificate.

38 (c) In the event a conversion to condominiums of a community
39 apartment project or stock cooperative has been approved by the
40 required number of owners, trustees, beneficiaries, and mortgagees

1 pursuant to Section 66452.10 of the Government Code, the
2 certificate need only be signed by those owners, trustees,
3 beneficiaries, and mortgagees approving the conversion.

4 SEC. 10. Section 4525 of the Civil Code is amended to read:

5 4525. (a) The owner of a separate interest shall provide the
6 following documents to a prospective purchaser of the separate
7 interest, as soon as practicable before the transfer of title or the
8 execution of a real property sales contract, as defined in Section
9 2985:

10 (1) A copy of all governing documents. If the association is not
11 incorporated, this shall include a statement in writing from an
12 authorized representative of the association that the association is
13 not incorporated.

14 (2) If there is a restriction in the governing documents limiting
15 the occupancy, residency, or use of a separate interest on the basis
16 of age in a manner different from that provided in Section 51.3, a
17 statement that the restriction is only enforceable to the extent
18 permitted by Section 51.3 and a statement specifying the applicable
19 provisions of Section 51.3.

20 (3) A copy of the most recent documents distributed pursuant
21 to Article 7 (commencing with Section 5300) of Chapter 6.

22 (4) A true statement in writing obtained from an authorized
23 representative of the association as to the amount of the
24 association’s current regular and special assessments and fees, any
25 assessments levied upon the owner’s interest in the common
26 interest development that are unpaid on the date of the statement,
27 and any monetary fines or penalties levied upon the owner’s
28 interest and unpaid on the date of the statement. The statement
29 obtained from an authorized representative shall also include true
30 information on late charges, interest, and costs of collection which,
31 as of the date of the statement, are or may be made a lien upon the
32 owner’s interest in a common interest development pursuant to
33 Article 2 (commencing with Section 5650) of Chapter 8.

34 (5) A copy or a summary of any notice previously sent to the
35 owner pursuant to Section 5855 that sets forth any alleged violation
36 of the governing documents that remains unresolved at the time
37 of the request. The notice shall not be deemed a waiver of the
38 association’s right to enforce the governing documents against the
39 owner or the prospective purchaser of the separate interest with

1 respect to any violation. This paragraph shall not be construed to
2 require an association to inspect an owner’s separate interest.

3 (6) A copy of the initial list of defects provided to each member
4 pursuant to Section 6000, unless the association and the builder
5 subsequently enter into a settlement agreement or otherwise resolve
6 the matter and the association complies with Section 6100.
7 Disclosure of the initial list of defects pursuant to this paragraph
8 does not waive any privilege attached to the document. The initial
9 list of defects shall also include a statement that a final
10 determination as to whether the list of defects is accurate and
11 complete has not been made.

12 (7) A copy of the latest information provided for in Section
13 6100.

14 (8) Any change in the association’s current regular and special
15 assessments and fees which have been approved by the board, but
16 have not become due and payable as of the date disclosure is
17 provided pursuant to this subdivision.

18 (9) If there is a provision in the governing documents that
19 prohibits the rental or leasing of any of the separate interests in
20 the common interest development to a renter, lessee, or tenant, a
21 statement describing the prohibition and its applicability.

22 (10) If requested by the prospective purchaser, a copy of the
23 minutes of board meetings, excluding meetings held in executive
24 session, conducted over the previous 12 months, that were
25 approved by the board.

26 (b) This section does not apply to an owner that is subject to
27 ~~the requirements of~~ Section 11018.6 of the Business and
28 Professions Code.

29 SEC. 11. Section 4528 of the Civil Code is amended to read:
30 4528. The form for billing disclosures required by Section
31 4530 shall be in *at least 10-point type and* substantially the
32 following form:

33
34 CHARGES FOR DOCUMENTS PROVIDED AS REQUIRED BY SECTION
35 4525*

- 36
- 37
- 38 Property Address
- 39
- 40 Owner of Property

1	Assessment enforcement policy	Sections 5310 and
2		4525(a)(4)
3		
4	Insurance summary	Sections 5300 and
5		4525(a)(3)
6		
7	Regular assessment	Section 4525(a)(4)
8		
9	Special assessment	Section 4525(a)(4)
10		
11	Emergency assessment	Section 4525(a)(4)
12		
13	Other unpaid obligations of seller	Sections 5675 and
14		4525(a)(4)
15		
16	Approved changes to assessments	Sections 5300 and
17		4525(a)(4), (8)
18		
19	Settlement notice regarding	Sections 4525(a)(6),
20	common area defects	(7), and 6100
21		
22	Preliminary list of defects	Sections 4525(a)(6),
23		6000, and 6100
24		
25	Notice(s) of violation	Sections 5855 and
26		4525(a)(5)
27		
28	Required statement of fees	Section 4525
29		
30	Minutes of regular board meetings	Section 4525(a)(10)
31	conducted over the previous 12	
32	months, if requested	
33		
34	Total fees for these documents:	
35		

36 * The information provided by this form may not include all fees that may be
37 imposed before the close of escrow. Additional fees that are not related to the
38 requirements of Section 4525 may be charged separately.

39
40 SEC. 12. Section 4530 of the Civil Code is amended to read:

1 4530. (a) (1) Upon written request, the association shall,
2 within 10 days of the mailing or delivery of the request, provide
3 the owner of a separate interest, or any other recipient authorized
4 by the owner, with a copy of the requested documents specified
5 in Section 4525.

6 ~~(b) (1) Upon receipt of a written request, the association shall~~
7 ~~provide, on the form described in Section 4528, a written or~~
8 ~~electronic estimate of the fees that will be assessed for providing~~
9 ~~the requested documents. The~~

10 (2) *The documents required to be made available pursuant to*
11 *this section may be maintained in electronic form, and may be*
12 *posted on the association's Internet Web site. Requesting parties*
13 *shall have the option of receiving the documents by electronic*
14 *transmission if the association maintains the documents in*
15 *electronic form. Delivery of the documents required by this section*
16 *shall not be withheld for any reason nor subject to any condition*
17 *except the payment of the fee authorized pursuant to subdivision*
18 *(b). The*

19 (b) (1) *The association may collect a reasonable fee based upon*
20 *the association's actual cost for the procurement, preparation,*
21 *reproduction, and delivery of the documents requested pursuant*
22 *to the provisions of this section. Upon receipt of a written request*
23 *the association shall provide on the form described in Section*
24 *4528, a written or electronic estimate of the fees that will be*
25 *assessed for providing the requested documents.*

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

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

34 (4) *If a request for documents is canceled in writing, the*
35 *association shall refund all fees collected pursuant to paragraph*
36 *(1) or an amount that represents the portion of the work not*
37 *performed.*

38 (5) *If a request for documents is canceled in writing by the same*
39 *party making the request and work had not been performed to*

1 *meet the request, a cancellation fee may not be charged or*
2 *collected.*

3 (6) *If a request for documents is canceled in writing and a fee*
4 *was collected for an amount that represents the portion of the work*
5 *performed to meet the request, a cancellation fee may not be*
6 *charged or collected.*

7 ~~(4)~~

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

11 ~~(5)~~

12 (d) 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 4528 at the time the required documents are
15 delivered.

16 SEC. 13. Section 12191 of the Government Code is amended
17 to read:

18 12191. The miscellaneous business entity filing fees are the
19 following:

20 (a) Foreign Associations, as defined in Sections 170 and 171
21 of the Corporations Code:

22 (1) Filing the statement and designation upon the qualification
23 of a foreign association pursuant to Section 2105 of the
24 Corporations Code: One hundred dollars (\$100).

25 (2) Filing an amended statement and designation by a foreign
26 association pursuant to Section 2107 of the Corporations Code:
27 Thirty dollars (\$30).

28 (3) Filing a certificate showing the surrender of the right of a
29 foreign association to transact intrastate business pursuant to
30 Section 2112 of the Corporations Code: No fee.

31 (b) Unincorporated Associations:

32 (1) Filing a statement in accordance with Section 18200 of the
33 Corporations Code as to principal place of office or place for
34 sending notices or designating agent for service: Twenty-five
35 dollars (\$25).

36 (2) Insignia Registrations: Ten dollars (\$10).

37 (c) Community Associations and Common Interest
38 Developments:

39 (1) Filing a statement by a community association in accordance
40 with ~~Section 1363.6~~ 5405 of the Civil Code to register the common

- 1 interest development that it manages: An amount not to exceed
- 2 thirty dollars (\$30).
- 3 (2) Filing an amended statement by a community association
- 4 in accordance with Section ~~4363.6~~ 5405 of the Civil Code: No fee.

O